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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1168.

1 June 1979.

No. 1168.

1 Junie 1979.

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 gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 53 of 1979: Attorneys Act, 1979.

No. 53 van 1979: Wet op Prokureurs, 1979.

Act No. 53, 1979

ATTORNEYS ACT, 1979.

# ACT

To consolidate the laws relating to the admission and practice of attorneys, notaries and conveyancers; the Fidelity Guarantee Fund for Attorneys, Notaries and Conveyancers; and law societies established in respect of the profession of attorney, notary or conveyancer; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)  
(Assented to 21 May 1979.)

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

## ARRANGEMENT OF SECTIONS

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### Definitions.

#### 1. In this Act, unless the context otherwise indicates—

- (i) "advocate" means an advocate of the Supreme Court; (i)
- (ii) "articled clerk" means any person bound to serve under 15 articles of clerkship; (xi)
- (iii) "articles" or "articles of clerkship" means any contract in writing under which any person is bound to serve an attorney for a specified period in accordance with this Act; (xii) 20
- (iv) "attorney" means any person duly admitted to practise as an attorney in any part of the Republic; (xxi)
- (v) "banking institution" means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), and registered, otherwise than provisionally, 25 or deemed to be registered as a banking institution in terms of section 4 of that Act; (ii)
- (vi) "board of control" means the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund Board of Control referred to in section 27; (iii) 30
- (vii) "building society" means a building society as defined in section 1 of the Building Societies Act, 1965 (Act No. 24 of 1965), and finally registered or deemed to be registered as a permanent building society in terms of section 5 of that Act; (v) 35
- (viii) "conveyancer" means any person duly admitted to practise as a conveyancer within any part of the Republic; (xxviii)
- (ix) "council" means the council of a society; (xxiv)



## WET OP PROKUREURS, 1979.

Wet No. 53, 1979

**WET**

**Tot samevatting van die wetsbepalings betreffende die toelating en praktyk van prokureurs, notaris en transportbesorgers; die Getrouheidswaarborgfonds vir Prokureurs, Notaris en Transportbesorgers; en prokureursordes wat gestig is ten opsigte van die beroep van prokureur, notaris of transportbesorger; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 21 Mei 1979.)*

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

**INDELING VAN ARTIKELS**

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5 Woordomskrywing .....	1
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**1.** In hierdie Wet, tensy uit die samehang anders blyk, Woordomskrywing beteken—

- (i) „advokaat” ’n advokaat van die Hooggeregshof; (i)
- 15 (ii) „bankinstelling” ’n bankinstelling soos omskryf in artikel 1 van die Bankwet, 1965 (Wet No. 23 van 1965), en wat anders as voorlopig geregistreer is of wat geag word geregistreer te wees as ’n bankinstelling ingevolge artikel 4 van daardie Wet; (v)
- 20 (iii) „beheerraad” die Raad van Beheer oor die Getrouheidswaarborgfonds vir Prokureurs, Notaris en Transportbesorgers in artikel 27 vermeld; (vi)
- (iv) „beroep” die beroep van prokureur, notaris of transportbesorger en, met betrekking tot ’n orde, daardie beroep
- 25 in die provinsie van daardie orde; (xix)
- (v) „bouvereniging” ’n bouvereniging soos omskryf in artikel 1 van die Bouverenigingswet, 1965 (Wet No. 24 van 1965), en finaal geregistreer of geag geregistreer te wees as ’n permanente bouvereniging ingevolge artikel
- 30 5 van daardie Wet; (vii)
- (vi) „fonds” die Getrouheidswaarborgfonds vir Prokureurs, Notaris en Transportbesorgers in artikel 25 vermeld; (xii)
- (vii) „Gebied” die gebied Suidwes-Afrika; (xxviii)
- 35 (viii) „getrouheidswaarborgsertifikaat” ’n sertifikaat ingevolge artikel 42 uitgereik; (xi)
- (ix) „hof” ’n hof van ’n provinsiale afdeling; (x)

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- (x) "court" means any court of a provincial division; (ix)
- (xi) "fidelity fund certificate" means a certificate issued in terms of section 42; (viii)
- (xii) "fund" means the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund referred to in section 25; (vi)
- (xiii) "Minister" means the Minister of Justice; (xiii)
- (xiv) "notary" means any person duly admitted to practise as a notary in any part of the Republic; (xiv)
- (xv) "practise" means practise as an attorney or a notary or conveyancer, and "practice" has a corresponding meaning; (xvii)
- (xvi) "practitioner" means any attorney, notary or conveyancer; (xviii)
- (xvii) "prescribed" means prescribed by rule or by regulation made in terms of section 74, 81 or 82; (xxix)
- (xviii) "principal", in relation to a clerk under articles of clerkship, means the attorney who is being served in terms of articles of clerkship; (xix)
- (xix) "profession" means the profession of attorney, notary or conveyancer and, in relation to a society, means such profession within the province of that society; (iv)
- (xx) "professional company" means a company referred to in section 23; (xx)
- (xxi) "province" includes the Territory; (xxiii)
- (xxii) "provincial division" means a provincial division as defined in the Supreme Court Act, 1959 (Act No. 59 of 1959); (xxii)
- (xxiii) "Republic" includes the Territory; (xxv)
- (xxiv) "roll", in relation to a court, means the roll of attorneys or of notaries or of conveyancers of that court; (xxvi)
- (xxv) "secretary", in relation to a society, includes an assistant secretary of that society; (xxvii)
- (xxvi) "society" means any law society referred to in section 56; (xvi)
- (xxvii) "Supreme Court" means the Supreme Court of South Africa as constituted by section 2 of the Supreme Court Act, 1959; (x)
- (xxviii) "Territory" means the territory of South West Africa; (vii)
- (xxix) "unprofessional or dishonourable or unworthy", in relation to conduct, includes any conduct prescribed as such. (xv)

## CHAPTER I

## PRACTITIONERS: QUALIFICATIONS, ADMISSION AND REMOVAL FROM ROLL

Duration of service under articles.

2. (1) Any person intending to be admitted as an attorney, shall serve under articles of clerkship for a period of—

- (a) two years after he has satisfied all the requirements for the degree of *baccalaureus procuratoris* of any university in the Republic after pursuing for that degree a course of study of not less than four years which is 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);
- (b) two years after he has become entitled to be admitted as an advocate of the Supreme Court;
- (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 passed an examination conducted by such a university and certified by such Board to be equivalent or superior to the examination for such a degree, but has not satisfied the requirements of paragraph (a) or (b);



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- (x) „Hooggeregshof” die Hooggeregshof van Suid-Afrika soos saamgestel deur artikel 2 van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959); (xxvii)
- 5 (xi) „klerk onder leerkontrak” iemand wat gebonde is om kragtens ’n leerkontrak te dien; (ii)
- (xii) „leerkontrak” ’n skriftelike ooreenkoms waarkragtens iemand verplig is om ’n prokureur vir ’n bepaalde tydperk ooreenkomstig hierdie Wet te dien; (iii)
- 10 (xiii) „Minister” die Minister van Justisie; (xiii)
- (xiv) „notaris” iemand wat behoorlik toegelaat is om in enige deel van die Republiek as notaris te praktiseer; (xiv)
- (xv) „onprofessioneel of oneerbaar of onbetaamlik”, met betrekking tot gedrag, ook enige gedrag as sodanig voorgeskryf; (xxix)
- 15 (xvi) „orde” ’n prokureursorde in artikel 56 vermeld; (xxvi)
- (xvii) „praktiseer” as ’n prokureur, notaris of transportbesorger praktiseer, en het „praktyk” ’n ooreenstemmende betekenis; (xv)
- 20 (xviii) „praktisyn” ’n prokureur, notaris of transportbesorger; (xvi)
- (xix) „prinsipaal”, met betrekking tot ’n klerk onder leerkontrak, die prokureur wat deur so ’n klerk kragtens ’n leerkontrak gedien word; (xviii)
- 25 (xx) „professionele maatskappy” ’n maatskappy in artikel 23 bedoel; (xx)
- (xxi) „prokureur” iemand wat behoorlik toegelaat is om in enige deel van die Republiek as prokureur te praktiseer; (iv)
- 30 (xxii) „provinsiale afdeling” ’n provinsiale afdeling soos omskryf in die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959); (xxii)
- (xxiii) „provinsie” ook die Gebied; (xxi)
- (xxiv) „raad” die raad van ’n orde; (ix)
- (xxv) „Republiek” ook die Gebied; (xxiii)
- 35 (xxvi) „rol”, met betrekking tot ’n hof, die rol van prokureurs of van notaris of van transportbesorgers van daardie hof; (xxiv)
- (xxvii) „sekretaris”, met betrekking tot ’n orde, ook ’n assistent-sekretaris van daardie orde; (xxv)
- 40 (xxviii) „transportbesorger” iemand wat behoorlik toegelaat is om in enige deel van die Republiek as transportbesorger te praktiseer; (viii)
- (xxix) „voorgeskryf” by reël of regulasie uitgevaardig ingevolge artikel 74, 81 of 82, voorgeskryf. (xvii)

## 45 HOOFSTUK I

PRAKTISYNS: KWALIFIKASIES, TOELATING EN  
VERWYDERING VAN ROL

2. (1) Iemand wat as prokureur toegelaat wil word, verrig diens Duur van diens kragtens ’n leerkontrak vir ’n tydperk van— kragtens leerkontrak.
- 50 (a) twee jaar nadat hy aan al die vereistes vir die graad *baccalaureus procurationis* van ’n universiteit in die Republiek voldoen het nadat hy vir daardie graad ’n studiekursus van minstens vier jaar gevolg het wat deur die Raad vir die Erkenning van Regseksamens ingestel by artikel 16 van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), erken word;
- 55 (b) twee jaar nadat hy geregtig geword het om as advokaat van die Hooggeregshof toegelaat te word;
- 60 (c) drie jaar nadat hy aan al die vereistes vir ’n ander graad as ’n eregraad aan ’n universiteit in die Republiek voldoen het of geslaag het in ’n eksamen deur so ’n universiteit afgeneem en deur bedoelde Raad gesertifiseer as gelyk aan of hoër as die eksamen vir so ’n graad, maar nie aan die vereistes van paragraaf (a) of (b)
- 65 voldoen nie;

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(d) three years after he has passed the matriculation examination conducted and controlled by the joint matriculation board referred to in section 15 of the Universities Act, 1955, or an examination certified by that matriculation board to be equivalent or superior thereto, and thereafter has served continuously for a period of at least two years as a clerk to any judge of the Supreme Court, provided he enters into articles of clerkship within a period of one year after he has ceased to serve in such manner; or

(e) five years after he has passed an examination referred to in paragraph (d).

(2) Subject to the provisions of this Act, any period of service performed before the passing of any examination or the obtaining of any degree referred to in subsection (1), shall not be regarded as good or sufficient service for the purposes of this Act.

By whom articulated  
clerks may be  
engaged.

3. (1) An articulated clerk shall only be engaged or retained by a person practising the profession of attorney—

- (a) on his own account; or
- (b) as a partner in a firm of attorneys; or
- (c) as a member of a professional company; or
- (d) as State Attorney; or
- (e) as one of the four most senior professional assistants in the office of the State Attorney at Pretoria; or
- (f) as professional assistant in charge of any branch of the said office; or
- (g) as one of the two most senior professional assistants to such professional assistant in charge of such branch; or
- (h) in the case of the Johannesburg branch of the said office, as one of the three most senior professional assistants to the professional assistant in charge of that branch; and—
- (i) who has—

(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, so practised for a period of three years or periods of three years in the aggregate during the preceding four years;

(ii) if he is the State Attorney or any professional assistant as aforesaid, practised the profession in the office of the State Attorney or any branch thereof continuously for a period of three years immediately prior to taking such clerk under articles.

(2) Service by any articulated clerk to any attorney while such attorney is not practising the profession as referred to in subsection (1), shall not be deemed to be good or sufficient service for the purposes of this Act.

(3) An attorney shall at no time have more than three articulated clerks: Provided that 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, may take cession of the articles of any clerk articulated to such attorney, although the cessionary will then have more than three articulated clerks.

Information to be  
submitted to society  
before articles are  
entered into.

4. Any person intending to serve any attorney under articles of clerkship shall submit to the secretary of the society of the province in which the service under such articles 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; and
- (b) proof to the satisfaction of the society that he is a fit and proper person and that he has—

(i) passed the examination referred to in section 2 (d); or

(ii) satisfied all the requirements for a degree, other than an honorary degree, at any university in the Republic.



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(d) drie jaar nadat hy geslaag het in die matrikulasie-  
eksamen afgeneem deur en onder toesig van die  
gemeenskaplike matrikulasieraad in artikel 15 van die  
Wet op Universiteite, 1955, bedoel, of 'n eksamen wat  
5 volgens 'n sertifikaat van daardie matrikulasieraad van  
gelyke of hoër standaard is, en daarna as klerk gedien  
het by 'n regter van die Hooggeregshof vir 'n onafge-  
broke tydperk van minstens twee jaar, mits die leerkon-  
trak binne een jaar nadat hy opgehou het om aldus te  
10 dien, gesluit word; of

(e) vyf jaar nadat hy in 'n eksamen in paragraaf (d)  
vermeld, geslaag het.

(2) Behoudens die bepalinge van hierdie Wet word 'n tydperk  
van diens verrig voor die aflegging van 'n eksamen of die  
15 verkryging van 'n graad in subartikel (1) bedoel, nie geag geldige  
of voldoende diens vir die doeleindes van hierdie Wet te wees nie.

3. (1) 'n Klerk word onder leerkontrak in diens geneem of  
gehou slegs deur iemand wat die beroep van prokureur beoefen—

Wie klerke onder  
leerkontrak in diens  
kan hê.

- (a) vir eie rekening; of
- 20 (b) as vennoot in 'n prokureursfirma; of
- (c) as lid van 'n professionele maatskappy; of
- (d) as Staatsprokureur; of
- (e) as een van die vier mees senior professionele assistente  
in die kantoor van die Staatsprokureur te Pretoria; of
- 25 (f) as professionele assistent wat oor 'n tak van genoemde  
kantoor toesig het; of
- (g) as een van die twee mees senior professionele assistente  
van sodanige professionele assistent wat oor so 'n tak  
toesig het; of
- 30 (h) in die geval van die Johannesburgse tak van genoemde  
kantoor, as een van die drie mees senior professionele  
assistente van die professionele assistent wat oor  
bedoelde tak toesig het; en—
- (i) (i) wat, indien hy 'n prokureur is wat aldus vir eie  
35 rekening of as vennoot in 'n prokureursfirma of as  
'n lid van 'n professionele maatskappy praktiseer,  
vir 'n tydperk van drie jaar of vir tydperke wat in  
totaal drie jaar beloop tydens die voorafgaande vier  
jaar aldus gepraktiseer het;
- 40 (ii) wat, indien hy die Staatsprokureur of 'n profes-  
sionele assistent soos voormeld is, in die kantoor  
van die Staatsprokureur of 'n tak daarvan vir 'n  
tydperk van 3 jaar onmiddellik voordat 'n klerk  
onder leerkontrak geneem word, onafgebroke die  
45 beroep beoefen het.

(2) Diens deur 'n klerk onder leerkontrak by 'n prokureur  
terwyl daardie prokureur nie die beroep soos in subartikel (1)  
bedoel, beoefen nie, word nie geag geldige of voldoende diens vir  
die doeleindes van hierdie Wet te wees nie.

50 (3) 'n Prokureur mag nie meer as drie klerke gelyktydig onder  
leerkontrak in diens hê nie: Met dien verstande dat by die dood  
of staking van praktyk van 'n prokureur, enige van sy oorbly-  
wende of oorlewende vennote of enige lid van die professionele  
maatskappy waarvan hy lid was die sessie kan aanvaar van die  
55 leerkontrak van 'n klerk wat daardie prokureur kragtens 'n  
leerkontrak gedien het, alhoewel die sessionaris dan meer as drie  
klerke in diens sal hê.

4. Iemand wat 'n prokureur onder leerkontrak wil dien, lê aan  
die sekretaris van die orde van die provinsie waarin onder die  
60 leerkontrak gedien sal word, die volgende voor, naamlik—

Inligting wat voor  
aangaan van  
leerkontrak aan orde  
voorgelê moet word.

- (a) sy geboortesertifikaat of ander bewys ten genoë van  
die orde van sy geboortedatum; en
- (b) bewys ten genoë van die orde dat hy 'n geskikte en  
gepaste persoon is en dat hy—
- 65 (i) geslaag het in 'n eksamen in artikel 2 (d) vermeld;  
of
- (ii) aan al die vereistes vir 'n ander graad as 'n  
eregraad aan 'n universiteit in die Republiek  
voldoen het.

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Lodging, examination  
and registration of  
articles.

5. (1) The original of any articles of clerkship 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 is to be performed.

(2) The secretary of the society concerned shall, on payment of the fees prescribed under section 80, examine any articles lodged with him and shall, if he is satisfied that the articles are in order and that the council has no objection to the registration thereof, on payment of the fees so prescribed register such articles and shall advise the attorney and the clerk concerned of such registration in writing by certified post.

(3) If articles of clerkship are not registered within two months of the date thereof, any service thereunder shall be deemed to commence on the date of registration thereof.

Supervision over  
articled clerk.

6. (1) Without derogating from the provisions of section 10, any articled clerk shall during the whole term of service specified in the articles of clerkship, serve—

(a) in the office of his principal under his direct personal supervision or under that of an attorney who is a partner or manager of his principal; or

(b) in the case of a clerk articled to the State Attorney or to a member of his professional staff, in the office of the State Attorney or in any branch thereof and under the direct personal supervision of the State Attorney or a member of his professional staff.

(2) For the purposes of subsection (1) "office" shall not include a branch office which is under the control of an attorney who is not entitled to have a clerk under articles.

Absence of articled  
clerk.

7. (1) Subject to the provisions of subsection (2), an articled clerk 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.

(2) (a) A court may on the application of an articled clerk in any case—

(i) where his principal refuses to grant him leave of absence from office;

(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,

grant an order authorizing leave of absence from office for the period in question, if the court is satisfied that the principal and the society concerned received due notice of the application and that sufficient cause for the absence from office exists or existed, as the case may be.

(b) An order referred to in paragraph (a) may be granted before, during or after the period of absence.

(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, the period in excess of thirty working days shall be added to the period for which the articled clerk is bound to serve under articles.

(4) Notwithstanding the provisions of section 6, one half of any period of absence from the office of his principal by an articled clerk 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.

Appearance of  
articled clerk in court  
and before other  
institutions.

8. (1) Any articled clerk who—

(a) was admitted as an advocate by any division of the Supreme Court or is entitled to be so admitted; or

(b) has satisfied the requirements for a degree referred to in section 2 (a) and has served at least one year under his articles,



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5. (1) Die oorspronklike leerkontrak 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 gedien moet word. Inlewing, ondersoek en registrasie van leerkontrak.
- 5 (2) Die sekretaris van die betrokke orde moet, teen betaling van die gelde kragtens artikel 80 voorgeskryf, 'n leerkontrak 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 teen betaling van die gelde aldus voorgeskryf, registreer, en die betrokke prokureur en klerk skriftelik per gesertifiseerde pos van die registrasie in kennis stel.
- (3) Indien 'n leerkontrak nie binne twee maande vanaf die datum daarvan geregistreer word nie, word enige diens daarkragtens, geag op die datum van registrasie daarvan te begin.
- 15 6. (1) Sonder om afbreuk te doen aan die bepalings van artikel 10, moet 'n klerk onder leerkontrak, gedurende die hele tydperk daarin bepaal, dien— Toesig oor klerk onder leerkontrak.
- (a) in die kantoor van sy prinsipaal onder die direkte persoonlike toesig van sy prinsipaal of van 'n prokureur wat 'n vennoot of bestuurder van sy prinsipaal is; of
- 20 (b) in die geval van 'n klerk wat kragtens 'n leerkontrak by die Staatsprokureur of 'n lid van sy professionele personeel in diens is, in die kantoor van die Staatsprokureur of 'n tak van daardie kantoor en onder die direkte persoonlike toesig van die Staatsprokureur of 'n lid van sy professionele personeel.
- 25 (2) By die toepassing van subartikel (1) beteken „kantoor” nie ook 'n takkantoor wat onder die beheer van 'n prokureur is wat nie geregtig is om 'n klerk onder leerkontrak te hê nie.
- 30 7. (1) Behoudens die bepalings van subartikel (2), mag 'n klerk onder leerkontrak met die toestemming van sy prinsipaal vir 'n tydperk wat, of tydperke wat in totaal, nie dertig werksdae in enige jaar van die leerkontrak te bowe gaan nie, van diens afwesig wees. Afwesigheid van klerk onder leerkontrak.
- 35 (2) (a) 'n Hof kan op aansoek van 'n klerk onder leerkontrak in 'n geval—
- (i) waar sy prinsipaal weier om aan hom toestemming te verleen om van diens afwesig te wees;
- (ii) waar die tydperk van afwesigheid van diens of
- 40 tydperke van afwesigheid van diens in totaal dertig werksdae in enige jaar van die leerkontrak te bowe gaan,
- 'n bevel verleen wat die afwesigheid van diens vir die betrokke tydperk magtig, indien die hof oortuig is dat
- 45 die betrokke prinsipaal en orde behoorlik kennis van die aansoek ontvang het en dat gegronde rede vir die afwesigheid van diens bestaan of bestaan het, na gelang van die geval.
- (b) 'n Bevel in paragraaf (a) vermeld, kan voor, gedurende of na die tydperk van afwesigheid toegestaan word.
- 50 (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 te bowe gaan, word die tydperk wat dertig werksdae te bowe gaan by die tydperk gevoeg waartydens die
- 55 klerk onder leerkontrak moet dien.
- (4) Ondanks die bepalings van artikel 6 word die helfte van 'n tydperk van afwesigheid van die kantoor van sy prinsipaal van 'n klerk onder leerkontrak as gevolg van opleiding deur hom in die Suid-Afrikaanse Weermag ondergaan ingevolge artikel 3 van die
- 60 Verdedigingswet, 1957 (Wet No. 44 van 1957), maar hoogstens drie maande, geag kragtens daardie leerkontrak gedien te gewees het.
8. (1) 'n Klerk onder leerkontrak wat—
- (a) deur 'n afdeling van die Hooggeregshof as advokaat toegelaat is of geregtig is om aldus toegelaat te word; of
- 65 (b) aan al die vereistes vir die in artikel 2 (a) bedoelde graad voldoen het en minstens een jaar kragtens sy leerkontrak gedien het, Optrede van klerk onder leerkontrak in hof en voor ander instellings.

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shall be entitled to appear in any court, other than any division of the Supreme Court or the court of a regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or an Appeal Court for Commissioners' Courts constituted under section 13 of the Blacks Administration Act, 1927 (Act No. 38 of 1927), or a Divorce Court established under section 10 of the Blacks Administration Act, 1927, Amendment Act, 1929 (Act No. 9 of 1929), and before any board, tribunal or similar institution in or before which his principal is entitled to appear, instead of and on behalf of such principal, who shall be entitled to charge the fees for such appearances as if he himself had appeared.

(2) The principal of any clerk referred to in subsection (1) shall pay to the clerk a salary of not less than R50 per month from the date on which the clerk becomes entitled to appear in court.

(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 R1,50, issue to such clerk a certificate that he complies with the provisions of that subsection.

Restriction of the pecuniary interests of articulated clerks.

9. (1) An articulated clerk shall not have any pecuniary interest in the practice and service of an attorney 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, hold or occupy any office or engage in any other business other than that of articulated clerk.

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

Cession of articles.

10. (1) Articles may with the consent of a principal and the clerk concerned be ceded to any other principal willing to accept such cession.

(2) The society concerned may in the event of the death, mental illness, insolvency, conviction for crime, imprisonment for debt, suspension, striking off the roll or discontinuance of practice of the principal under whom the clerk is serving or any other cause, direct that articles be ceded to any other principal willing to accept such cession, and all service completed under the ceded articles shall be effectual for the purposes of this Act.

(3) Articles may be ceded under subsection (2) notwithstanding the fact that the principal who accepts the cession will, as a result of that acceptance, have more than three articulated clerks in his employment.

(4) An agreement whereby articles are ceded shall within two months of the date on which the services of the articulated clerk concerned have been terminated with the cedent, or within such further period as the court may for good cause allow, be lodged with the society of the province wherein service under the said articles so ceded is to be performed, by the cessionary together with affidavits—

(a) by the cedent stating whether the provisions of this Act relating to service under articles of clerkship have been complied with during the whole term of service during which the articulated clerk concerned was in his service and the date on which the articulated clerk terminated his services with him; and

(b) by the cessionary stating the date on which the said clerk assumed duty with him.

(5) The secretary of the law society referred to in subsection (4) shall on payment of such fee as is prescribed under section 80—

(a) examine the agreement and affidavits referred to in that subsection; and

(b) if he is satisfied that the cession is in order and that the council of the society has no objection, register the cession,



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is geregtig om in plaas van en ten behoeve van sy prinsipaal te verskyn in enige hof, behalwe 'n afdeling van die Hooggeregshof of die hof van 'n streekafdeling ingestel kragtens artikel 2 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), of 'n Appèlhof vir Kommissarishowe ingestel by artikel 13 van die Swartes Administrasie Wet, 1927 (Wet No. 38 van 1927), of 'n Egskeidingshof ingestel by artikel 10 van die Swartes Administrasiewet, 1927, Wysigingswet, 1929 (Wet No. 9 van 1929), en voor enige raad, regbank of soortgelyke instelling waarin of voor wie sy prinsipaal geregtig is om te verskyn, en die prinsipaal van so 'n klerk is geregtig om die gelde vir so 'n verskyning te bereken asof hy self verskyn het.

(2) Die prinsipaal van 'n in subartikel (1) bedoelde klerk onder leerkontrak betaal aan die klerk 'n salaris van minstens R50 per maand vanaf die datum waarop die klerk geregtig word om in die hof te verskyn.

(3) Die sekretaris van die betrokke orde reik aan 'n in subartikel (1) bedoelde klerk op die skriftelike aansoek van sy prinsipaal en teen betaling van die bedrag van R1,50 'n sertifikaat uit dat hy aan die bepalings van daardie subartikel voldoen.

9. (1) 'n Klerk onder leerkontrak mag nie 'n geldelike belang in die praktyk en diens van 'n prokureur hê nie en mag nie, sonder die voorafverkreë skriftelike toestemming van die raad van die orde van die provinsie waarin hy kragtens die leerkontrak dien, enige ander amp beklee of besigheid dryf behalwe dié van klerk onder leerkontrak nie.

Beperking van geldelike belange van klerke onder leerkontrak.

(2) Indien 'n klerk onder leerkontrak die bepalings van subartikel (1) oortree, is die leerkontrak van die aanvang af nietig en is enige diens daaronder verrig ongeldig tensy die hof om gegronde redes anders gelas.

10. (1) 'n Leerkontrak kan met die toestemming van 'n prinsipaal en die betrokke klerk aan 'n ander prinsipaal wat gewillig is om die oordrag te aanvaar, oorgedra word.

Oordrag van leerkontrak.

(2) Die betrokke orde kan in geval van die dood, geestesongesteldheid, insolvensie, veroordeling weens misdad, gyseling, skorsing, skapping van die rol of staking van praktyk van die prinsipaal onder wie 'n klerk onder leerkontrak dien of enige ander rede, gelas dat 'n leerkontrak oorgedra word aan 'n ander prinsipaal wat gewillig is om die oordrag te aanvaar, en alle diens wat kragtens die oorgedraagde leerkontrak voltooi word, is vir die doeleindes van hierdie Wet geldig.

(3) 'n Leerkontrak kan ingevolge subartikel (2) oorgedra word ongeag die feit dat die prinsipaal wat die oordrag aanvaar as gevolg van dié aanvaarding meer as drie klerke onder leerkontrak in diens sal hê.

(4) 'n Ooreenkoms waarby 'n leerkontrak oorgedra word, word binne twee maande na die datum waarop die dienste van die betrokke klerk by die oordraggewer beëindig is, of binne die verdere tydperk wat die hof op gegronde rede toelaat, by die orde van die provinsie waarin onder die leerkontrak, soos oorgedra, gedien moet word, deur die oordragnemer ingelewer tesame met beëdigde verklarings—

(a) deur die oordraggewer waarin verklaar word of aan die bepalings van hierdie Wet betreffende diens onder leerkontrak voldoen is gedurende die hele dienstermyn waartydens die betrokke klerk in sy diens was en die datum waarop die klerk sy dienste by hom beëindig het; en

(b) deur die oordragnemer waarin die datum waarop daardie klerk by hom diens aanvaar het, vermeld word.

(5) Die sekretaris van die orde in subartikel (4) vermeld, moet teen betaling van die gelde kragtens artikel 80 voorgeskryf—

(a) die ooreenkoms en beëdigde verklarings in daardie subartikel vermeld, ondersoek; en

(b) indien hy oortuig is dat die oordrag in orde is en dat die raad van die orde geen beswaar het nie, die oordrag registreer,

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and shall advise the attorney and the articulated clerk concerned of such registration in writing by certified post.

(6) If articles are ceded in terms of subsection (2), the agreement whereby the articles are ceded shall be signed by the legal representative of the attorney concerned or the president or secretary of the society concerned as cedent, and a certificate of such legal representative, president or secretary containing the particulars referred to in subsection (4) (a), shall serve as a substitute for the affidavit referred to in subsection (4) (a).

## Termination of articles.

11. (1) If articles of clerkship are for any reason cancelled, abandoned or ceded, the attorney to whom such clerk is articulated 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 been cancelled or abandoned before completion thereof, the court may in its discretion on the application of the person who served under such articles 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 as the court deems fit, be added to any period served by that person under articles entered into after the first-mentioned articles were 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 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 section 2 (a) or (c) 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—

(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—

(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;

(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.

## Articles not to be entered into by advocate.

12. Any person admitted to practise as an advocate shall not be allowed to enter into articles in terms of the provisions of this Act, unless his name has on his own application been removed from the roll of advocates.

## Exemption from service under articles and certain examinations, and

13. (1) Any person lawfully admitted to the Republic for permanent residence therein who is ordinarily resident in the Republic and who has been admitted and enrolled as a solicitor or



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en moet die betrokke prokureur en die klerk onder leerkontrak skriftelik en per gesertifiseerde pos van die registrasie in kennis stel.

- (6) Indien 'n leerkontrak ingevolge subartikel (2) oorgedra word, word die ooreenkoms waarby die leerkontrak oorgedra word, deur die regsverteenwoordiger van die betrokke prokureur of die president of sekretaris van die betrokke orde as oordrag-gewer onderteken, en 'n sertifikaat van die regsverteenwoordiger, president of sekretaris wat die besonderhede vermeld in subartikel 10 (4) (a) bevat, dien ter vervanging van 'n in subartikel (4) (a) bedoelde beëdigde verklaring.

11. (1) Indien 'n leerkontrak om enige rede ingetrek, laat vaar of oorgedra word, stel die prokureur by wie die klerk onder leerkontrak op daardie tydstop in diens is, onverwyld die sekretaris van die orde skriftelik van die intrekking, laatvaarding of oordrag in kennis.

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

- (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 artikel 2 (a) of (c) bedoelde graad voldoen het of 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 opleë, beveel—

- (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.

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

Leerkontrak word nie deur advokaat gesluit nie.

13. (1) Iemand wat wettiglik tot die Republiek vir permanente verblyf daarin toegelaat is en gewoonlik in die Republiek woonagtig is en wat toegelaat en ingeskryf is as „solicitor” of

Vrystelling van diens onder leerkontrak en sekere eksamens, en bevoegdhede van hof

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powers of court in respect of irregular service and certain other service.

attorney of the supreme or high court of any country or territory which has been approved for the purposes of this section by regulation made under section 81 (1) (a)—

- (a) shall, if he has practised for at least 5 years as a solicitor or an attorney, as the case may be, in the country or territory in which he has been so admitted and enrolled, be exempted from service under articles; 5
- (b) shall, until a date determined by the Minister by notice in the *Gazette*, after consultation with the presidents of the various societies, be exempted from passing the 10 examination referred to in section 2 (a), provided, if he is required to do so, he passes such special examination as may be prescribed;
- (c) may, by regulation made under section 81 (1) (c), be exempted from the requirement to pass any examination 15 referred to in section 14 (1) (a), (b) or (c) or any part thereof.

(2) If any person has not served regularly as an articled clerk, the court, if satisfied that such irregular service was occasioned by sufficient cause, that such service is substantially equivalent to 20 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.

(3) The court may, on the application of an articled clerk who 25 has satisfied all the requirements for a degree referred to in section 2 (a) or (c), 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, 30 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.

Practical examinations.

14. (1) The judge president of a provincial division may after consultation with the president of the society concerned appoint 35 two or more examiners for the purpose of arranging, controlling and conducting examinations in respect of—

- (a) the practice and procedure in the Supreme Court and in magistrates' courts established under the Magistrates' Courts Act, 1944 (Act No. 32 of 1944); 40
- (b) the practical bookkeeping necessary for the keeping of the books of account referred to in section 78 (4);
- (c) the practice, functions and duties of an attorney;
- (d) the practice, functions and duties of a notary;
- (e) the law, practice and procedure of conveyancing. 45

(2) An examination referred to in subsection (1) shall be conducted by not less than two examiners so appointed.

(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 has complied with the provisions of 50 this Act in regard to service under articles or that he is serving under articles and has so served for a continuous period of not less than six months or that he is, under the provisions of this Act, exempt from service under articles.

Admission of attorneys.

15. (1) Unless cause to the contrary to its satisfaction is shown, 55 the court shall on application in accordance with this Act, admit and enrol any person as an attorney if 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) is 21 years of age or older;
- (c) is a South African citizen or has been lawfully admitted to the Republic for permanent residence therein and is ordinarily resident in the Republic; 65



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prokureur van die hooggeregshof of hoëhof van enige land of gebied wat vir die doeleindes van hierdie artikel goedgekeur is by regulasie uitgevaardig kragtens artikel 81 (1) (a)—

- (a) word, as hy minstens 5 jaar as „solicitor” of prokureur, na gelang van die geval, in die land of gebied waarin hy aldus toegelaat en ingeskryf is, gepraktiseer het, van diens kragtens leerkontrak vrygestel;
- (b) is, tot ’n datum deur die Minister by kennisgewing in die *Staatskoerant* na oorleg met die presidente van die verskillende ordes bepaal, vrygestel van die aflegging van die eksamen in artikel 2 (a) vermeld, mits hy, indien dit van hom verlang word, slaag in die spesiale eksamen wat voorgeskryf word;
- (c) kan by regulasie kragtens artikel 81 (1) (c) uitgevaardig, vrygestel word van die vereiste om in ’n in artikel 14 (1) (a), (b) of (c) bedoelde eksamen of enige gedeelte daarvan te slaag.

(2) Indien iemand nie gereeld diens as klerk onder ’n leerkontrak 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 die leerkontrak verrig het.

(3) Die hof kan, op aansoek van ’n klerk onder leerkontrak wat aan al die vereistes van ’n in artikel 2 (a) of (c) bedoelde graad voldoen het, of geregtig is om as ’n advokaat toegelaat te word, beveel dat onderworpe aan die voorwaardes wat die hof opleë die hele of enige gedeelte van die tydperk wat daardie klerk kragtens die leerkontrak gedien het voordat hy aan daardie vereistes voldoen het of aldus geregtig geword het, vir die doeleindes van sy toelating en inskrywing as prokureur beskou word as gedien te wees nadat, en kragtens ’n leerkontrak aangegaan nadat, hy aan daardie vereistes voldoen het of aldus geregtig geword het.

14. (1) Die regter-president van ’n provinsiale afdeling kan na oorleg met die president van die betrokke orde twee of meer eksaminatore benoem om eksamens te reël, te beheer en af te neem ten opsigte van—

- (a) die praktyk en prosedure in die Hooggeregshof en in landdroshowe ingestel kragtens die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944);
- (b) die praktiese rekeningkunde wat nodig is vir die hou van die in artikel 78 (4) bedoelde rekeningboeke;
- (c) die praktyk, werksaamhede en pligte van ’n prokureur;
- (d) die praktyk, werksaamhede en pligte van ’n notaris;
- (e) die reg, praktyk en prosedure van transportbesorging.

(2) ’n In subartikel (1) bedoelde eksamen word deur nie minder nie as twee eksaminatore wat aldus aangestel is, afgeneem.

(3) ’n In subartikel (1) bedoelde eksamen word nie ten opsigte van iemand afgeneem nie tensy hy die betrokke eksaminatore oortuig dat hy aan die bepalings van hierdie Wet met betrekking tot diens kragtens ’n leerkontrak voldoen het of dat hy kragtens leerkontrak dien en aldus vir ’n ononderbroke tydperk van minstens ses maande gedien het, of dat hy kragtens die bepalings van hierdie Wet van diens kragtens leerkontrak vrygestel is.

15. (1) Tensy redes ten genoë van die hof daarteen aangevoer word, moet die hof op ’n aansoek ooreenkomstig hierdie Wet gedoen iemand as prokureur toelaat en inskryf indien die hof oortuig is dat hy voldoen aan die volgende vereistes of, waar toepaslik, dat hy kragtens die bepalings van hierdie Wet daarvan vrygestel is, naamlik dat hy—

- (a) ’n geskikte en gepaste persoon is om aldus toegelaat en ingeskryf te word;
- (b) 21 jaar oud of ouer is;
- (c) ’n Suid-Afrikaanse burger is of wettiglik tot die Republiek toegelaat is vir permanente verblyf daarin en gewoonlik in die Republiek woonagtig is;

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- (d) has satisfied all the requirements for a degree referred to in section 2 (a) after pursuing for that degree a course of study referred to in that section, or has previously been admitted as an advocate or is entitled to be so admitted;
- (e) has passed the practical examinations referred to in section 14 (1) (a), (b) and (c);
- (f) 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 (d), or is by regulation made under section 81 (1) (i) exempted from passing in any of or both such examinations; and
- (g) 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).

(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), 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.

Duty of applicant for admission or readmission and enrolment as attorney to society.

**16.** Any person who applies to the court to be admitted or readmitted and enrolled as an attorney, shall satisfy the society of the province wherein he so applies—

- (a) that he is a fit and proper person to be so admitted or readmitted and enrolled;
- (b) if he has at any time been admitted as an advocate, that his name was subsequently removed from the roll of advocates on his own application; and
- (c) if he is a person exempted from service under articles in terms of section 13 (1), that he is still entitled to practise and that his name is still on the roll of solicitors or attorneys of the country or territory referred to in that section, and that no proceedings to have him struck off the roll or suspended from practice are pending.

Admission of attorneys practising in certain countries or territories.

**17.** Notwithstanding the provisions of this Act, but subject to the provisions of section 19, any person admitted and enrolled as a solicitor or an attorney of the supreme or high court of any country or territory approved for the purposes of this section by regulation made under section 81 (1) (a), may be admitted and enrolled by the court as an attorney in the Republic upon satisfying the court that he—

- (a) has been admitted and enrolled as a solicitor or an attorney of that supreme or high court, and that no proceedings are pending to have him struck off the roll of solicitors or attorneys or suspended from practice;
- (b) is resident and practising as a solicitor or an attorney in the country or territory in which he has been so admitted and enrolled; and
- (c) is a fit and proper person to be admitted and enrolled as an attorney in the Republic.

Admission of notaries and conveyancers.

**18.** 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—

- (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;



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(d) aan al die vereistes vir die graad in artikel 2 (a) vermeld, voldoen het nadat hy vir daardie graad 'n studiekursus in daardie artikel vermeld, gevolg het of voorheen as advokaat toegelaat is of geregtig is om aldus toegelaat te word;

(e) geslaag het in die praktiese eksamens bedoel in artikel 14 (1) (a), (b) en (c);

(f) geslaag het in eksamens in die Afrikaanse en die Engelse taal wat die gemeenskaplike matrikulasieraad vermeld in artikel 15 van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), gesertifiseer het as gelyk aan of van 'n hoër standaard as die een of ander eksamen in genoemde tale afgeneem by die matrikulasie-eksamen in artikel 2 (d) bedoel, of by regulasie uitgevaardig kragtens artikel 81 (1) (i) daarvan vrygestel is om in die een of ander van of albei bedoelde eksamens te slaag;

(g) sy diens onder leerkontrak voltooi het binne die tydperk van 3 jaar wat sy aansoek by die hof voorafgaan of binne die verdere tydperk deur die hof ingevolge subartikel (2) toegelaat.

(2) Die hof kan na goedvinde, op aansoek van iemand en by bewys van gegronde rede, 'n verdere tydperk benewens die tydperk van 3 jaar in subartikel (1) (g) vermeld, toelaat 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.

16. Iemand wat by die hof aansoek doen om as prokureur toegelaat of hertoegelaat en ingeskryf te word, moet die orde van die provinsie waarin hy aldus aansoek doen, oortuig—

(a) dat hy 'n geskikte en gepaste persoon is om aldus toegelaat of hertoegelaat en ingeskryf te word;

(b) as hy te eniger tyd as 'n advokaat toegelaat is, dat sy naam daarna op sy eie aansoek van die rol van advokate verwyder is; en

(c) as hy 'n persoon is wat vrygestel is van diens onder leerkontrak ingevolge artikel 13 (1), dat hy nog geregtig is om te praktiseer en dat sy naam nog op die rol van „solicitors” of prokureurs is van die land of gebied in daardie artikel bedoel, en dat geen verrigtinge aanhangig is om hom van die rol te laat skrap of in sy praktyk te laat skors nie.

Plig van aanseker om toelating of hertoelating en inskrywing as prokureur teenoor orde.

17. Ondanks die bepalinge van hierdie Wet, maar behoudens die bepalinge van artikel 19, kan die hof iemand wat toegelaat en ingeskryf is as „solicitor” of prokureur van die hooggeregshof of hoëhof van 'n land of gebied wat vir die doeleindes van hierdie artikel goedgekeur is by regulasie uitgevaardig kragtens artikel 81 (1) (a), as prokureur in die Republiek toelaat en inskryf indien hy die hof oortuig dat hy—

Toelating van prokureurs wat in sekere lande of gebiede praktiseer.

(a) as „solicitor” of prokureur van daardie hooggeregshof of hoëhof toegelaat en ingeskryf is, en dat geen verrigtinge aanhangig is om hom van die rol van „solicitors” of prokureurs te laat skrap of in sy praktyk te skors nie;

(b) in die land of gebied waarin hy aldus toegelaat en ingeskryf is, woonagtig is en daarin as „solicitor” of prokureur praktiseer; en

(c) 'n geskikte en gepaste persoon is om as prokureur in die Republiek toegelaat en ingeskryf te word.

18. Die hof kan op 'n aansoek op die voorgeskrewe wyse gedoen iemand as notaris of transportbesorger toelaat en inskryf indien hy die hof oortuig dat—

Toelating van notaris en transportbesorgers.

(a) hy 'n prokureur is wat deur sodanige hof toegelaat is om as prokureur te praktiseer;

(b) geen hofbevel waarby sy naam van die rol van prokureurs geskrap is of hy in sy praktyk as prokureur geskors is ten opsigte van hom van krag is nie;

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- (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. 5

Applications for admission or readmission as practitioner to be submitted to secretary of society.

19. (1) Any person who applies to a court to be admitted or readmitted as a practitioner shall at least one month before the date of his application deliver to the secretary of the society of the province in which the court to which such application is made, is situated, together with his notice of application, a copy of his application for admission or readmission and copies of all affidavits, certificates and other documents or papers which are referred to therein or connected therewith. 10

(2) Upon production to the secretary referred to in subsection (1), of the application, affidavits, certificates, documents and other papers referred to therein, the secretary shall, upon payment of the fees prescribed under section 80, certify on such application that the provisions of this section have been complied with. 15

(3) Unless such certificate has been obtained, the person concerned shall not make his application to the court. 20

Enrolment of practitioner admitted and enrolled by other court.

20. (1) Any person admitted and enrolled as an attorney, or a notary or conveyancer under this Act may in the manner prescribed by subsection (2), apply to the registrar of any court other than the court by which he was so admitted and enrolled to have his name placed on the roll of attorneys or of notaries or of conveyancers, as the case may be, of the court for which such registrar has been appointed. 25

(2) An application referred to in subsection (1) shall be in writing and be signed by the applicant and shall be accompanied by— 30

- (a) an affidavit stating the name of every court in which the applicant is enrolled in terms of this Act;
- (b) a certificate signed by the registrar of every court in which the applicant is so enrolled that his name is still upon the roll of such court; 35
- (c) a certificate signed by the secretary of the society of each province in which the applicant is so enrolled that no proceedings are pending or contemplated to strike his name off the roll or to suspend him from practice;
- (d) proof to the satisfaction of the registrar that a copy of the application and copies of the documents referred to in paragraphs (a), (b) and (c) have been served on the secretary of the society of the province in which such other court is situated; and 40
- (e) proof to the satisfaction of the registrar that the fees prescribed by section 80 (h) have been paid. 45

(3) A registrar receiving an application referred to in subsection (1), shall place the name of the applicant on the roll of attorneys or of notaries or of conveyancers, as the case may be, kept by him in terms of section 21, unless an objection in writing against it is lodged with him by the secretary of the society concerned within 21 days from the date of receipt of the application by the registrar. 50

(4) When the name of a practitioner has in terms of subsection (3) been placed by the registrar upon the roll of attorneys or of notaries or of conveyancers, as the case may be, he shall be entitled to practise and shall have all the rights and privileges and be subject to all the obligations which he would have had and to which he would have been subject if he had been admitted and enrolled by that court. 55

(5) A notary or conveyancer shall not be enrolled in terms of this section unless he is also thus enrolled as an attorney. 60



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- (c) geen verrigtinge aanhangig is om sy naam van die rol van prokureurs te skrap of hom in sy praktyk te skors nie; en
- (d) hy geslaag het in die praktiese eksamen wat ingevolge artikel 14 (1) (d) of (e), na gelang van die geval, voorgeskryf is of kragtens die bepalings van hierdie Wet daarvan vrygestel is.

19. (1) Iemand wat by 'n hof aansoek doen om as 'n praktisyn toegelaat of hertoegelaat te word, moet minstens een maand voor 10 die datum van sy aansoek by die sekretaris van die orde van die provinsie waarin die hof waarby so 'n aansoek gedoen word, gesetel is, tesame met die kennisgewing van sy aansoek, 'n afskrif van sy aansoek om toelating of hertoelating en afskrifte van alle beëdigde verklarings, sertifikate en ander dokumente of stukke 15 wat daarin vermeld of daarby betrokke is, inlewer.

Aansoeke om toelating of hertoelating as praktisyn moet aan sekretaris van orde voorgelê word.

(2) By voorlegging aan die sekretaris in subartikel (1) vermeld, van die aansoek, beëdigde verklarings, sertifikate, dokumente en ander stukke daarin vermeld, sertifiseer die sekretaris, teen betaling van die gelde kragtens artikel 80 voorgeskryf, op die 20 aansoek dat daar aan die bepalings van hierdie artikel voldoen is.

(3) Tensy bedoelde sertifikaat verkry is, mag die betrokke persoon nie sy aansoek aan die hof voorlê nie.

20. (1) Iemand wat kragtens hierdie Wet as prokureur, notaris of transportbesorger toegelaat en ingeskryf is, kan op die in 25 subartikel (2) voorgeskrewe wyse by die griffier van 'n ander hof as dié waardeur hy aldus toegelaat en ingeskryf is, aansoek doen om sy naam op die rol van prokureurs of van notaris of van transportbesorgers, na gelang van die geval, van die hof ten opsigte waarvan so 'n griffier aangestel is, te plaas.

Inskrywing van praktisyn deur ander hof toegelaat en ingeskryf.

30 (2) 'n Aansoek in subartikel (1) bedoel, moet skriftelik wees en deur die aansoeker onderteken wees en moet vergesel gaan van—

- (a) 'n beëdigde verklaring waarin die naam van elke hof waar die aansoeker kragtens hierdie Wet ingeskryf is, vermeld word;
- 35 (b) 'n sertifikaat onderteken deur die griffier van elke hof waar die aansoeker aldus ingeskryf is dat sy naam nog op die rol van so 'n hof is;
- (c) 'n sertifikaat onderteken deur die sekretaris van die orde van elke provinsie waarin die aansoeker aldus ingeskryf 40 is dat geen verrigtinge aanhangig is of beoog word om sy naam van die rol te skrap of hom in sy praktyk te skors nie;
- (d) bewys tot bevrediging van die griffier dat 'n afskrif van die aansoek en afskrifte van die in paragrafe (a), (b) en 45 (c) bedoelde dokumente aan die sekretaris van die orde van die provinsie waarin daardie ander hof geleë is, beteken is; en
- (e) bewys ten genoeg van die griffier dat die gelde kragtens artikel 80 (h) voorgeskryf, betaal is.

50 (3) 'n Griffier wat 'n in subartikel (1) bedoelde aansoek ontvang, plaas die naam van die aansoeker op die rol van prokureurs of van notaris of van transportbesorgers, na gelang van die geval, wat kragtens artikel 21 deur hom gehou word, tensy beswaar daarteen deur die sekretaris van die betrokke orde binne 55 21 dae vanaf die datum van die ontvangs van die aansoek deur die griffier skriftelik by hom ingelewer word.

(4) Wanneer die naam van 'n praktisyn ingevolge subartikel (3) deur die griffier op die rol van prokureurs of van notaris of van transportbesorgers, na gelang van die geval, geplaas is, is hy 60 geregtig om te praktiseer en het hy alle regte en voorregte en is hy onderworpe aan alle verpligtinge wat hy sou gehad het en waaraan hy onderworpe sou gewees het indien hy toegelaat en ingeskryf is deur daardie hof.

(5) 'n Notaris of transportbesorger word nie kragtens hierdie 65 artikel ingeskryf nie tensy hy ook aldus as 'n prokureur ingeskryf is.

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Rolls of attorneys, of notaries and of conveyancers.

21. (1) The registrar of every court shall keep separate alphabetical registers in which he shall record the names of all attorneys, notaries and conveyancers admitted by such court and all names enrolled in terms of section 20, as well as the dates of admission or enrolment.

(2) If a court orders the striking off the roll or suspension from practice of any practitioner, the registrar shall forthwith enter a reference to such order opposite the name of the practitioner in the registers kept by him in terms of subsection (1), and shall forward copies of such order to the registrars of the other courts, the registrars of deeds appointed in terms of section 2 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and the secretaries of the various societies.

(3) If a registrar of a court receives a copy of an order forwarded to him in terms of subsection (2), he shall forthwith, if the name of the practitioner concerned appears in the registers kept by him, enter a reference to that order opposite the name of such practitioner, and such entry shall in the area of jurisdiction of such court have the effect of removing such practitioner from the roll or suspending him from practice, as the case may be.

Removal of attorneys from roll.

22. Any person who has been admitted and enrolled as an attorney may on application by the society concerned be struck off the roll or suspended from practice by the court within the jurisdiction of which he practises—

- (a) (i) if he is no longer a South African citizen;
- (ii) in the case of a person who is not a South African citizen, 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;
- (b) in the case of a person referred to in section 13 (1) who is exempted from passing any examination, if he has failed to pass any examination in respect of which he is so exempted before the expiration of the period in respect of which he is so exempted or within such further period as the court may for good cause allow;
- (c) in the case of a person admitted and enrolled in terms of section 17, if it appears to the court that he is no longer resident or practising as an attorney or a solicitor in the country or territory in which he was admitted and enrolled on his admission and enrolment in the Republic or if the country or territory in which he was so admitted and enrolled is no longer a prescribed country or territory; or
- (d) if the court is satisfied that he is not a fit and proper person to continue to practise as an attorney.

Juristic person may conduct a practice.

23. (1) A private company may, notwithstanding anything to the contrary contained in this Act, conduct a practice if—

- (a) such company is incorporated and registered as a private company under the Companies Act, 1973 (Act No. 61 of 1973), with a share capital, and its memorandum of association provides that all present and past directors of the company shall be liable jointly and severally with the company for the debts and liabilities of the company contracted during their periods of office;
- (b) only natural persons who are practitioners and who are in possession of current fidelity fund certificates are members or shareholders of the company or persons having any interest in the shares of the company;



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21. (1) Die griffier van elke hof hou afsonderlike alfabetiese registers waarin hy die name van alle prokureurs, notaris en transportbesorgers deur so 'n hof toegelaat en alle name kragtens artikel 20 op die rol geplaas asook die datums van die toelating of plasing op die rol, aanteken.

Rolle van prokureurs, van notaris of van transportbesorgers.

(2) Indien 'n hof beveel dat 'n praktisyn van die rol geskrap of in sy praktyk geskors word, teken die griffier onverwyld in die registers deur hom ingevolge subartikel (1) gehou, 'n verwysing na bedoelde bevel aan teenoor die naam van die praktisyn, en 10 stuur die griffier afskrifte van daardie bevel aan die griffiers van die ander hofe, die registrateurs van aktes aangestel ingevolge artikel 2 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), en die sekretaris van die onderskeie ordes.

(3) Indien 'n griffier van 'n hof 'n afskrif van 'n bevel ontvang 15 wat ingevolge subartikel (2) aan hom gestuur is, teken hy onverwyld, indien die naam van die betrokke praktisyn voorkom in die registers deur hom gehou, 'n verwysing na daardie bevel teenoor die naam van so 'n praktisyn aan, en so 'n aantekening het binne die regsgebied van daardie hof die uitwerking om so 'n 20 praktisyn van die rol te skrap of in sy praktyk te skors, na gelang van die geval.

22. Iemand wat as 'n prokureur toegelaat en ingeskryf is, kan deur die hof binne wie se regsgebied hy praktiseer van die rol geskrap of in sy praktyk geskors word op aansoek van 'n betrokke 25 orde—

Verwydering van prokureurs van rol.

(a) (i) indien hy nie meer 'n Suid-Afrikaanse burger is nie;

(ii) in die geval van iemand wat nie 'n Suid-Afrikaanse burger is nie, indien hy in gebreke gebly het om binne 'n tydperk van ses jaar vanaf die datum 30 waarop hy tot die Republiek toegelaat is vir permanente verblyf daarin, of binne die verdere tydperk wat die hof om gegronde rede toelaat, 'n sertifikaat van naturalisasie ingevolge die Wet op Suid-Afrikaanse Burgerskap, 1949 (Wet No. 44 35 van 1949), te verkry;

(b) in die geval van 'n in artikel 13 (1) bedoelde persoon wat daarvan vrygestel is om in 'n eksamen te slaag, 40 indien hy in gebreke gebly het om in enige eksamen ten opsigte waarvan hy aldus vrygestel is, te slaag voor die verstryking van die tydperk ten opsigte waarvan hy aldus vrygestel is of binne die verdere tydperk wat die hof om gegronde rede toelaat;

(c) in die geval van iemand wat kragtens artikel 17 45 toegelaat en ingeskryf is, indien dit aan die hof blyk dat hy nie meer woonagtig is of praktiseer as prokureur of „solicitor” in die land of gebied waarin hy toegelaat en ingeskryf was tydens sy toelating en inskrywing in die Republiek nie, of as die land of gebied waarin hy aldus 50 toegelaat en ingeskryf was, nie meer 'n voorgeskrewe land of gebied is nie; of

(d) indien die hof oortuig is dat hy nie 'n geskikte en gepaste persoon is om voort te gaan om as prokureur te praktiseer nie.

55 23. (1) 'n Private maatskappy kan ondanks andersluidende bepalings van hierdie Wet, 'n praktyk voortsit indien—

Regspersoon kan praktyk voortsit.

(a) die maatskappy as 'n private maatskappy, met 'n aandeelkapitaal, kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf en geregistreer is en sy 60 akte van oprigting bepaal dat al die huidige en voormalige direkteure van die maatskappy gesamentlik met en afsonderlik van die maatskappy aanspreeklik is vir die skulde en verpligtinge van die maatskappy gedurende hul ampstermyne aangegaan;

(b) slegs natuurlike persone wat praktisyns is en wat in besit 65 is van geldige getrouheidswaARBorgsertifikate, lede of aandeelhouders van die maatskappy of belanghebbendes in die aandeel van die maatskappy is;

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(c) the name of the company consists solely of the name or names of any of the present or past members of the company or of persons who conducted, either for their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company: Provided that the words "and associates" or "and company" may be included in the name of the company. 5

(2) Every shareholder of the company shall be a director of the company, and only a shareholder of the company shall be a director thereof. 10

(3) If a shareholder of the company or a person having any interest in the shares of the company, dies or ceases to conform to any requirement of subsection (1) (b), he or his estate, as the case may be, may, as from the date on which he dies or ceases so to conform, continue to hold the relevant shares or interest in the shares in the company for a period of six months or for such longer period as the council of the society of the province in which the company's registered office is situate, may approve. 15

(4) No voting rights shall attach to any share held in terms of subsection (3), and the holder of any such share shall not act as a director of the company or receive, directly or indirectly, any director's fees or remuneration or participate in the income of or profits earned by the company in its practice. 20

(5) If the articles of association of the company so provide, the company may, without confirmation by a court, upon such conditions as it may deem expedient, purchase any shares held in it, and the authorized share capital of the company shall not be reduced thereby. 25

(6) Shares purchased in terms of subsection (5) shall be 30 available for allotment in terms of the articles of association of the company.

(7) Notwithstanding anything to the contrary contained in any other law, the articles of association of the company may provide that a member of the company may not appoint a person who is 35 not a member of the company, to attend, speak or vote in his stead at any meeting of the company.

(8) If the company ceases to conform to any requirement of subsection (1), it shall forthwith cease to practise, and shall, as from the date on which it ceases so to conform, not be recognized 40 in law as a practitioner: Provided that the provisions of this subsection shall not, during the period referred to or contemplated in subsection (3), apply to a company by reason only that a shareholder of the company or a person having any interest in the shares of the company has ceased to be a practitioner or to be in 45 possession of a fidelity fund certificate.

(9) Any reference in this Act or in any other law to a practitioner or to a partner or partnership in relation to practitioners, shall be deemed to include a reference to a company under this section or to a member of such a company, as the case 50 may be, unless the context otherwise indicates.

Applications in terms of this Chapter to be delivered to secretary of society concerned.

24. Subject to provisions to the contrary in this Chapter contained, any person who makes an application to a court in terms of this Chapter, shall, at least one month before the date of his application, deliver to the secretary of the society of the 55 province in which the court to which such application is made is situated, a copy of the application, together with copies of the other documents and papers referred to therein or connected therewith.

## CHAPTER II

60

## FIDELITY GUARANTEE FUND

Continued existence of Fidelity Guarantee Fund.

25. The fund established by section 8 of the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund 65 Act, 1941 (Act No. 19 of 1941), shall, notwithstanding the



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(c) die naam van die maatskappy uitsluitlik bestaan uit die naam of name van enige van die huidige of voormalige lede van die maatskappy of van persone wat, hetsy vir eie rekening of in vennootskap, 'n praktyk voortgesit het wat redelikerwys as 'n voorganger van die praktyk van die maatskappy beskou kan word: Met dien verstande dat die woorde „en geassosieerdes” of „en maatskappy” by die naam van die maatskappy ingesluit kan word.

10 (2) Elke aandeelhouer van die maatskappy is 'n direkteur van die maatskappy, en slegs 'n aandeelhouer van die maatskappy is 'n direkteur daarvan.

(3) Indien 'n aandeelhouer van die maatskappy of belanghebbende in die aandele van die maatskappy te sterwe kom of ophou om aan 'n vereiste van subartikel (1) (b) te voldoen, kan hy of sy boedel, na gelang van die geval, vanaf die datum waarop hy te sterwe kom of ophou om aldus te voldoen, die betrokke aandele of belang in aandele in die maatskappy bly behou vir 'n tydperk van ses maande of vir so 'n langer tydperk as wat die raad van die orde van die provinsie waarin die maatskappy se geregistreerde kantoor geleë is, goedkeur.

(4) Daar is geen stemreg verbonde aan 'n aandeel wat ingevolge subartikel (3) gehou word nie, en die houer van so 'n aandeel kan nie as direkteur van die maatskappy optree of regstreeks of onregstreeks enige direkteursgelde of vergoeding ontvang of deel in die inkomste of winste deur die maatskappy in sy praktyk verdien nie.

(5) Indien die statute van die maatskappy daarvoor voorsiening maak, kan die maatskappy, sonder bekragtiging deur 'n hof, enige aandele wat in hom gehou word, koop op die voorwaardes wat hy goedvind, en die gemagtigde aandeelkapitaal van die maatskappy word nie daardeur verminder nie.

(6) Aandele wat ingevolge subartikel (5) gekoop word, is beskikbaar vir toekenning ooreenkomstig die statute van die maatskappy.

(7) Ondanks andersluidende wetsbepalings kan die statute van die maatskappy bepaal dat 'n lid van die maatskappy nie iemand wat nie 'n lid van die maatskappy is nie, mag aanstel om namens hom op 'n vergadering van die maatskappy teenwoordig te wees, te praat of te stem nie.

(8) Indien die maatskappy ophou om aan 'n vereiste van subartikel (1) te voldoen, hou hy onverwyld op om te praktiseer, en word hy, vanaf die datum waarop hy ophou om aldus te voldoen, regtens nie as 'n praktisyn erken nie: Met dien verstande dat die bepaling van hierdie subartikel nie gedurende die in subartikel (3) bedoelde of beoogde tydperk op 'n maatskappy van toepassing is nie slegs uit hoofde daarvan dat 'n aandeelhouer van die maatskappy of 'n belanghebbende in die aandele van die maatskappy opgehou het om 'n praktisyn te wees of om in besit van 'n getrouheidswaARBORGsertifikaat te wees.

(9) 'n Verwysing in hierdie Wet of in 'n ander wet na 'n praktisyn of na 'n vennoot of vennootskap met betrekking tot praktisyns, word geag 'n verwysing in te sluit na 'n maatskappy ingevolge hierdie artikel of na 'n lid van so 'n maatskappy, na gelang van die geval, tensy uit die samehang anders blyk.

24. Behoudens andersluidende bepalinge van hierdie Hoofstuk, moet iemand wat 'n aansoek by 'n hof ingevolge hierdie Hoofstuk doen, minstens een maand voor die datum van sy aansoek, by die sekretaris van die orde van die provinsie waarin die hof waarby die aansoek gedoen word, geleë is, 'n afskrif inlewer van die aansoek, tesame met afskrifte van die ander dokumente en stukke wat daarin vermeld of daarby betrokke is.

Aansoek ingevolge hierdie Hoofstuk moet by sekretaris van betrokke orde ingelewer word.

## HOOFSTUK II

## GETROUHEIDSWAARBORGFONDS

25. Die fonds wat gestig is by artikel 8 van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfonds-wet, 1941 (Wet No. 19 van 1941), bly ondanks die bepalinge van Voortbestaan van Getrouheids-waARBORGFONDS.

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provisions of section 86, continue to exist under the name the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund.

## Purpose of fund.

26. Subject to the provisions of this Act, the fund shall be applied for the purpose of reimbursing persons who may suffer pecuniary loss as a result of theft committed by a practising practitioner, his clerk or employee, of any money or other property entrusted by or on behalf of such persons to him or to his clerk or employee in the course of his practice or while acting as executor or administrator in the estate of a deceased person or as a trustee in an insolvent estate or in any other similar capacity.

## Fund to vest in and to be held in trust by board of control.

27. (1) The fund shall vest in and be administered by a board of control to be known as "The Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund Board of Control".

(2) The fund shall be held in trust by the board of control for the purposes mentioned in this Chapter.

(3) The board of control may under its name sue and be sued.

## Constitution of board of control.

28. (1) The board of control shall consist of—

(a) the serving presidents of all societies; and

(b) two members of each society elected annually by the council of the society.

(2) The council of a society may in respect of each member elected by it under subsection (1) appoint an alternate member from among the members of the society.

## Period of office of members of board of control.

29. An elected member of the board of control shall hold office until his successor has been elected and, unless another is elected in his place in any year, he shall be deemed to have been re-elected.

## Vacation of office by members of board of control.

30. A member of the board of control shall vacate his office if he—

(a) becomes mentally ill;

(b) ceases to be a member of the society the council of which elected him;

(c) becomes insolvent or makes any arrangement or composition with his creditors;

(d) ceases to practise;

(e) is convicted of any offence which, in the opinion of the council which elected him, debars him from serving as a member of the board of control;

(f) resigns and his resignation is accepted by his society and the board of control.

## Chairman and vice-chairman of board of control.

31. (1) The board of control shall annually elect a chairman and a vice-chairman.

(2) If the chairman and vice-chairman are both absent from any meeting of the board of control, the board shall from among its number elect a chairman for that meeting.

## Meetings of board of control.

32. The board of control shall meet at such times and places as it may determine from time to time.

## Quorum.

33. Eight members of the board of control shall constitute a quorum for any meeting thereof.

## Decisions and chairman's casting vote.

34. (1) A decision of the majority of the members of the board of control present at any meeting thereof shall, subject to the provisions of subsection (2), be the decision of the board of control.

(2) In the event of an equality of votes at any meeting of the board of control, the chairman shall have a casting vote in addition to his deliberative vote.

## Validity of resolution signed by all members of board of control.

35. A resolution of the board of control contained in a writing and signed by all members of the board shall be valid although no meeting was held to pass that resolution.



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artikel 86 voortbestaan met die naam die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers.

26. Behoudens die bepalings van hierdie Wet word die fonds aangewend ten einde persone te vergoed wat geldelike verlies ly weens diefstal gepleeg deur 'n praktiserende praktisyn, sy klerk of werknemer, van geld of ander goedere deur of namens sodanige persone toevertrou aan hom of aan sy klerk of werknemer in die loop van sy praktyk of terwyl hy optree as eksekuteur of administrateur in die boedel van 'n oorlede persoon of as 'n kurator in 'n insolvente boedel of in 'n ander soortgelyke hoedanigheid. Doel van fonds.

27. (1) Die fonds berus by en word beheer deur 'n beheerraad met die naam „Die Raad van Beheer oor die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers”. Fonds berus by en word in trust gehou deur beheerraad.

(2) Die fonds word deur die beheerraad in trust gehou vir die doeleindes in hierdie Hoofstuk vermeld.

(3) Die beheerraad kan in sy naam as eiser en verweerder optree.

28. (1) Die beheerraad bestaan uit— Samestelling van beheerraad.  
(a) die dienende presidente van al die ordes; en  
(b) twee lede van elke orde wat jaarliks deur die raad van die orde gekies word.

(2) Die raad van 'n orde kan ten opsigte van elke lid deur hom kragtens subartikel (1) gekies, 'n plaasvervangende lid uit die lede van die orde aanwys.

29. 'n Gekose lid van die beheerraad beklee sy amp totdat sy opvolger gekies is, en tensy 'n ander persoon in sy plek in enige jaar gekies word, word hy geag herkies te wees. Ampstermyn van gekose lede van beheerraad.

30. 'n Lid van die beheerraad ontruim sy amp indien hy— Ampsontruiming deur lede van beheerraad.  
(a) geestesongesteld word;  
(b) nie meer 'n lid is nie van die orde waarvan die raad hom gekies het;  
(c) insolvent raak of 'n skikking of akkoord met sy skuldeisers tref;  
(d) ophou om te praktiseer;  
(e) aan 'n misdryf skuldig bevind word wat, na die mening van die raad wat hom gekies het, hom belet om as lid van die beheerraad te dien;  
(f) bedank en sy bedanking deur sy orde en die beheerraad aanvaar word.

31. (1) Die beheerraad kies jaarliks 'n voorsitter en 'n ondervoorsitter. Voorsitter en ondervoorsitter van beheerraad.

(2) Indien sowel die voorsitter as die ondervoorsitter van 'n vergadering van die beheerraad afwesig is, kies die beheerraad uit sy geledere 'n voorsitter vir daardie vergadering.

32. Die beheerraad vergader op die tye en plekke wat hy van tyd tot tyd bepaal. Vergaderings van beheerraad.

33. Agt lede van die beheerraad maak 'n kworum vir 'n vergadering daarvan uit. Kworum.

34. (1) 'n Beslissing van die meerderheid van die lede van die beheerraad wat op 'n vergadering daarvan teenwoordig is, is, behoudens die bepalings van subartikel (2), die beslissing van die beheerraad. Beslissings en voorsitter se beslissende stem.

(2) In die geval van 'n staking van stemme by 'n vergadering van die beheerraad het die voorsitter benewens sy beraadslagende stem 'n beslissende stem.

35. 'n Besluit van die beheerraad wat vervat is in 'n geskrif wat deur al die lede daarvan onderteken is, is geldig sonder dat 'n vergadering gehou is om dit aan te neem. Geldigheid van besluit deur al die lede van die beheerraad onderteken.

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## Revenue of fund.

## 36. The fund shall consist of—

- (a) the annual contributions by practitioners and interest paid to the fund in terms of this Act;
- (b) the revenue obtained from time to time from the investment of the fund; 5
- (c) money given or advanced to the fund by any society;
- (d) money recovered by the fund in terms of this Act;
- (e) money received on behalf of the fund from any insurance company;
- (f) other money lawfully paid into the fund. 10

## Banking account.

37. Money in the fund shall, pending the investment or application thereof in terms of this Act, be paid into an account at a banking institution or building society to the credit of an account to be known as "The Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund Account". 15

## Investment of moneys of fund.

38. Money in the fund which is not immediately required for the purposes thereof shall be invested in such Government and other securities as may be prescribed.

## Audit.

39. (1) The accounts of the fund shall be audited by an accountant appointed by the board of control. 20  
 (2) A person appointed under subsection (1) shall, at least once in every year and not later than a date to be determined by the board of control, draw up a balance sheet and profit and loss account of the fund and forthwith submit certified copies thereof and of his report thereon to the chairman of the board of control 25 and to each council.

## Insurance contracts for purpose of indemnifying fund.

40. (1) The board of control may in its discretion enter into a contract with any person or company carrying on fidelity insurance business in the Republic whereby the fund will be indemnified to the extent and in the manner provided in such 30 contract against liability to pay claims under this Act.

(2) A contract referred to in subsection (1) shall be entered into in respect of practitioners generally.

(3) (a) A claimant against the board of control shall not have—

- (i) any right of action against any person or company 35 with whom a contract of indemnity has been entered into in terms of this section, in respect of such contract; or
- (ii) any right to any money paid by the insurer in accordance with such contract. 40

(b) Money paid by the insurer in accordance with such contract shall be paid into the fund for appropriation by the board of control.

## Possession of fidelity fund certificates by practitioners practising on own account or in partnership.

41. (1) A practitioner shall not practise or act as a practitioner on his own account or in partnership unless he is in possession of 45 a fidelity fund certificate.

(2) Any practitioner who practises or acts in contravention of subsection (1) shall not be entitled to any fee, reward or disbursement in respect of anything done by him while so practising or acting. 50

(3) The provisions of this Chapter shall not apply in respect of any person admitted and enrolled as a conveyancer under Act No. 23 of 1904 (Natal).

## Application for and issue of fidelity fund certificate.

42. (1) A practitioner practising on his own account or in partnership, and any practitioner intending so to practise, shall 55 apply in the prescribed form to the secretary of the society concerned for a fidelity fund certificate.

(2) Any application referred to in subsection (1) shall be accompanied by the contribution (if any) payable in terms of section 43. 60

(3) (a) Upon receipt of the application referred to in subsection (1), the secretary of the society concerned shall, if he is satisfied that the applicant has discharged all his



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36. Die fonds bestaan uit— Inkomste van fonds.
- (a) die jaarlikse bydraes deur praktisyns en rente aan die fonds betaal ingevolge hierdie Wet;
  - 5 (b) die inkomste wat van tyd tot tyd uit die belegging van die fonds verkry word;
  - (c) geld deur 'n orde aan die fonds gegee of voorgeskiet;
  - (d) geld wat ingevolge hierdie Wet deur die fonds verhaal word;
  - 10 (e) geld namens die fonds van 'n versekeringsmaatskappy ontvang;
  - (f) ander geld wat wettig by die fonds inbetaal word.
37. Geld in die fonds word, in afwagting van die belegging of Bankrekening.  
aanwending daarvan ingevolge hierdie Wet, inbetaal in 'n rekening by 'n bankinstelling of bouvereniging in die krediet van 'n  
15 rekening met die naam „Die Getrouheidswaarborgfondstrekening vir Prokureurs, Notarisse en Transportbesorgers”.
38. Geld in die fonds wat nie onmiddellik vir die doeleindes Belegging van geld  
daarvan nodig is nie, word in die Regerings- en ander sekuriteite van fonds.  
wat voorgeskryf word, belê.
- 20 39. (1) Die rekenings van die fonds word geouditeer deur 'n Oudit.  
rekenmeester deur die beheerraad aangestel.  
(2) Iemand wat kragtens subartikel (1) aangestel is, stel  
minstens een keer elke jaar nie later nie as 'n datum deur die  
beheerraad bepaal, 'n balansstaat en wins-en-verliesrekening van  
25 die fonds op en lê onverwyld gesertifiseerde afskrifte daarvan en  
van sy verslag daaroor aan die voorsitter van die beheerraad en  
aan elke raad voor.
40. (1) Die beheerraad kan na goedvinde met 'n persoon of Versekeringskontrakte  
maatskappy wat getrouheidsversekeringsbesigheid in die Repu- ten einde fonds  
30 blik doen, 'n kontrak sluit waardeur die fonds in die mate en op skadeloos te stel.  
die wyse in so 'n kontrak bepaal, skadeloos gestel word teen  
aanspreeklikheid om eise ingevolge hierdie Wet te betaal.  
(2) 'n Kontrak in subartikel (1) vermeld, moet ten opsigte van  
praktisyns in die algemeen aangegaan word.
- 35 (3) (a) 'n Eiser teen die beheerraad het nie—  
(i) 'n reg van aksie teen 'n persoon of maatskappy met  
wie 'n skadeloosstellingskontrak ingevolge hierdie  
artikel aangegaan is, ten opsigte van so 'n kontrak  
nie; of  
40 (ii) 'n reg op geld deur die versekeraar ooreenkomstig  
so 'n kontrak betaal nie.  
(b) Geld wat deur die versekeraar ooreenkomstig so 'n  
kontrak betaal word, word in die fonds gestort vir  
aanwending deur die beheerraad.
- 45 41. (1) 'n Praktisyn praktiseer nie of tree nie op as praktisyn, Besit van  
vir eie rekening of in vennootskap nie, tensy hy in besit is van 'n getrouheids-  
getrouheidswaarborgsertifikaat. waarborgsertifikate  
20 deur praktisyns wat  
vir eie rekening of in  
vennootskap  
praktiseer.  
(2) 'n Praktisyn wat in stryd met subartikel (1) praktiseer of  
optree, is nie op enige geld, beloning of vergoeding ten opsigte  
50 van enigiets deur hom gedoen terwyl hy aldus praktiseer of optree,  
geregtig nie.  
(3) Die bepalings van hierdie Hoofstuk is nie van toepassing ten  
opsigte van iemand wat as transportbesorger kragtens Wet No. 23  
van 1904 (Natal) toegelaat en ingeskryf is nie.
- 55 42. (1) 'n Praktisyn wat vir sy eie rekening of in vennootskap Aansoek om en  
praktiseer, en 'n praktisyn wat voornemens is om aldus te uitreiking van  
praktiseer, doen by die sekretaris van die betrokke orde in die getrouheids-  
voorgeskrewe vorm aansoek om 'n getrouheidswaarborgsertifi- waarborgsertifikaat.  
kaat.  
60 (2) 'n In subartikel (1) bedoelde aansoek gaan vergesel van die  
bydrae in artikel 43 vermeld, indien dit betaalbaar is.  
(3) (a) By die ontvangs van die in subartikel (1) bedoelde  
aansoek, moet die sekretaris van die betrokke orde,  
indien hy oortuig is dat die aansoeker al sy verpligtinge

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liabilities to the society in respect of his contribution and that he has complied with any other lawful requirement of the society, forthwith issue to the applicant a fidelity fund certificate in the prescribed form.

(b) A fidelity fund certificate shall be valid until 31 December of the year in respect of which it was issued.

(4) Any document purporting to be a fidelity fund certificate which has been issued contrary to the provisions of this Act shall be null and void and shall on demand be returned to the society 10 concerned.

Contributions to fund  
by practitioners.

43. (1) (a) Subject to the provisions of this section, every practitioner, practising on his own account or in partnership, shall, annually when he applies for a fidelity fund certificate, pay the amount of R20, or such greater 15 amount as may be fixed by the board of control from time to time, to the fund.

(b) Any practitioner referred to in paragraph (a) who commences to practise on or after 1 July in any year shall in respect of that year pay half of the contribution 20 which is payable in terms of that paragraph for that year.

(2) When the board of control or a society on behalf of the board of control gives notice in writing to any practitioner who is liable to pay a contribution referred to in subsection (1), that the amount of the fund, including the investments thereof, and after 25 deduction of the amount of all unpaid claims and other liabilities outstanding against the fund, is R1 000 000, or exceeds that amount, such practitioner shall, subject to the provisions of subsection (3), as from a date determined by the board of control and specified in such notice, no longer be required to pay the 30 annual contribution referred to in subsection (1).

(3) When the board of control or a society on behalf of the board of control gives notice in writing to a practitioner referred to in subsection (2) that the amount of the fund, including the investments thereof, and after deduction of the amount of all 35 unpaid claims and other liabilities outstanding against the fund, is less than R1 000 000, the provisions of subsection (1) shall, as from a date determined by the board of control and specified in such notice, again apply in respect of such practitioner, and any notice referred to in subsection (2) shall lapse. 40

(4) A practitioner who applies under section 42 for the first time for a fidelity fund certificate while the provisions of subsection (1) do not apply to a practitioner referred to in subsection (2) by virtue of the provisions of the latter subsection, shall pay a single contribution of R50 to the fund: Provided that the provisions of 45 subsection (3) shall apply *mutatis mutandis* in respect of such practitioner.

(5) Notwithstanding the provisions of subsection (2), the board of control may require a practitioner in respect of whom the fund has been applied as a result of any of the circumstances referred to 50 in section 26, to pay the annual contribution referred to in subsection (1) to the fund for such period as the board of control may determine.

(6) (a) A practitioner who is not in possession of a fidelity fund certificate and who intends to commence to practise on 55 his own account or in partnership, shall, before commencing so to practise, give notice of such intention to the secretary of the society of the province in which he intends to practise, and he shall thereupon become liable to pay to the fund the amount of the contribution 60 referred to in subsection (1) or (4), as the case may be.

(b) Any practitioner who is in possession of a fidelity fund certificate but who intends to commence to practise for his own account or in partnership in the area of jurisdiction of any provincial division other than that in 65 which he usually practises for his own account or in partnership, shall give notice of such intention to the secretary of the other society concerned.



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teenoor die orde ten opsigte van sy bydrae nagekom het en dat hy aan enige ander wettige vereiste van die orde voldoen het, onverwyld 'n getrouheidswaarsborgsertifikaat in die voorgeskrewe vorm aan die aansoeker uitreik.

(b) 'n Getrouheidswaarsborgsertifikaat is tot 31 Desember van die jaar ten opsigte waarvan dit uitgereik is, geldig.

(4) 'n Dokument wat 'n getrouheidswaarsborgsertifikaat heet te wees en in stryd met die bepalings van hierdie artikel uitgereik is, is van nul en gener waarde en word op aanvraag aan die betrokke orde terugbesorg.

43. (1) (a) Behoudens die bepalings van hierdie artikel, betaal elke praktisyn wat vir sy eie rekening of in vennootskap praktiseer, jaarliks wanneer hy om 'n getrouheidswaarsborgsertifikaat aansoek doen, die bedrag van R20, of die groter bedrag wat van tyd tot tyd deur die beheerraad vasgestel word, aan die fonds.

(b) 'n In paragraaf (a) bedoelde praktisyn wat op of na 1 Julie in enige jaar begin praktiseer, betaal ten opsigte van daardie jaar die helfte van die bydrae wat vir daardie jaar ingevolge daardie paragraaf betaalbaar is.

(2) Wanneer die beheerraad of 'n orde namens die beheerraad aan 'n praktisyn wat verplig is om 'n in subartikel (1) bedoelde bydrae te betaal, skriftelik kennis gee dat die bedrag van die fonds, met inbegrip van die beleggings daarvan, en na aftrekking van die som van alle onbetaalde eise en ander uitstaande laste teen die fonds, R1 000 000 beloop, of daardie bedrag oorskry, word van so 'n praktisyn, behoudens die bepalings van subartikel (3), vanaf 'n datum deur die beheerraad vasgestel en in so 'n kennisgewing vermeld, nie langer vereis om die in subartikel (1) bedoelde jaarlikse bydrae te betaal nie.

(3) Wanneer die beheerraad of 'n orde namens die beheerraad aan 'n in subartikel (2) bedoelde praktisyn skriftelik kennis gee dat die bedrag van die fonds, met inbegrip van die beleggings daarvan, en na aftrekking van die bedrag van alle onbetaalde eise en ander uitstaande laste teen die fonds, minder as R1 000 000 beloop, is die bepalings van subartikel (1) weer vanaf 'n datum deur die beheerraad vasgestel en in so 'n kennisgewing vermeld, ten opsigte van so 'n praktisyn van toepassing en verval die in subartikel (2) bedoelde kennisgewing aan so 'n praktisyn.

(4) 'n Praktisyn wat vir die eerste keer kragtens artikel 42 aansoek doen om 'n getrouheidswaarsborgsertifikaat terwyl die bepalings van subartikel (1) uit hoofde van die bepalings van subartikel (2) nie op 'n praktisyn in laasgenoemde subartikel bedoel van toepassing is nie, betaal 'n enkele bydrae van R50 aan die fonds: Met dien verstande dat die bepalings van subartikel (3) *mutatis mutandis* ten opsigte van so 'n praktisyn van toepassing is.

(5) Ondanks die bepalings van subartikel (2), kan die beheerraad van 'n praktisyn ten opsigte van wie die fonds aangewend is as gevolg van die een of ander van die in artikel 26 bedoelde omstandighede, vereis om die in subartikel (1) bedoelde jaarlikse bydrae aan die fonds te betaal vir die tydperk wat die beheerraad bepaal.

(6) (a) 'n Praktisyn wat nie in besit van 'n getrouheidswaarsborgsertifikaat is nie en voornemens is om vir sy eie rekening of in vennootskap te begin praktiseer, gee, alvorens hy aldus begin praktiseer, aan die sekretaris van die orde van die provinsie waarin hy voornemens is om te praktiseer, kennis van daardie voorneme, en daarna is hy aanspreeklik om die bedrag van die in subartikel (1) of (4) bedoelde bydrae, na gelang van die geval, aan die fonds te betaal.

(b) 'n Praktisyn wat in besit is van 'n getrouheidswaarsborgsertifikaat, maar wat voornemens is om vir eie rekening of in vennootskap te begin praktiseer in die regsgebied van 'n ander provinsiale afdeling as dié waarin hy gewoonlik vir eie rekening of in vennootskap praktiseer, gee aan die sekretaris van die betrokke ander orde kennis van daardie voorneme.

Bydraes aan fonds  
deur praktisyns.

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(7) All contributions payable under this section shall be paid to the society, and every society shall remit the contributions to the board of control within seven days of receipt thereof.

Board of control may refund contributions in certain cases.

44. If any practitioner in respect of whom no claim has been made under this Act or in respect of whom such claim has not been sustained, dies or ceases to practise, the board of control may in its discretion, if it is satisfied that no claim is likely to be made, pay to him or his estate a sum not exceeding the aggregate amount of his contributions to the fund. 5

Payments from fund.

45. (1) Subject to the provisions of this Act, the fund shall be applied for the following purposes, namely— 10

- (a) all claims, including costs, payable in terms of this Act, and interest as provided in subsection (2);
- (b) in the discretion of the board of control, a contribution towards expenses incurred by a claimant in establishing his claim; 15
- (c) legal expenses incurred in defending any claim made against the fund or otherwise incurred in relation to the fund;
- (d) premiums payable in respect of contracts of insurance entered into by the board of control in terms of section 40; 20
- (e) refunds made to any member or to his estate in terms of section 44;
- (f) expenses involved in the administration of the fund, including allowances to members of the board of control in respect of their services or their reasonable travelling expenses incurred in connection with the management of the fund; 25
- (g) in the discretion of the board of control, the bank charges or any portion thereof paid by a practitioner in connection with the keeping of a trust account referred to in section 78; 30
- (h) in the discretion of the board of control, the premium or any portion thereof payable in respect of a professional indemnity group insurance policy taken out in favour of practitioners; 35
- (i) in the discretion of the board of control, the costs or any portion thereof incurred by a practitioner in connection with the obtaining of a fidelity fund certificate; 40
- (j) expenses, previously authorized by the board of control, incurred by any society for the purposes of section 78;
- (k) loans and interest thereon;
- (l) other moneys which are payable or may be paid from the fund in accordance with this Act or the regulations made thereunder. 45

(2) The board of control may in its discretion pay an amount out of the fund as interest on the amount of any judgment obtained or of any claim admitted against the fund: Provided that—

- (a) such interest shall not run from a date earlier than the date on which the board of control received notice in writing by or on behalf of a claimant of his claim against the fund; and 50
- (b) the rate of interest shall not exceed the prevailing rate of interest prescribed under section 1 (2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975). 55

Board of control may make grants from fund for education or research in law and for enhancement of the 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, out of the fund— 60

- (a) make grants with the approval of the Minister on such conditions as the board of control may determine with such approval, to any individual 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), for the 65



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(7) Alle bydraes kragtens hierdie artikel betaalbaar, word aan die orde betaal, en die orde stuur die bydraes binne sewe dae na die ontvangs daarvan aan die beheerraad.

44. Indien 'n praktisyn ten opsigte van wie geen eis ingevolge hierdie Wet ingestel is of ten opsigte van wie so 'n eis nie gehandhaaf is nie, sterf of ophou om te praktiseer, kan die beheerraad na goedvinde, indien hy oortuig is dat daar waarskynlik geen eise ingestel sal word nie, aan hom of sy boedel 'n bedrag van hoogstens die totale bedrag van sy bydraes aan die fonds terugbetaal.

Beheerraad kan bydraes in sekere gevalle terugbetaal.

45. (1) Behoudens die bepalinge van hierdie Wet word die fonds vir die volgende doeleindes aangewend, te wete—

Betalings uit fonds.

- (a) alle eise, met inbegrip van koste, betaalbaar ingevolge hierdie Wet, en rente soos in subartikel (2) bepaal;
- 15 (b) na goedvinde van die beheerraad, 'n bydrae ten opsigte van uitgawes aangegaan deur 'n eiser om sy eis te bewys;
- (c) regskoste aangegaan by die verdediging van 'n eis teen die fonds ingestel of andersins aangegaan met betrekking tot die fonds;
- 20 (d) premies betaalbaar ten opsigte van versekeringskontrakte deur die beheerraad ingevolge artikel 40 gesluit;
- (e) terugbetalings aan 'n lid of aan sy boedel ingevolge artikel 44;
- 25 (f) uitgawes verbonde aan die beheer van die fonds, met inbegrip van toelaes aan lede van die beheerraad ten opsigte van hul dienste of redelike reisonkoste in verband met die bestuur van die fonds aangegaan;
- (g) na goedvinde van die beheerraad, die bankkoste of 'n gedeelte daarvan deur 'n praktisyn betaal in verband met die hou van die in artikel 78 bedoelde trustrekening;
- 30 (h) na goedvinde van die beheerraad, die premie of 'n gedeelte daarvan betaalbaar ten opsigte van 'n professionele indenniteitsgroepsversekeringspolis ten gunste van praktisyns uitgeneem;
- 35 (i) na goedvinde van die beheerraad, die koste of 'n gedeelte daarvan deur 'n praktisyn aangegaan in verband met die verkryging van 'n getrouheidswaarsborgsertifikaat;
- 40 (j) uitgawes, vooraf deur die beheerraad gemagtig, deur 'n orde aangegaan vir die doeleindes van artikel 78;
- (k) lenings en rente daarop;
- (l) ander gelde wat uit die fonds betaalbaar is of daaruit betaal kan word ooreenkomstig hierdie Wet of die regulasies daarkragtens uitgevaardig.
- 45

(2) Die beheerraad kan na goedvinde 'n bedrag uit die fonds betaal as rente op die bedrag van 'n vonnis wat teen die fonds verkry is of van 'n eis teen die fonds wat erken is: Met dien verstande dat—

- 50 (a) die rente nie loop nie van 'n datum vroeër as die datum waarop die beheerraad skriftelike kennis van of namens die eiser van sy eis teen die fonds ontvang het; en
- (b) die rentekoers nie die geldende rentekoers wat kragtens artikel 1 (2) van die Wet op die Voorgeskrewe Rentekoers, 1975 (Wet No. 55 van 1975), voorgeskryf is, mag oorskry nie.
- 55

46. Die beheerraad kan, sonder om afbreuk te doen aan die doeleindes van artikel 26 en, indien die bedrag van die fonds soos in artikel 43 beoog, nie minder nie as R2 000 000 beloop, uit die fonds—

- 60 (a) toekennings met die Minister se goedkeuring doen op die voorwaardes deur die beheerraad met sodanige goedkeuring bepaal, aan 'n individu of 'n universiteit by Wet van die Parlement ingestel of 'n universiteitskollege ingestel kragtens die Wet op Uitbreiding van Universiteitsopleiding, 1959 (Wet No. 45 van 1959), vir die
- 65

Beheerraad kan toekennings uit fonds doen vir regsopleiding of navorsing in die regte en vir verhoging van professionele standaarde van praktisyns.

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purposes of education or research in law and may, with such approval, at any time when it deems fit, revoke such grant or any part thereof;

- (b) pay an honorarium to any person for services rendered at the request of the board of control with the object of enhancing the professional standards of practitioners. 5

Limitation of liability of fund.

47. (1) The fund shall not be liable in respect of any loss suffered—

- (a) by any person as a result of theft committed by a practitioner while such practitioner is in the employment of any person who is not a practitioner; 10
- (b) by the wife of a practitioner as a result of any theft committed by that practitioner;
- (c) by any practitioner as a result of any theft committed by any partner or employee of that practitioner or by any employee of any partnership in which he is a partner; 15
- (d) by any practitioner as a result of any theft committed by any member or employee of a professional company of which he is a member;
- (e) as a result of any theft committed by any practitioner whose fidelity has been guaranteed by any person, either in general or in respect of the particular transaction, to the extent to which it is covered by the guarantee; 20
- (f) by any person as a result of any theft committed by any practitioner after such person has received a notification in writing from the secretary of a society or the board of control warning him against the employment or continued employment of such practitioner. 25

(2) A claim for reimbursement as contemplated in section 26 shall be limited, in the case of money entrusted to a practitioner, to the amount actually handed over, without interest, and, in the case of securities or other property, to an amount equal to the average market value of such securities or property at the date when written demand is first made for their delivery, or, if there is no average market value, the fair market value as at that date of such securities or other property, without interest. 30

(3) Only the balance of any loss suffered by any person after deduction from the loss of the amount or value of all money or other benefits received or receivable by him from any source other than the fund, may be recovered from the fund. 40

Claims against fund: notice, proof and extension of periods for claims.

48. (1) No person shall have a claim against the fund in respect of any theft contemplated in section 26 unless—

- (a) written notice of such claim is given to the council of the society concerned and to the board of control within 3 months after the claimant became aware of the theft or 45 by the exercise of reasonable care should have become aware of the theft; and
- (b) within 6 months after a written demand has been sent to him by the board of control, the claimant furnishes the board with such proof as the board may reasonably 50 require.

(2) If the board of control is satisfied that, having regard to all the circumstances, a claim or the proof required by the board has been lodged or furnished as soon as practicable, it may in its discretion extend any of the periods referred to in subsection (1). 55

Actions against fund.

49. (1) No action shall without leave of the board of control be instituted against the fund unless the claimant has exhausted all available legal remedies against the practitioner in respect of whom the claim arose or his estate and against all other persons liable in respect of the loss suffered by the claimant. 60

(2) Any action against the fund in respect of any loss suffered by any person as a result of any theft committed by any practitioner, his clerk or employee, shall be instituted within one



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doeleindes van regsopleiding of navorsing in die regte en kan, met sodanige goedkeuring, te eniger tyd wanneer hy dit goedvind sodanige toekenning of 'n gedeelte daarvan intrek;

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

47. (1) Die fonds is nie aanspreeklik nie ten opsigte van 'n verlies— Beperking van aanspreeklikheid van fonds.

- 10 (a) deur iemand gely weens diefstal deur 'n praktisyn gepleeg terwyl so 'n praktisyn in die diens is van iemand wat nie 'n praktisyn is nie;
- (b) deur die eggenote van 'n praktisyn gely weens diefstal deur daardie praktisyn gepleeg;
- 15 (c) deur 'n praktisyn gely weens diefstal gepleeg deur 'n vennoot of werknemer van daardie praktisyn of deur 'n werknemer van 'n vennootskap waarvan hy 'n vennoot is;
- (d) deur 'n praktisyn gely weens diefstal gepleeg deur 'n lid of werknemer van 'n professionele maatskappy waarvan hy lid is;
- 20 (e) weens diefstal gepleeg deur 'n praktisyn wie se eerlikheid deur iemand gewaarborg is, hetsy in die algemeen of ten opsigte van die besondere transaksie, in die mate waarin dit deur die waarborg gedek is;
- 25 (f) deur iemand gely weens diefstal deur 'n praktisyn gepleeg nadat so iemand 'n skriftelike kennisgewing van die sekretaris van 'n orde of die beheerraad ontvang het om hom te waarsku teen die indiensneming of indienshouding van so 'n praktisyn.
- 30 (2) 'n Eis om vergoeding soos beoog in artikel 26 is beperk, in die geval van geld wat aan 'n praktisyn toevertrou is, tot die bedrag wat werklik oorhandig is, sonder rente, en, in die geval van sekuriteite of ander goed, tot 'n bedrag gelyk aan die gemiddelde

35 markwaarde van daardie sekuriteite of goed op die datum waarop lewering daarvan vir die eerste keer skriftelik aangevra word, of, indien daar geen gemiddelde markwaarde is nie, die billike markwaarde op daardie datum van daardie sekuriteite of ander goed, sonder rente.

- 40 (3) Slegs die balans van 'n verlies deur iemand gely nadat die bedrag of waarde van alle geld of ander voordele wat uit enige ander bron as die fonds deur hom ontvang is of ontvang gaan word, van die verlies afgetrek is, kan op die fonds verhaal word.

48. (1) Niemand het 'n eis teen die fonds ten opsigte van enige diefstal in artikel 26 bedoel nie tensy— Eise teen fonds: kennisgewing, bewys en verlenging van tydperk van eise.

- 45 (a) binne 3 maande nadat die eiser van die diefstal te wete gekom het, of deur die beoefening van redelike sorg van die diefstal te wete moes gekom het, aan die raad van die betrokke orde en die beheerraad skriftelike kennis
- 50 van sodanige eis gegee word; en
- (b) binne 6 maande nadat 'n skriftelike versoek deur die beheerraad aan hom gestuur is, die eiser die staving wat die raad redelikerwys vereis, aan daardie raad verskaf.

- 55 (2) Indien die beheerraad oortuig is dat, met inagneming van al die omstandighede, 'n eis of die bewys deur die beheerraad vereis, so spoedig doenlik ingedien of verskaf is, kan hy, na goedvinde, enige van die tydperke in subartikel (1) genoem, verleng.

49. (1) 'n Aksie word nie sonder verlof van die beheerraad teen die fonds ingestel nie tensy die eiser alle beskikbare regsmiddels teen die praktisyn ten opsigte van wie die eis ontstaan het, of sy boedel, en teen alle ander persone wat aanspreeklik is vir die verlies deur die eiser gely, aangewend het. Aksies teen fonds.

- 60 (2) 'n Aksie teen die fonds vir 'n verlies deur iemand gely weens diefstal deur 'n praktisyn, sy klerk of werknemer, word
- 65 ingestel binne een jaar na die datum van 'n kennisgewing aan so

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year of the date of a notification directed to such person or his legal representative by the board of control informing him that the board of control rejects the claim to which such action relates.

(3) In any action against the fund all defences which would have been available to the person against whom the claim arose, shall be available to the fund. 5

(4) Any action against the fund may, subject to the provisions of this Act and the regulations made thereunder, be brought in any provincial or local division of the Supreme Court within the jurisdiction of which the cause of action arose. 10

## Subrogation.

**50.** On payment out of the fund of money in settlement in whole or in part of any claim under this Act, the fund shall be subrogated to the extent of such payment to all the rights and legal remedies of the claimant against any practitioner or any person in relation to whom the claim arose, or in the event of his death or insolvency or other legal disability, against any person having authority to administer his estate. 15

## Claims may be charged against future revenue of fund.

**51.** (1) If the fund at any time has insufficient assets to settle all claims and judgments, such claims and judgments shall, to the extent to which they are not settled, be charged against future revenue of the fund. 20

(2) The board of control may in its discretion determine the order in which claims and judgments in terms of subsection (1) shall be settled, and may, if the revenue of the fund is not sufficient to settle all claims in full, settle any claim or judgment in whole or in part. 25

(3) Without limiting the discretion of the board of control it shall, in applying the fund towards such settlement of claims and judgments, consider the following, namely—

- (a) the relative degrees of hardship suffered or likely to be suffered by the various claimants should their claims against the fund not be settled in whole or in part; 30
- (b) subject to paragraph (a), the full settlement of claims not exceeding R1 000, except in special circumstances, before claims for amounts exceeding R1 000 are settled to a greater extent than R1 000; 35
- (c) in equal circumstances, the priority of claimants according to the dates of the judgments or the dates when the claims were admitted by the board of control, as the case may be. 40

## Exemption of fund from certain provisions of certain laws.

**52.** (1) The revenue of the fund shall be exempt from the provisions of any law relating to payment of income tax or any other tax or levy by the State.

(2) Any provision of any law relating to insurance (other than a law relating to the compulsory insurance of employees) or the provision of security in connection therewith, shall not apply to the fund. 45

## Indemnification in respect of certain acts in good faith.

**53.** No action for damages shall be instituted—

- (a) against the fund, the board of control or any member, official or employee of the board of control in respect of anything done in the *bona fide* exercise or performance of its or his powers or duties in terms of the provisions of this Act; or 50
- (b) against any society, any council, any member of a council or official or employee of any council, in respect of any notification issued in good faith for the purposes of section 47 (1) (f). 55

## Preservation and disposal of records and documents in possession of board of control.

**54.** (1) Any record or document in possession of the board of control relating to any claim instituted against the fund shall, subject to the provisions of subsection (2), be preserved at the office of the secretary of the board of control. 60

(2) The chairman of the board of control may, after the lapse of 5 years from the date on which any claim to which any record or document relates is settled by the board of control or adjudicated



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iemand of sy regsverteenvoortreder deur die beheerraad gerig waarin hy meegedeel word dat die beheerraad die eis waarop daardie aksie betrekking het, verwerp.

(3) In 'n aksie teen die fonds is alle verwerpe wat vir die persoon 5 teen wie die eis ontstaan het beskikbaar sou gewees het, vir die fonds beskikbaar.

(4) 'n Aksie teen die fonds kan, behoudens die bepalings van hierdie Wet en die regulasies daarkragtens uitgevaardig, in 'n provinsiale of plaaslike afdeling van die Hooggeregshof binne wie 10 se regsgebied die skuldoorsaak ontstaan het, ingestel word.

50. By betaling uit die fonds van geld ter vereffening of Subrogasie. gedeeltelike vereffening van 'n eis kragtens hierdie Wet, word die fonds in die mate van so 'n betaling gesubrogeer tot alle regte en regsmiddels van die eiser teen 'n praktisyn of iemand met 15 betrekking tot wie die eis ontstaan het, of in geval van sy dood of insolvensie of ander regsonbevoegdheid, teen iemand wat die bevoegdheid het om sy boedel te administreer.

51. (1) Indien die fonds te eniger tyd nie oor voldoende bates beskik ter vereffening van alle eise en vonnisse nie, word 20 sodanige eise en vonnisse in die mate waarin hulle nie vereffen word nie, teen die toekomstige inkomste van die fonds bereken.

(2) Die beheerraad kan na goedvinde besluit oor die volgorde waarin eise en vonnisse ooreenkomstig subartikel (1) vereffen moet word, en kan, indien die bates van die fonds nie voldoende 25 is om alle eise ten volle te vereffen nie, enige eis of vonnis ten volle of gedeeltelik vereffen.

(3) Sonder om die diskresie van die beheerraad by sodanige aanwending van die fonds ter vereffening van eise en vonnisse te beperk, moet die beheerraad die volgende oorweeg, te wete—

- 30 (a) die relatiewe mate van ontbering deur die verskillende eisers gelyk of wat hulle waarskynlik sal ly indien hulle eise teen die fonds nie ten volle of gedeeltelik vereffen word nie;
- 35 (b) behoudens paragraaf (a), die volle vereffening van eise vir bedrae van hoogstens R1 000, behalwe onder spesiale omstandighede, voordat eise vir bedrae van meer as R1 000 vereffen word in 'n groter mate as R1 000;
- 40 (c) in gelyke omstandighede, die voorrang van eisers ooreenkomstig die datums van die vonnisse, of die datums waarop die eise deur die beheerraad erken is, na gelang van die geval.

52. (1) Die inkomste van die fonds is vrygestel van die bepalings van 'n wet betreffende die betaling van inkomstebelasting of 'n belasting of heffing deur die Staat. 45

(2) 'n Bepaling van 'n wet betreffende versekering (behalwe 'n wet betreffende die verpligte versekering van werknemers) of sekerheidstelling in verband daarmee, is nie op die fonds van toepassing nie.

50 53. Geen aksie vir skadevergoeding word ingestel—

- (a) teen die fonds, die beheerraad of 'n lid, beampte of werknemer van die beheerraad ten opsigte van enigiets in die *bona fide*-uitoefening of -uitvoering van sy bevoegdhede of pligte ingevolge die bepalings van 55 hierdie Wet gedoen nie; of
- (b) teen 'n orde, 'n raad, 'n lid van 'n raad, of beampte of werknemer van 'n raad, ten opsigte van 'n kennisgewing wat te goeder trou vir die doeleindes van artikel 47 (1) (f) uitgereik is nie.

60 54. (1) 'n Aantekening of dokument in besit van die beheerraad wat betrekking het op 'n eis teen die fonds ingestel, word, behoudens die bepalings van subartikel (2), by die kantoor van die sekretaris van die beheerraad bewaar.

(2) Die voorsitter van die beheerraad kan na verloop van 5 jaar 65 vanaf die datum waarop 'n eis waarop 'n aantekening of dokument betrekking het, deur daardie raad vereffen is of deur die

Eise kan teen toekomstige inkomste van fonds bereken word.

Vrystelling van fonds van sekere bepalings van sekere wette.

Vrywaring ten opsigte van sekere handelinge te goeder trou.

Bewaring en beskikking oor aantekeninge en dokumente in besit van beheerraad.

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upon by the court or rendered unenforceable by lapse of time, direct that such record or document be removed to some other place of custody or be destroyed or otherwise disposed of.

Application of this Chapter in respect of certain persons exercising legal professions in Transkei.

## 55. For the purposes of this Chapter—

- (a) "practising practitioner" shall include any person who 5  
exercises a legal profession in Transkei on his own account or in partnership, similar to that of a practitioner, and—  
(i) who is required by a law of Transkei, as a pre-requisite for exercising such profession, to be in possession of a valid fidelity fund certificate issued 10  
to him in terms of section 42 (3);  
(ii) who is in possession of such a certificate,  
and the provisions of this Chapter shall *mutatis mutandis* apply in respect of any theft committed in Transkei by such a person, his clerk or employee, of any money 15  
or other property referred to in section 26: Provided that every action against the board of control in relation to the fund and emanating from such theft may be instituted in any court prescribed by any law of Transkei;  
(b) a person referred to in paragraph (a) shall be deemed to 20  
be a practitioner who is a member of the society known as the Law Society of the Cape of Good Hope.

## CHAPTER III

## LAW SOCIETIES

Continued existence of law societies.

## 56. The law societies known as— 25

- (a) in the case of the law society of the province of the Cape of Good Hope, The Law Society of the Cape of Good Hope;  
(b) in the case of the law society of the province of the Orange Free State, The Law Society of the Orange Free 30  
State;  
(c) in the case of the law society of the province of the Transvaal, The Law Society of the Transvaal;  
(d) in the case of the law society of the province of Natal, The Natal Law Society; 35  
(e) in the case of the law society of the Territory, The Law Society of South West Africa,

shall, notwithstanding the provisions of section 86, continue to exist as juristic persons.

Membership of society.

57. (1) Every practitioner who practises in any province, whether 40  
for his own account or otherwise, shall be a member of the society of that province.

(2) A society may by notice in writing addressed to any person who has been admitted and enrolled as an attorney or a notary or conveyancer in any court in the province of its society, or whose 45  
name has been placed on the roll of such court, but who does not practise in that province, declare such person to be a member of such society with effect from a date fixed in that notice.

(3) The person who holds office as State Attorney in terms of section 2 (1) (a) of the State Attorney Act, 1957 (Act No. 56 of 50  
1957), shall be a member of every society.

(4) If a member of any society is suspended from practice he shall during the period of such suspension not be entitled to the rights or privileges of membership of any society, and if a 55  
member of any society is struck off the roll of any court, such member shall cease to be a member of every society of which he is a member.

(5) The provisions of this section shall not apply in respect of any person who is in terms of the Natal Conveyancers Act, 1926 (Act No. 24 of 1926), entitled to practise as a conveyancer, but 60  
who is not an attorney.



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hof bereg is of deur tydsverloop onafdwingbaar geword het, gelas dat daardie aantekening of dokument na 'n ander plek van bewaring verwyder word of vernietig word of dat op 'n ander wyse daarvoor beskik word.

## 5 55. By die toepassing van hierdie Hoofstuk—

Toepassing van hierdie Hoofstuk ten opsigte van sekere persone wat regsberoep in Transkei uitoefen.

- (a) beteken „praktiserende praktisyn” ook 'n persoon wat in Transkei 'n regsberoep uitoefen, vir sy eie rekening of in vennootskap, wat soortgelyk is aan dié van 'n praktisyn, en—
- 10 (i) van wie daar by 'n wet van Transkei vereis word om, as voorvereiste om so 'n beroep uit te oefen, in besit te wees van 'n geldige getrouheidswaarborgsertifikaat wat ingevolge artikel 42 (3) aan hom uitgereik is;
- 15 (ii) wat in besit is van so 'n sertifikaat, en is die bepalings van hierdie Hoofstuk *mutatis mutandis* van toepassing ten opsigte van 'n diefstal gepleeg in Transkei deur so 'n persoon, sy klerk of werknemer, van geld of ander goedere bedoel in artikel 26: Met dien verstande dat elke aksie teen die beheerraad
- 20 ten opsigte van die fonds en wat voortspruit uit sodanige diefstal, in enige hof wat deur 'n wet van Transkei voorgekryf word, ingestel kan word;
- 25 (b) word 'n persoon bedoel in paragraaf (a) geag 'n praktisyn te wees wat 'n lid is van die orde met die naam die Wetsgenootskap van die Kaap die Goeie Hoop.

## HOOFSTUK III

## PROKUREURSORDES

## 30 56. Die prokureursordes bekend as—

Voortbestaan van prokureursordes.

- (a) in die geval van die prokureursorde van die provinsie die Kaap die Goeie Hoop, Die Wetsgenootskap van die Kaap die Goeie Hoop;
- 35 (b) in die geval van die prokureursorde van die provinsie Oranje-Vrystaat, Die Prokureursorde van die Oranje-Vrystaat;
- (c) in die geval van die prokureursorde van die provinsie Transvaal, Die Prokureursorde van Transvaal;
- (d) in die geval van die prokureursorde van die provinsie Natal, Die Natalse Wetsgenootskap;
- 40 (e) in die geval van die prokureursorde van die Gebied, Die Prokureursorde van Suidwes-Afrika,
- bly, ondanks die bepalings van artikel 86, as regspersone voortbestaan.

45 57. (1) Elke praktisyn wat in 'n provinsie praktiseer, hetsy vir eie rekening of op 'n ander wyse, is lid van die orde van daardie provinsie. Lidmaatskap van orde.

(2) 'n Orde kan by skriftelike kennisgewing gerig aan iemand wat in 'n hof in die provinsie van daardie orde as 'n prokureur, 50 notaris of transportbesorger toegelaat en ingeskryf is, of wie se naam op die rol van so 'n hof geplaas is, maar wat nie in daardie provinsie praktiseer nie, so iemand tot lid van daardie orde verklaar met ingang van 'n datum wat in daardie kennisgewing vasgestel is.

55 (3) Die persoon wat die amp van Staatsprokureur ingevolge artikel 2 (1) (a) van die Wet op die Staatsprokureur, 1957 (Wet No. 56 van 1957), beklee, is 'n lid van elke orde.

(4) Indien 'n lid van 'n orde in sy praktyk geskors word, is hy gedurende die tydperk van daardie skorsing nie geregtig op die 60 regte of voorregte van lidmaatskap van enige orde nie, en indien 'n lid van enige orde van die rol van 'n hof geskrap word, hou daardie lid op om lid te wees van elke orde waarvan hy lid is.

(5) Die bepalings van hierdie artikel is nie van toepassing nie ten opsigte van iemand wat ingevolge die Natalse Transportbesor- 65 gers Wet, 1926 (Wet No. 24 van 1926), geregtig is om as 'n transportbesorger te praktiseer, maar wat nie 'n prokureur is nie.

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## Objects of society.

**58.** The objects of a society shall be—

- (a) to maintain and enhance the prestige, status and dignity of the profession;
- (b) to regulate the exercise of the profession;
- (c) to encourage and promote efficiency in and responsibility in relation to the profession; 5
- (d) to deal with all matters relating to the interests of the profession and to protect those interests;
- (e) to uphold the integrity of practitioners;
- (f) to uphold and improve the standards of professional conduct and qualifications of practitioners; 10
- (g) to provide for the effective control of the professional conduct of practitioners;
- (h) to promote uniform practice and discipline among practitioners; 15
- (i) to encourage the study of the law;
- (j) to initiate and promote reforms and improvements in any branch of the law, the administration of justice, the practice of the law and in draft legislation;
- (k) to represent generally the views of the profession; 20
- (l) in the interests of the profession in the Republic, to co-operate with such other societies or bodies of persons as it may deem fit.

## Powers of society.

**59.** A society may for the purpose of achieving its objects—

- (a) acquire or hire movable or immovable property; 25
- (b) develop, hypothecate, let, sell or otherwise dispose of movable or immovable property of the society;
- (c) make donations of property (including money) of the society;
- (d) accept, draw, endorse, issue, make, pay or perform any other act in respect of negotiable instruments; 30
- (e) with or without security, invest or lend money of the society;
- (f) with or without security, borrow or raise money required by the society in connection with the carrying out of its duties, the performance of its functions or the exercise of its powers; 35
- (g) (i) employ, fix the remuneration and other conditions of service of and discharge a secretary, one or more assistant secretaries and other officials and employees of the society; 40
- (ii) conclude any agreement with any person for the performance of any particular act or particular work or the rendering of particular services;
- (h) establish or promote or administer or assist in the establishment or promotion or administration of— 45
  - (i) insurance schemes;
  - (ii) medical aid schemes or medical benefit schemes;
  - (iii) pension funds or provident funds or pension schemes or benevolent schemes, 50
 for members and ex-members of the society, for employees of such members, for officials and employees of the society and for dependants of such members, ex-members, officials and employees;
- (i) enter into contracts in connection with the carrying out of its duties, the performance of its functions or the exercise of its powers; 55
- (j) appear in support of or in opposition to, or to abide the decision of any court in, any proceedings brought in terms of the provisions of this Act, and if permitted by any other law, such law; 60
- (k) generally, do anything that is necessary for or conducive to the attainment of the objects of the society, and the generality of this provision shall not be limited by the preceding paragraphs of this section. 65



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Oogmerke van orde.

58. Die oogmerke van 'n orde is—

- (a) om die prestige, status en waardigheid van die beroep te handhaaf en te verhoog;
- (b) om die beoefening van die beroep te reël;
- 5 (c) om doeltreffendheid in en verantwoordelikheid met betrekking tot die beroep aan te moedig en te bevorder;
- (d) om met alle aangeleenthede betreffende die belange van die beroep te handel en om daardie belange te beskerm;
- (e) om die integriteit van praktisyns te handhaaf;
- 10 (f) om die standarde van professionele gedrag en kwalifikasies van praktisyns te handhaaf en te verbeter;
- (g) om voorsiening te maak vir die doeltreffende beheer van die professionele gedrag van praktisyns;
- (h) om eenvormige praktyk en dissipline onder praktisyns te bevorder;
- 15 (i) om die studie van die reg aan te moedig;
- (j) om hervormings en verbeterings in enige vertakking van die reg, die regspleging, die regspraktyk en in konsepwetgewing aanhangig te maak en te bevorder;
- 20 (k) om in die algemeen die sienswyse van die beroep te verteenwoordig;
- (l) om, in die belang van die beroep in die Republiek, met die ander ordes of liggame van persone wat hy goedvind, saam te werk.

25 59. 'n Orde kan, ten einde sy oogmerke te verwesenlik—

Bevoegdhede van orde.

- (a) roerende of onroerende goed verkry of huur;
- (b) roerende of onroerende goed van die orde ontwikkel, verhipotekeer, verhuur, verkoop of op 'n ander wyse van die hand sit;
- 30 (c) skenkings van goed van die orde (met inbegrip van geld) doen;
- (d) verhandelbare dokumente aksepteer, trek, endosseer, uitgee, maak, betaal of 'n ander handeling ten opsigte daarvan verrig;
- 35 (e) geld van die orde met of sonder sekuriteit belê of uitleen;
- (f) geld deur die orde benodig in verband met die uitvoering van sy pligte, die verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede met of sonder sekuriteit leen of opneem;
- 40 (g) (i) 'n sekretaris, een of meer assistent-sekretarisse en ander beamptes en werknemers van die orde aanstel, hul besoldiging en ander diensvoorwaardes bepaal en hulle ontslaan;
- 45 (ii) met enigiemand 'n kontrak aangaan vir die verrigting van 'n besondere handeling of besondere werk of die lewering van besondere dienste;
- (h) (i) versekeringskemas;
- (ii) mediese hulpskemas of mediese bystandskemas;
- 50 (iii) pensioenfondse of voorsorgfondse of pensioenskemas of liefdadigheidskemas, vir lede en gewese lede van die orde, vir werknemers van daardie lede, vir beamptes en werknemers van die orde en vir afhanklikes van daardie lede, gewese lede, beamptes en werknemers, stig of ondersteun of administreer of behulpsaam wees met die stigting of ondersteuning of administrasie daarvan;
- 55 (i) kontrakte aangaan in verband met die uitvoering van sy pligte, die verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede;
- 60 (j) in enige verrigtinge ingestel ingevolge die bepalings van hierdie Wet en, indien toegelaat deur 'n ander wet, daardie wet, verskyn ter ondersteuning of bestryding daarvan of om in die beslissing van 'n hof daarin te berus;
- 65 (k) oor die algemeen, enigiets doen wat nodig of bevorderlik is vir die verwesenliking van die oogmerke van die orde, en die algemeenheid van hierdie bepaling word nie deur die voorafgaande paragrawe van hierdie artikel beperk nie.

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Council to manage and control affairs of society.

**60.** (1) The affairs of a society shall be managed and controlled by a council, which may, subject to the provisions of subsection (2), exercise the powers of the society.

(2) The alienation or mortgaging of any immovable property of a society, the appointment of the auditors of a society and the fixing of any subscription, fees, levies or other charges payable to a society by its members, shall be subject to the approval of such majority of the members of that society who are present or represented at a general meeting or at a meeting specially convened for that purpose, as may be prescribed.

Constitution of council and election and period of office of members.

**61.** (1) A council shall consist of such number of members of the society concerned as may be prescribed.

(2) The members of a council shall be elected in the prescribed manner by the members of the society concerned.

(3) A member of a council shall hold office for the prescribed period.

Vacation of office, suspension from office and filling of vacancies.

**62.** (1) A member of a council shall vacate his office—

(a) in the prescribed circumstances;

(b) if he is removed from office by the council in the prescribed circumstances and manner.

(2) When a member of a council vacates his office before the expiration of the prescribed period of office, the council may appoint a member of the society to fill the vacancy for the unexpired portion of such period of office.

(3) A council may in the prescribed circumstances and manner suspend from office any member of that council and may in such case appoint any member of its society to act during the period of suspension in the place of the member so suspended.

President and vice-president or vice-presidents.

**63.** (1) A council shall from among its members elect a president and one or more vice-presidents, who shall respectively also be the president and vice-president or vice-presidents of the society concerned and who shall hold office for the prescribed periods.

(2) If the office of the president becomes vacant before the expiration of his period of office, the vice-president or, if there is more than one vice-president, that vice-president determined by the council, shall be the president for the unexpired portion of such period of office.

(3) If the office of a vice-president becomes vacant before the expiration of his period of office, the council shall elect one of its number to fill such vacancy, and the member so elected shall be vice-president for the unexpired portion of such period of office.

(4) If for any reason the president is absent or unable to perform his functions as president, the vice-president or, if there is more than one vice-president, such vice-president as the council may determine, shall act as president, and such vice-president shall while so acting have all the powers and perform all the functions of the president.

Meetings of council.

**64.** (1) A meeting of a council shall be convened in the manner prescribed and shall be held at a time and place prescribed or determined in the manner prescribed.

(2) If the president and the vice-president or, if there is more than one vice-president, all vice-presidents, are absent from or unable to preside at any meeting of a council, the members of the council present at that meeting shall elect one of their number to preside at such meeting during such absence or inability, and the person so elected shall while so presiding have all the powers and perform all the functions of the president.

(3) (a) The decision of the majority of the members of a council present at a meeting of the council shall be the decision of the council: Provided that in the event of an equality of votes on any matter before such meeting, the person presiding at such meeting shall have a casting vote in



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60. (1) Die sake van 'n orde word bestuur en beheer deur 'n raad, wat, onderworpe aan die bepalings van subartikel (2), die bevoegdhede van die orde kan uitoefen. Raad bestuur en beheer sake van orde.
- (2) Die vervreemding of beswaring met 'n verband van enige onroerende goed van 'n orde, die aanstelling van die ouditeure van 'n orde en die vasstelling van enige subskripsies, geld, heffings of ander vorderings betaalbaar aan 'n orde deur sy lede, is onderworpe aan die goedkeuring van sodanige meerderheid van die lede van daardie orde aanwesig of verteenwoordig op 'n algemene vergadering of op 'n vergadering wat spesiaal vir daardie doel belê is, as wat voorgeskryf word.
61. (1) 'n Raad bestaan uit die aantal lede van die betrokke orde wat voorgeskryf word. Samestelling van raad en verkiesing en ampstermyn van lede.
- (2) Die lede van 'n raad word op die voorgeskrewe wyse deur 15 die lede van die betrokke orde verkies.
- (3) 'n Lid van 'n raad beklee sy amp vir die voorgeskrewe tydperk.
62. (1) 'n Lid van 'n raad ontruim sy amp— Ontruiming van amp, skorsing in amp en vul van vakatures.
- (a) in die voorgeskrewe omstandighede;
- 20 (b) indien hy deur die raad in die omstandighede en op die wyse wat voorgeskryf word van sy amp onthef word.
- (2) Wanneer 'n lid van 'n raad sy amp voor die verstryking van die voorgeskrewe ampstermyn ontruim, kan die raad 'n lid van die orde aanstel om die vakature vir die onverstreke gedeelte van 25 daardie ampstermyn te vul.
- (3) 'n Raad kan in die omstandighede en op die wyse wat voorgeskryf word 'n lid van daardie raad in sy amp skors en kan in so 'n geval enige lid van sy orde aanstel om gedurende die tydperk van skorsing waar te neem in die plek van die lid wat 30 aldus geskors is.
63. (1) 'n Raad moet uit sy geledere 'n president en een of meer vise-presidente verkies, wat onderskeidelik ook die president en vise-president of vise-presidente van die betrokke orde is en wat hul ampte vir die voorgeskrewe tydperke beklee. President en vise-president of vise-presidente.
- 35 (2) Indien die amp van die president voor die verstryking van sy ampstermyn vakant word, is die vise-president of, indien daar meer as een vise-president is, daardie vise-president wat deur die raad bepaal word, die president vir die onverstreke gedeelte van daardie ampstermyn.
- 40 (3) Indien die amp van 'n vise-president voor die verstryking van sy ampstermyn vakant raak, kies die raad een uit sy geledere om daardie vakature te vul, en die lid wat aldus gekies is, is vise-president vir die onverstreke gedeelte van daardie ampstermyn.
- 45 (4) Indien die president om enige rede afwesig of nie in staat is om sy werksaamhede as president te verrig nie, neem die vise-president of, indien daar meer as een vise-president is, daardie vise-president wat die raad bepaal, waar as president, en terwyl hy aldus waarneem, het daardie vise-president alle 50 bevoegdhede en verrig hy alle werksaamhede van die president.
64. (1) 'n Vergadering van 'n raad word op die voorgeskrewe wyse belê en word gehou op 'n tyd en plek wat voorgeskryf word of op die voorgeskrewe wyse bepaal word. Vergaderings van raad.
- (2) Indien die president en die vise-president of, indien daar 55 meer as een vise-president is, alle vise-presidente, van 'n vergadering van 'n raad afwesig is of nie in staat is om daarop voor te sit nie, kies die lede van daardie raad by daardie vergadering aanwesig een uit hul midde om gedurende bedoelde afwesigheid of onvermoë op daardie vergadering voor te sit, en terwyl hy 60 aldus voorsit, het die persoon wat aldus gekies is alle bevoegdhede en verrig hy alle werksaamhede van die president.
- (3) (a) Die beslissing van die meerderheid van die lede van 'n raad wat op 'n vergadering van die raad aanwesig is, is die beslissing van die raad: Met dien verstande dat by 'n 65 staking van stemme oor enige aangeleentheid voor so 'n vergadering die persoon wat op so 'n vergadering

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- addition to his deliberative vote.
- (b) The method and procedure of voting at meetings of a council shall be determined by that council.
- (4) (a) The quorum for any meeting of a council shall be as prescribed. 5
- (b) If the number of members of a council is reduced to a number less than that required to constitute the prescribed quorum, the remaining members of that council shall from among the members of the society concerned appoint such number of members as is required to constitute the prescribed quorum. 10
- Alternate members.** 65. A council may appoint any member of its society as an alternate to attend on behalf of any member any meeting of the council which such member is unable to attend, with the power to vote at any such meeting. 15
- Validity of decisions taken by, or acts performed under authority of, council.** 66. No decision taken by a council or act performed under authority of a council shall be invalid by reason only of the existence of a vacancy on that council or of the fact that a person who was not entitled to sit as a member of the council, sat as a member of the council, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members. 20
- Committees of council.** 67. (1) (a) A council may appoint one or more committees to assist it in the carrying out of its duties, the performance of its functions and the exercise of its powers, may at any time increase or reduce the membership of any such committee and may fill any vacancy on any such committee. 25
- (b) Any committee referred to in paragraph (a) shall consist of members of the council concerned or of members of the society concerned or of members of such council as well as of members of such society. 30
- (c) A council may designate one of the members of a committee appointed by it in terms of paragraph (a) as chairman of that committee and, if no such designation is made, the members of that committee may from among their number elect a chairman. 35
- (2) A council may assign to a committee appointed by it in terms of subsection (1), such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee, and may amend or withdraw any decision of any such committee: Provided that if a council has assigned to a committee the power to enquire into any case of alleged unprofessional or dishonourable or unworthy conduct and to impose any punishment in respect thereof in accordance with section 72, the council shall not amend or withdraw any decision arrived at or anything done by such committee in terms of the power so assigned. 40 45
- (3) A council may require any committee appointed in terms of subsection (1) either generally or specially to enquire into and to advise the council on any matter in connection with the duties, functions or powers of the society or the council. 50
- Duties of council.** 68. A council shall—
- (a) convene annually a general meeting of the members of its society; 55
- (b) convene in the prescribed circumstances a special meeting of the members of its society;
- (c) determine the date and place of meetings of its society and the business to be transacted at such meetings;
- (d) make rules providing for the calling of and the quorum and procedure at meetings of its society, and the manner in which motions shall be submitted to such meetings; 60



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- voorsit benewens sy beraadslagende stem ook 'n beslissende stem het.
- (b) Die stemwyse en -prosedure by vergaderings van 'n raad word deur daardie raad bepaal.
- 5 (4) (a) Die kworum vir 'n vergadering van 'n raad is soos voorgeskryf.
- (b) Indien die aantal lede van 'n raad verminder word tot 'n aantal minder as dié wat nodig is om die voorgeskrewe kworum uit te maak, stel die oorblywende lede van
- 10 daardie raad uit die lede van die betrokke orde die aantal lede aan wat nodig is om die voorgeskrewe kworum uit te maak.
65. 'n Raad kan enige lid van sy orde as plaasvervangende lid aanstel om namens 'n lid enige vergadering van die raad wat
- 15 bedoelde lid nie kan bywoon nie, by te woon, met die bevoegdheid om by so 'n vergadering te stem. Plaasvervangende lede.
66. Geen beslissing geneem deur 'n raad of handeling verrig op gesag van 'n raad is ongeldig nie bloot vanweë 'n vakature in daardie raad of omdat iemand wat nie geregtig was om as lid van
- 20 die raad sitting te neem nie, as lid van die raad sitting geneem het, indien die beslissing geneem is of die handeling gemagtig is deur die vereiste meerderheid van die lede van die raad wat toe aanwesig en geregtig was om as lede sitting te neem. Geldigheid van beslissings geneem deur, of handeling verrig op gesag van, raad.
67. (1) (a) 'n Raad kan een of meer komitees aanstel om hom
- 25 by te staan by die uitvoering van sy pligte, die verrigting van sy werksaamhede en die uitoefening van sy bevoegdhede, kan te eniger tyd die lidmaatskap van so 'n komitee vermeerder of verminder en kan 'n vakature in so 'n komitee vul. Komitees van raad.
- (b) 'n Komitee in paragraaf (a) bedoel, bestaan uit lede van die betrokke raad of uit lede van die betrokke orde of uit lede van daardie raad sowel as lede van daardie orde.
- (c) 'n Raad kan een van die lede van 'n komitee deur hom
- 30 ingevolge paragraaf (a) aangestel as voorsitter van daardie komitee aanwys en, indien geen sodanige aanwysing gedoen word nie, kan die lede van daardie komitee 'n voorsitter uit hul midde kies.
- (2) 'n Raad kan na goëddunke van sy bevoegdhede opdra aan 'n komitee wat deur hom ingevolge subartikel (1) aangestel is, maar
- 40 word nie onthef van 'n bevoegdheid wat hy aan 'n komitee opgedra het nie, en kan 'n beslissing van so 'n komitee intrek of wysig: Met dien verstande dat indien 'n raad aan 'n komitee die bevoegdheid opgedra het om ondersoek in te stel na 'n beweerde geval van onprofessionele of oneerbare of onbetaamlike gedrag en
- 45 om ten opsigte daarvan 'n straf ooreenkomstig artikel 72 op te lê, die raad nie 'n beslissing of enigiets wat deur so 'n komitee ingevolge die bevoegdheid aldus opgedra, geneem of gedoen is, kan wysig of intrek nie.
- (3) 'n Raad kan 'n komitee ingevolge subartikel (1) aangestel
- 50 of in die algemeen of in 'n besondere geval gelas om ondersoek in te stel na en die raad van advies te dien oor enige aangeleentheid in verband met die pligte, werksaamhede of bevoegdhede van die orde of die raad.
68. 'n Raad moet— Pligte van raad.
- 55 (a) jaarliks 'n algemene vergadering van die lede van sy orde belê;
- (b) in die voorgeskrewe omstandighede 'n spesiale vergadering van die lede van sy orde belê;
- (c) die datum en plek van vergaderings van sy orde, en die
- 60 sake wat by daardie vergaderings verrig moet word, bepaal;
- (d) reëls uitvaardig wat voorsiening maak vir die byeenroeping van en die kworum en prosedure by vergaderings van sy orde, en die wyse waarop mosies
- 65 aan sodanige vergaderings voorgelê moet word;

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- (e) deposit all money received by it with a banking institution or with a building society;
- (f) keep proper accounts of the revenue and expenditure and of the assets and liabilities of its society.

## Powers of council.

## 69. A council may—

- (a) prescribe the books, records, certificates or other documents to be kept, maintained or issued for the purposes of this Act, the form thereof, the inspection thereof by persons authorized to do so by the council, and the circumstances and manner in which alterations may be effected thereto; 5
- (b) fix the subscriptions, fees, levies or other charges payable to its society by the members of its society, and, in fixing such subscriptions, fees, levies or other charges, differentiate among members belonging to 15 different categories determined by it for the purpose;
- (c) fix the fees payable to its society in respect of certificates issued by the secretary of its society, and determine the persons who shall be obliged to pay such fees; 20
- (d) prescribe the tariff of fees payable to any practitioner in respect of professional services rendered by him in cases where no tariff is prescribed by any other law;
- (e) prescribe the information to be furnished to the secretary of its society by any person who— 25
  - (i) commences or discontinues to practise in the province of its society;
  - (ii) takes up employment in that province or ceases to be employed therein as a practitioner;
  - (iii) enters into or withdraws from a partnership with 30 any person practising in that province;
  - (iv) practises in that province and who changes his business or residential address;
- (f) subject to the provisions of section 8 (2), prescribe the minimum remuneration payable to articled clerks; 35
- (g) prescribe the form and contents of articles of clerkship;
- (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, at the request of such person or 40 practitioner, assess such fees in the prescribed manner;
- (i) pay any person allowances to cover expenses reasonably incurred by such person in connection with the performance of any act at the request or under the directions of the council, on behalf of or for the benefit of its 45 society;
- (j) subject to such conditions as it may deem fit to impose, permit members of its society to form associations of such members, to be known as circles, in respect of such areas of the province concerned as the council may 50 determine from time to time; determine the duties, functions and powers of such circles; designate places as the headquarters of such circles; and determine the constitution of bodies responsible for the management of the affairs of such circles; 55
- (k) prescribe the conditions on which any practitioner may practise at any branch office or in association with any other practitioner or any other person who carries on the practice of a lawyer outside the Republic;
- (l) prescribe the allowance on the fees charged by a 60 practitioner for professional services which such practitioner shall be entitled to make to another practitioner or to any other person who carries on the practice of a lawyer outside the Republic with whom he is not in partnership, in respect of any matter on which they were 65 both engaged;



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- (e) alle geld wat deur hom ontvang word, stort by 'n bankinstelling of by 'n bouvereniging;
- (f) behoorlik boekhou van die inkomste en uitgawe en van die bate en laste van sy orde.
- 5 69. 'n Raad kan— Bevoegdhede van raad.
- (a) die boeke, oorkondes, sertifikate of ander dokumente wat vir die doeleindes van hierdie Wet gehou, bygehou of uitgereik moet word, die vorm daarvan, die ondersoek daarvan deur persone deur die raad daartoe gemagtig, en die omstandighede en wyse waarop veranderinge daaraan aangebring kan word, voorskryf;
- 10 (b) die subskripsies, geld, heffings of ander vorderings vasstel wat aan sy orde deur die lede van sy orde betaalbaar is en, by die vasstelling van bedoelde subskripsies, geld, heffings of ander vorderings, differensieer tussen lede wat behoort tot verskillende kategorieë wat deur hom vir dié doel bepaal word;
- 15 (c) die geld vasstel wat aan sy orde betaalbaar is ten opsigte van sertifikate wat deur die sekretaris van sy orde uitgereik word, en die persone bepaal wat verplig is om daardie geld te betaal;
- 20 (d) die tarief van gelde voorskryf wat betaalbaar is aan 'n praktisyn ten opsigte van professionele dienste deur hom gelewer in gevalle waar geen tarief deur 'n ander wet voorgeskryf word nie;
- 25 (e) die inligting voorskryf wat aan die sekretaris van sy orde verstrekk moet word deur iemand wat—
- (i) in die provinsie van sy orde begin praktiseer of ophou om dit te doen;
- 30 (ii) in daardie provinsie as praktisyn diens aanvaar of ophou om daarin aldus in diens te wees;
- (iii) 'n vennootskap met iemand wat in daardie provinsie praktiseer, aangaan of daaruit uittree;
- (iv) in daardie provinsie praktiseer en wat sy besigheids- of woonadres verander;
- 35 (f) onderworpe aan die bepalinge van artikel 8 (2) die minimum besoldiging wat betaalbaar is aan klerke onder leerkontrak, voorskryf;
- (g) die vorm en inhoud van leerkontrakte voorskryf;
- 40 (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 hofwerk en, op versoek van daardie persoon of praktisyn, daardie geld op die voorgeskrewe wyse bereken;
- 45 (i) aan 'n persoon toelaes betaal tot dekking van uitgawes redelikerwyse deur daardie persoon aangegaan in verband met die verrigting van 'n handeling op die versoek of kragtens die opdragte van die raad, ten behoeve van of ten bate van sy orde;
- 50 (j) onderworpe aan die voorwaardes wat hy goedvind om op te lê, lede van sy orde toelaat om verenigings van sodanige lede, wat sirkels heet, te stig ten opsigte van die gebiede van die betrokke provinsie wat die raad van tyd tot tyd bepaal; die pligte, werksaamhede en bevoegdhede van daardie sirkels bepaal; plekke as die hoofkwartiere van daardie sirkels aanwys; en die samestelling van liggame wat vir die bestuur van die sake van daardie sirkels verantwoordelik is, bepaal;
- 55 (k) die voorwaardes voorskryf waarop 'n praktisyn by 'n takkantoor of saam met 'n ander praktisyn of enige ander persoon wat die praktyk van 'n regsgeleerde buite die Republiek beoefen, kan praktiseer;
- 60 (l) die aandeel in die gelde wat deur 'n praktisyn vir professionele dienste gevorder word, voorskryf wat so 'n praktisyn kan afstaan aan 'n ander praktisyn of aan 'n ander persoon wat die praktyk van 'n regsgeleerde buite die Republiek beoefen met wie hy nie in vennootskap is nie, ten opsigte van enige aangeleentheid waarby albei betrokke was;
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- (m) prescribe the procedure to be followed in connection with any enquiry referred to in section 71;
- (n) determine the manner in which the council shall conduct its business;
- (o) do anything which is required for the proper and effective carrying out of its duties, the performance of its functions or the exercise of its powers.

Council's power of inspection.

**70.** (1) A council may for the purposes of an enquiry under section 71 or in order to enable it to decide whether or not such an enquiry should be held, direct any practitioner to produce for inspection, either by the council itself or by any person authorized thereto by the council, any book, document, record or thing which is in the possession or custody or under the control of such practitioner and which relates to his practice or former practice.

(2) The refusal or failure by a practitioner to comply with a direction in terms of subsection (1) shall constitute unprofessional conduct.

Enquiry by council into alleged cases of unprofessional or dishonourable or unworthy conduct.

**71.** (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 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 with a member of its society.

(2) (a) For the purposes of an enquiry under subsection (1), a council may—

(i) under the hand of the president or the secretary of its society, summon any person who in the opinion of the council may be able to give material information concerning the subject matter of the enquiry or who is believed by the council to have in his possession or custody or under his control any book, document, record or thing which has any bearing on the subject matter of the enquiry, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document, record or thing, and may retain for inspection any book, document, record or thing so produced;

(ii) through the person presiding at the enquiry administer an oath to, or accept an affirmation from, any person present at the enquiry and who was summoned under subparagraph (i) and interrogate him and require him to produce any book, document, record or thing in his possession or custody or under his control.

(b) A summons referred to in paragraph (a) shall be served in the same manner as a summons for the attendance of a witness at a civil trial in a magistrate's court.

(c) In connection with the interrogation of any person who has been summoned under this section or the production by such person of any book, document, record or thing, the law relating to privilege as applicable to a witness summoned to give evidence or to produce a book, document, record or thing in a civil trial before a court of law shall apply.

(d) (i) Any person who has been summoned in terms of this subsection or who has given evidence before a council shall be entitled to the same witness fees as if he had been summoned to attend or had given evidence at a civil trial in a magistrate's court held at the place where the enquiry is held.

(ii) Any fees which may become payable in terms of subparagraph (i) shall be paid from the funds of the society concerned.



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- (m) die prosedure voorskryf wat in verband met 'n ondersoek in artikel 71 bedoel, gevolg moet word;
- (n) die wyse waarop die raad sy sake moet bestuur, bepaal;
- (o) enigiets doen wat nodig is vir die behoorlike en doeltreffende uitvoering van sy pligte, die verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede.

70. (1) 'n Raad kan vir die doeleindes van 'n ondersoek kragtens artikel 71 of ten einde hom in staat te stel om te besluit of so 'n ondersoek ingestel moet word al dan nie, 'n praktisyn gelas om enige boek, dokument, oorkonde of saak wat in die besit of bewaring of onder die beheer van so 'n praktisyn is en wat op sy praktyk of vorige praktyk betrekking het, vir ondersoek of deur die raad self of deur iemand wat deur die raad daartoe gemagtig is, oor te lê.
- (2) Die weiering of versuim deur 'n praktisyn om aan 'n lasgewing ingevolge subartikel (1) te voldoen, maak onprofessionele gedrag uit.

Raad se bevoegdheid van ondersoek.

71. (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 kragtens 'n leerkontrak dien.

Ondersoek deur raad na beweerde gevalle van onprofessionele of oneerbare of onbetaamlike gedrag.

- (2) (a) Vir die doeleindes van 'n ondersoek kragtens subartikel (1), kan 'n raad—
- (i) onder die handtekening van die president of sekretaris van sy orde, iemand wat na die oordeel van die raad in staat mag wees om inligting van wesentlike belang te verstrek betreffende die onderwerp van die ondersoek of wat, na die raad vermoed, enige boek, dokument, oorkonde of saak wat op die onderwerp van die ondersoek betrekking het, in sy besit of bewaring of onder sy beheer het, dagvaar om op 'n tyd en plek in die dagvaarding bepaal, voor hom te verskyn om ondervra te word of om daardie boek, dokument, oorkonde of saak oor te lê, en kan 'n raad 'n boek, dokument, oorkonde of saak wat aldus oorgelê is, vir ondersoek behou;
- (ii) by monde van die persoon wat by die ondersoek voorsit 'n eed oplê aan of 'n bevestiging aanneem van iemand wat by die ondersoek teenwoordig is en wat kragtens subparagraaf (i) gedagvaar is, en hom ondervra en hom aansê om 'n boek, dokument, oorkonde of saak in sy besit of bewaring of onder sy beheer oor te lê.
- (b) 'n Dagvaarding in paragraaf (a) vermeld, word op dieselfde wyse beteken as 'n dagvaarding vir die verskyning van 'n getuie by 'n siviele verhoor in 'n landdroshof.
- (c) In verband met die ondervraging van iemand wat kragtens hierdie artikel gedagvaar is of die oorlegging deur so iemand van 'n boek, dokument, oorkonde of saak is die regsbepalings met betrekking tot privilegie, soos van toepassing op 'n getuie wat gedagvaar is om in 'n siviele verhoor in 'n geregshof getuienis af te lê of om 'n boek, dokument, oorkonde of saak oor te lê, van toepassing.
- (d) (i) Iemand wat ingevolge hierdie subartikel gedagvaar is of wat getuienis voor 'n raad afgelê het, is geregtig op dieselfde getuiegeld asof hy gedagvaar is om te verskyn of getuienis afgelê het by 'n siviele verhoor in 'n landdroshof gehou op die plek waar die ondersoek ingestel word.
- (ii) Geld wat kragtens subparagraaf (i) betaalbaar word, word uit die fondse van die betrokke orde betaal.

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(3) The person presiding at the enquiry shall keep or cause to be kept a record of the proceedings at the enquiry and of the evidence given thereat.

(4) A council conducting an enquiry in terms of this section may, if the conduct enquired into forms or is likely to form the subject of criminal or civil proceedings in a court of law, postpone the enquiry until such proceedings have been determined.

Council's disciplinary powers.

72. (1) A council conducting an enquiry in terms of section 71 may find the person concerned guilty of unprofessional or dishonourable or unworthy conduct and may—

(a) in the case of a practitioner—

(i) impose upon him a fine not exceeding R500; or

(ii) reprimand him; and

(iii) recover from him the costs incurred by the council in connection with such enquiry;

(b) in the case of an articled clerk—

(i) cancel or suspend his articles of clerkship; or

(ii) impose upon him a fine not exceeding R100; or

(iii) reprimand him.

(2) Where a council finds a person referred to in subsection (1) guilty of the conduct referred to therein, it may—

(a) on the conditions determined by it postpone the taking of any steps in respect of him or the imposition of any punishment upon him;

(b) impose a fine referred to in subsection (1), but suspend the payment of such fine, or any part thereof.

(3) (a) If the taking of any steps or the imposition of any punishment has been postponed for a particular period in terms of subsection (2), and if at the end of that period the council concerned is satisfied that the person concerned has substantially observed all the relevant conditions, that council shall inform that person that no steps will be taken in respect of him or that no punishment will be imposed upon him.

(b) If the payment of a fine or any part thereof has been suspended by a council for a particular period in terms of subsection (2), and if at the end of such period the council concerned is satisfied that the person concerned has substantially observed all the relevant conditions, that council shall inform such person that the payment of that fine or that part thereof will not be enforced.

(4) A fine imposed at an enquiry in terms of this section and the costs incurred by a council in connection with such enquiry may be recovered by legal process in the magistrate's court of the district in which the office of the society concerned is situate.

(5) A council may to such extent and in such manner as may be prescribed publish information relating to an enquiry held by it in terms of section 71.

(6) The provisions of this section shall not affect the power of—

(a) a society to apply in terms of the provisions of this Act for the suspension from practice or the striking from the roll of any practitioner against whom an enquiry is being or has been conducted in terms of this Act in respect of the conduct which forms or formed the subject matter of such enquiry;

(b) a competent court, at the instance of the society concerned, to suspend any practitioner from practice or to strike him from the roll.

Appeal against finding of council.

73. (1) A person who has been found guilty in terms of section 72 may within a period of thirty days of the date of the council's decision appeal to a competent court against that finding by lodging with the registrar of that court a notice of appeal setting out in full his grounds of appeal.



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(3) Die persoon wat by die ondersoek voorsit, moet 'n notule hou of laat hou van die verrigtings by die ondersoek en van die getuienis wat daarby afgelê word.

(4) 'n Raad wat 'n ondersoek instel ingevolge hierdie artikel kan, indien die gedrag wat ondersoek word die onderwerp van straf- of siviëlregtelike verrigtinge in 'n geregshof uitmaak of waarskynlik sal uitmaak, die ondersoek uitstel totdat sodanige verrigtinge afgehandel is.

72. (1) 'n Raad wat 'n ondersoek ingevolge artikel 71 instel, kan die betrokke persoon skuldig bevind aan onprofessionele of oneerbare of onbetaamlike gedrag en kan—

(a) in die geval van 'n praktisyn—

(i) hom 'n boete van hoogstens R500 oplê; of

(ii) hom berispe; en

(iii) die koste deur die raad in verband met daardie ondersoek opgeloo, op hom verhaal;

(b) in die geval van 'n klerk onder leerkontrak—

(i) sy leerkontrak opskort of intrek; of

(ii) hom 'n boete van hoogstens R100 oplê; of

(iii) hom berispe.

(2) Waar 'n raad iemand in subartikel (1) bedoel, skuldig bevind aan gedrag daarin bedoel, kan die raad—

(a) op die voorwaardes wat die raad bepaal die doen van enige stappe ten opsigte van hom of die oplegging van 'n straf aan hom uitstel;

(b) 'n boete vermeld in subartikel (1) oplê, maar die betaling van daardie boete, of 'n gedeelte daarvan, uitstel.

(3)(a) Indien die doen van stappe of die oplegging van 'n straf vir 'n bepaalde tydperk ingevolge subartikel (2) uitgestel is, en indien die betrokke raad by afloop van daardie tydperk oortuig is dat die betrokke persoon alle toepaslike voorwaardes wesentlik nagekom het, deel daardie raad bedoelde persoon mee dat geen stappe ten opsigte van hom gedoen sal word nie of dat geen straf hom opgelê gaan word nie.

(b) Indien die betaling van 'n boete of 'n gedeelte daarvan deur 'n raad vir 'n bepaalde tydperk ingevolge subartikel (2) uitgestel is, en indien die betrokke raad by afloop van daardie tydperk oortuig is dat die betrokke persoon alle toepaslike voorwaardes wesentlik nagekom het, deel daardie raad bedoelde persoon mee dat die betaling van daardie boete of daardie gedeelte daarvan nie afgedwing gaan word nie.

(4) 'n Boete by 'n ondersoek ingevolge hierdie artikel opgelê en die koste deur die raad in verband met so 'n ondersoek opgeloo, kan verhaal word by wyse van geregtelike proses in die landdroshof van die distrik waarin die kantoor van die betrokke orde geleë is.

(5) 'n Raad kan in die mate en op die wyse wat voorgeskryf word inligting met betrekking tot 'n ondersoek deur hom ingevolge artikel 71 ingestel, publiseer.

(6) Die bepalings van hierdie artikel raak nie die bevoegdheid nie van—

(a) 'n orde om ingevolge die bepalings van hierdie Wet aansoek te doen om die skorsing in sy praktyk of die skraping van die rol van 'n praktisyn teen wie 'n ondersoek ingevolge hierdie Wet ingestel word of is ten opsigte van die gedrag wat die onderwerp van bedoelde ondersoek uitmaak of uitgemaak het;

(b) 'n bevoegde hof om, op aansoek van die betrokke orde, 'n praktisyn in sy praktyk te skors of hom van die rol te skrap.

73. (1) Iemand wat ingevolge artikel 72 skuldig bevind is, kan binne 'n tydperk van dertig dae vanaf die datum van die raad se beslissing, teen daardie bevinding na 'n bevoegde hof appelleer deur by die griffier van daardie hof 'n kennisgewing van appèl in te dien waarin sy appèlgronde volledig uiteengesit word.

Appèl teen bevinding van raad.

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(2) A person who appeals in terms of subsection (1) shall when lodging such notice of appeal deposit with the registrar concerned an amount of R200 as security for the costs of the appeal and shall on the same day deliver or send to the secretary of the society concerned a copy of the notice of appeal. 5

(3) The secretary of the society concerned shall within a period of thirty days of the date upon which he received the notice of appeal referred to in subsection (1), send to the registrar referred to in that subsection in respect of the enquiry concerned—

- (a) three copies of the record referred to in section 71 (3); 10
- (b) the documentary evidence admitted at the enquiry;
- (c) a statement of the finding of the council which held the enquiry and the reasons for such finding;
- (d) any observations which such council may wish to make.

(4) An appeal in terms of subsection (1) shall be prosecuted as 15 if it were an appeal from a judgment of a magistrate's court in a civil matter, and all rules applicable to such last-mentioned appeal in respect of the hearing thereof shall *mutatis mutandis* apply to an appeal under this section.

(5) The court hearing an appeal under this section shall— 20

- (a) confirm the finding appealed against; or
- (b) set that finding, and the punishment imposed in respect thereof, aside; or
- (c) confirm that finding, but set that punishment aside, and impose in its place such punishment as could have been 25 imposed by the council concerned.

(6) If a person succeeds in his appeal in terms of this section, the costs of the enquiry shall not be recoverable by the council concerned, and if such costs have already been recovered by that council, such costs shall be refunded. 30

Council may make rules.

74. (1) A council may subject to the provisions of subsections (2) and (3) make rules, which shall be binding within the province of its society, as to—

- (a) conduct which on the part of any practitioner or articled clerk shall constitute unprofessional or dishonourable or 35 unworthy conduct;
- (b) service under articles of clerkship and the circumstances under and the conditions on which articles of clerkship may be cancelled by the council;
- (c) the conditions relating to conduct and activities on 40 which persons other than practitioners may be employed by practitioners to assist them in their practices;
- (d) the appointment by the council of persons as honorary members of its society, the rights and privileges of such honorary members and the termination of their member- 45 ship;
- (e) any matter not provided for in this section which by this Chapter is required or permitted to be prescribed; and
- (f) generally, all matters which the council considers it necessary or expedient to prescribe in order that the 50 purposes of this Chapter may be achieved.

(2) Any rule referred to in subsection (1) shall be made with the approval of the Chief Justice of South Africa and, if the Chief Justice is of the opinion that the interests of the public would be adversely affected by the provisions of any such rule, with the 55 approval of the State President.

(3) A council shall not submit any draft rule to the Chief Justice unless—

- (a) if the draft rule is submitted by the council of— 60
  - (i) the Law Society of the Cape of Good Hope;
  - (ii) the Law Society of the Orange Free State;
  - (iii) the Natal Law Society; or



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(2) Iemand wat ingevolge subartikel (1) appelleer, moet, wanneer hy bedoelde kennisgewing van appèl indien, by die betrokke griffier 'n bedrag van R200 stort as sekuriteit vir die koste van die appèl en moet op dieselfde dag aan die sekretaris 5 van die betrokke orde 'n afskrif van die kennisgewing van appèl besorg of stuur.

(3) Die sekretaris van die betrokke orde stuur binne 'n tydperk van dertig dae vanaf die datum waarop hy die kennisgewing van appèl in subartikel (1) bedoel, ontvang het, aan die griffier in 10 daardie subartikel bedoel ten opsigte van die betrokke ondersoek—

- (a) drie afskrifte van die notule in artikel 71 (3) vermeld;
- (b) die dokumentêre getuienis wat by die ondersoek toegelaat is;
- 15 (c) 'n uiteensetting van die bevinding van die raad wat die ondersoek gehou het en die redes vir daardie bevinding;
- (d) enige opmerkings wat daardie raad wil maak.

(4) 'n Appèl ingevolge subartikel (1) word voortgesit asof dit 'n appèl is teen 'n vonnis van 'n landdroshof in 'n siviele saak, 20 en alle reëls wat op laasgenoemde appèl ten opsigte van die verhoor daarvan van toepassing is, is *mutatis mutandis* op 'n appèl kragtens hierdie artikel van toepassing.

(5) Die hof wat 'n appèl kragtens hierdie artikel verhoor, moet—

- 25 (a) die bevinding waarteen geappelleer word, bekragtig; of
- (b) daardie bevinding, en die straf wat ten opsigte daarvan opgelê is, tersyde stel; of
- (c) daardie bevinding bekragtig, maar daardie straf tersyde stel en in die plek daarvan die straf ople wat deur die 30 betrokke raad opgelê sou kon word.

(6) Indien iemand in sy appèl ingevolge hierdie artikel slaag, is die koste van die ondersoek nie deur die betrokke raad verhaalbaar nie, en indien bedoelde koste reeds deur daardie raad verhaal is, word daardie koste terugbetaal.

35 74. (1) 'n Raad kan behoudens die bepalinge van subartikels (2) Raad kan reëls en (3) reëls uitvaardig, wat in die provinsie van sy orde van krag 40 is. betreffende—

- (a) gedrag van die kant van 'n praktisyn of klerk onder leerkontrak wat onprofessionele of oneerbare of onbetaamlike gedrag uitmaak;
- 40 (b) diens onder 'n leerkontrak en die omstandighede waaronder en die voorwaardes waarop 'n leerkontrak deur die raad ingetrek kan word;
- (c) die voorwaardes met betrekking tot gedrag en werksaamhede waarop ander persone as praktisyns deur 45 praktisyns in diens geneem kan word om hulle in hul praktyke by te staan;
- (d) die aanstelling deur die raad van persone as ere-lede van sy orde, die regte en voorregte van bedoelde ere-lede en 50 die beëindiging van hul lidmaatskap;
- (e) enige aangeleentheid waarvoor nie in hierdie artikel voorsiening gemaak word nie en wat ingevolge hierdie Hoofstuk voorgeskryf moet of kan word; en
- 55 (f) oor die algemeen, alle aangeleenthede wat die raad dit nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Hoofstuk te verwesenlik.

(2) 'n Reël in subartikel (1) bedoel, word uitgevaardig met die goedkeuring van die Hoofregter van Suid-Afrika en, indien die Hoofregter van oordeel is dat die belange van die publiek deur die 60 bepalinge van so 'n reël nadelig geraak sou kan word, met die goedkeuring van die Staatspresident.

(3) 'n Raad lê nie 'n konsepreël aan die Hoofregter voor nie tensy—

- 65 (a) indien die konsepreël voorgelê word deur die raad van—
  - (i) die Wetsgenootskap van die Kaap die Goeie Hoop;
  - (ii) die Prokureursorde van die Oranje-Vrystaat;
  - (iii) die Natalse Wetsgenootskap; of

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(iv) the Law Society of South West Africa, such draft rule has been approved by the majority of the members of the society concerned present or represented at a general meeting of that society; and

(b) the council has consulted with the judge president of every provincial division in the province of its society and with the chief justice of every high court in such province.

(4) Rules made under subsection (1) shall come into operation on the date of publication of such rules in the *Gazette* or on a subsequent date fixed in the notice of publication.

(5) Any assessment of fees in terms of a rule contemplated in section 69 (h) shall be subject to review in all respects as if it were a determination by such officer of a provincial division or high court as is charged with the taxation of fees and charges.

(6) In this section "High Court" means any high court constituted in terms of section 17 I 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 Constitution Act, 1971 (Act No. 21 of 1971).

Limitation of liability.

75. No action for damages shall lie against any society, council, member of a council, official or employee of any society or any person with whom a council has concluded any agreement referred to in section 59 (g) (ii), in respect of anything done in good faith in terms of this Act.

Society may institute private prosecution.

76. Any society may, by any person authorized thereto in writing by his president, institute a prosecution for any offence in terms of this Act or of any regulation made thereunder, and the provisions of the laws relating to private prosecutions shall apply to such prosecution as if a society is a public body.

Particular provisions relating to persons exercising legal profession in Transkei.

77. (1) Any person who exercises in Transkei a legal profession equivalent to that of a practitioner, shall be a member of the society known as the Law Society of the Cape of Good Hope, if such person is in terms of a law of Transkei permitted to be a member of that society.

(2) The society referred to in subsection (1), may perform in respect of any person who exercises in Transkei a legal profession referred to in that subsection, or who undergoes training in Transkei in order to qualify himself for such profession, such functions as are assigned in terms of this Chapter to the society in respect of practitioners or articulated clerks, if a law of Transkei authorizes it to do so.

## CHAPTER IV

## GENERAL

Trust account and investment of trust money.

78. (1) Any practising practitioner shall open and keep a separate trust account at a banking institution in the Republic and shall deposit therein the money held or received by him on account of any person.

(2) (a) Any practitioner may invest in a separate savings or other interest-bearing account opened by him with any banking institution or building society any money deposited in his trust account which is not immediately required for any particular purpose.

(b) Any savings or other interest-bearing account referred to in paragraph (a) shall contain a reference to this subsection.

(3) The interest on money invested in terms of subsection (2) shall be paid over to the fund by the practitioner concerned at the prescribed time and in the manner prescribed.

(4) Any practising practitioner shall keep proper books of account containing particulars and information of any money received, held or paid by him for or on account of any person, of



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- (iv) die Prokureursorde van Suidwes-Afrika, daardie konsepreël deur die meerderheid van die lede van die betrokke orde, op 'n algemene vergadering van daardie orde aanwesig of verteenwoordig, goedgekeur is; en
- 5 (b) die raad oorleg gepleeg het met die regter-president van elke provinsiale afdeling in die provinsie van sy orde en met die hoofregter van elke hoërhof in daardie provinsie.
- 10 (4) Reëls kragtens subartikel (1) uitgevaardig, tree in werking op die datum van publikasie van daardie reëls in die *Staatkoerant* of op 'n latere datum in die kennisgewing van publikasie bepaal.
- (5) 'n Berekening van gelde ingevolge 'n reël in artikel 69 (h)
- 15 beoog, is onderworpe aan hersiening in alle opsigte asof dit 'n vassstelling is van daardie beampte van 'n provinsiale afdeling of Hoërhof wat met die taksering van gelde en vorderings belas is.
- (6) In hierdie artikel beteken „hoërhof” enige hoërhof ingestel ingevolge artikel 17 I van die Wet op die Ontwikkeling
- 20 van Self-bestuur vir Naturelle volke in Suidwes-Afrika, 1968 (Wet No. 54 van 1968), of artikel 34 (1) van die Grondwet van die Swart Tuislande, 1971 (Wet No. 21 van 1971).

75. Geen aksie vir skadevergoeding word ingestel teen 'n orde, raad, lid van 'n raad, beampte of werknemer van 'n orde of iemand met wie 'n raad 'n ooreenkoms in artikel 59 (g) (ii) bedoel, aangegaan het, ten opsigte van enigiets te goeder trou ingevolge die bepalings van hierdie Wet gedoen nie.

Beperking op aanspreeklikheid.

76. 'n Orde kan deur middel van iemand skriftelik daartoe gemagtig deur sy president 'n vervolging instel vir enige misdryf ingevolge hierdie Wet of 'n regulasie daarkragtens uitgevaardig, en die wetsbepalings betreffende private vervolgings is op so 'n vervolging van toepassing asof 'n orde 'n openbare liggaam is.

Orde kan private vervolging instel.

77. (1) Iemand wat in Transkei 'n regsberoep uitoefen wat gelykwaardig is met dié van 'n praktisyn, is 'n lid van die orde met die naam die Wetsgenootskap van die Kaap die Goeie Hoop, indien so 'n persoon ingevolge 'n wet van Transkei 'n lid van daardie orde kan wees.

Besondere bepalings betreffende persone wat regsberoep in Transkei uitoefen.

(2) Die orde in subartikel (1) genoem, kan ten opsigte van iemand wat in Transkei 'n regsberoep in daardie subartikel vermeld, uitoefen, of wat in Transkei opleiding ondergaan ten einde homself vir so 'n beroep te bekwaam, die werksaamhede uitoefen wat ingevolge hierdie Hoofstuk aan die orde ten opsigte van praktisyns of klerke onder leerkontrak opgedra word, indien 'n wet van Transkei hom veroorloof om dit te doen.

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## HOOFSTUK IV

## ALGEMEEN

78. (1) 'n Praktiserende praktisyn open en hou 'n afsonderlike trustrekening by 'n bankinstelling in die Republiek en deponeer daarin die geld wat hy op rekening van enigiemand hou of

Trustrekening en belegging van trustgelde.

50 ontvang.

(2) (a) 'n Praktisyn kan enige gelde wat in sy trustrekening gedeponeer is en wat nie onmiddellik vir die een of ander bepaalde doel nodig is nie, in 'n afsonderlike spaar- of ander rentegewende rekening by 'n bankinstelling of bouvereniging belê.

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(b) 'n In paragraaf (a) bedoelde spaar- of ander rentegewende rekening moet 'n verwysing na hierdie subartikel bevat.

(3) Die rente op gelde wat ingevolge subartikel (2) belê is, word deur die betrokke praktisyn op die voorgeskrewe tyd en op die voorgeskrewe wyse aan die fonds betaal.

(4) 'n Praktiserende praktisyn hou behoorlike rekeningboeke wat besonderhede en inligting bevat betreffende enige gelde deur hom ontvang, gehou of betaal vir of op rekening van enigiemand,

any money invested by him in terms of subsection (2) and of any interest on money so invested which is paid over or credited to him.

(5) The council of the society of the province in which a practitioner practises may by itself or through its nominee and at its own cost, inspect the books of account 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 with such provisions, the council may recover the cost of the inspection from that practitioner.

(6) For the purposes of subsections (4) and (5), "books of account" includes any record or document kept by or in the custody or under the control of any practitioner which relates to—

- (a) money invested in terms of subsection (2);
- (b) interest referred to in subsection (3);
- (c) any estate of a deceased person or any insolvent estate or any estate placed under curatorship, in respect of which such practitioner is the executor, trustee or curator or which he administers on behalf of the executor, trustee or curator; or
- (d) his practice.

(7) No amount standing to the credit of any such trust account or savings or other interest-bearing account shall be regarded as forming part of the assets of the practitioner concerned, or may be attached on behalf of any creditor of such practitioner: Provided that any excess remaining after payment of all claims of persons whose money has, or should have, been deposited in such trust account or has been invested in terms of subsection (2), and any claim by the fund in respect of interest referred to in subsection (3), shall be deemed to form part of the assets of such practitioner.

(8) The court may on application made by the society of the province concerned, and on good cause shown, prohibit any practitioner from operating in any way on his trust account or savings or other interest-bearing account referred to in this section, and may appoint a *curator bonis* to control and administer such trust account or savings or other interest-bearing account, with such rights, duties and powers in relation thereto as the court may deem fit.

(9) (a) If any practitioner—

- (i) dies;
  - (ii) becomes insolvent;
  - (iii) in the case of a professional company, is liquidated or placed under judicial management, whether provisionally or finally;
  - (iv) is struck off the roll or suspended from practice;
  - (v) is declared by a competent court to be incapable of managing his own affairs; or
  - (vi) abandons his practice or ceases to practise,
- the Master of the Supreme Court may, on application made by the society of the province concerned or by any person having an interest in such trust account or savings or other interest-bearing account of that practitioner, appoint a *curator bonis* to control and administer such account, with such of the prescribed rights, duties and powers as the Master may deem fit.

(b) Any person who is of the opinion that he has been prejudiced by a decision of a Master in terms of paragraph (a), may, within 30 days after the decision became known to him, appeal against that decision to the court, and the court may confirm or vary the said decision or give any such other decision as in its opinion the Master should have given.

(c) Nothing in this subsection or in subsection (7) or (8) contained shall be construed as preventing any practitioner who was practising in partnership with a practitioner referred to in paragraph (a) of this subsection, from operating on the trust account or savings or other interest-bearing account of the partnership.



enige gelde deur hom ingevolge subartikel (2) belê en enige rente op gelde aldus belê wat aan hom betaal word of waarmee hy gekrediteer word.

(5) Die raad van die orde van die provinsie waarin 'n praktisyn 5 praktiseer, kan self of deur sy benoemde, en op sy eie koste, die rekeningboeke van 'n praktisyn ondersoek ten einde homself te oortuig dat aan die bepalings van subartikels (1), (3) en (4) voldoen word, en, indien daar by so 'n ondersoek bevind word dat so 'n praktisyn nie aan daardie bepalings voldoen het nie, kan die raad die 10 koste van die ondersoek op daardie praktisyn verhaal.

(6) By die toepassing van subartikels (4) en (5) beteken „rekeningboeke” ook enige aantekening of dokument gehou deur of in die bewaring of onder die beheer van 'n praktisyn en wat betrekking het op—

- 15 (a) geld ingevolge subartikel (2) belê;
- (b) rente in subartikel (3) bedoel;
- (c) 'n boedel van 'n oorledene of 'n insolvente boedel of 'n boedel onder kuratorskap geplaas, ten opsigte waarvan daardie praktisyn die eksekuteur of kurator is of wat hy 20 namens die eksekuteur of kurator administreer; of
- (d) sy praktyk.

(7) Geen bedrag op krediet van so 'n trust-, spaar- of ander rentegewende rekening word as deel van die bates van die 25 betrokke praktisyn beskou, of kan ten behoeve van 'n skuldeiser van so 'n praktisyn in beslag geneem word nie: Met dien verstande dat enige oorskot wat oorbly na betaling van alle eise van persone wie se gelde in sodanige trustrekening gedeponeer is, of gedeponeer moes gewees het, of ingevolge subartikel (2) belê is, en enige eis van die fonds ten opsigte van rente in subartikel 30 (3) bedoel, geag word deel van die bates van sodanige praktisyn te wees.

(8) Die hof kan op aansoek van die orde van die betrokke provinsie, indien goeie redes aangevoer word, 'n praktisyn verbied om op enige wyse op sy trust-, spaar- of ander rentegewende 35 rekening in hierdie artikel bedoel, te werk, en kan 'n *curator bonis* aanstel om so 'n trust-, spaar- of ander rentegewende rekening te beheer en te administreer, met die regte, pligte en bevoegdhede met betrekking daartoe wat die hof goedvind.

- (9) (a) Indien 'n praktisyn—
- 40 (i) sterf;
  - (ii) insolvent raak;
  - (iii) in die geval van 'n professionele maatskappy, 45 gelikwieder word of onder geregtelike bestuur, hetsy voorlopig of finaal, geplaas word;
  - (iv) van die rol geskrap of in sy praktyk geskors word;
  - (v) deur 'n bevoegde hof onbevoeg verklaar word om sy eie sake te beheer; of
  - (vi) sy praktyk laat vaar of staak,
- kan die Meester van die Hooggeregshof, op aansoek van 50 die orde van die betrokke provinsie of van iemand wat 'n belang by die trust-, spaar- of ander rentegewende rekening van daardie praktisyn het, 'n *curator bonis* aanstel om so 'n rekening te beheer en te administreer, met soveel van die voorgeskrewe regte, pligte en 55 bevoegdhede as wat die Meester goedvind.
- (b) Iemand wat van mening is dat hy benadeel is deur 'n beslissing van 'n Meester ingevolge paragraaf (a) kan, binne 30 dae na die beslissing aan hom bekend geword het, teen daardie beslissing na die hof appelleer, en die 60 hof kan daardie beslissing bekrachtig of wysig of die ander beslissing gee wat die Meester na sy oordeel behoort te gegee het.
- (c) Geen bepaling van hierdie subartikel of van subartikel 65 (7) of (8) word so uitgelê dat dit 'n praktisyn wat met 'n in paragraaf (a) van hierdie subartikel bedoelde praktisyn in vennootskap gepraktiseer het, belet om op die trust-, spaar- of ander rentegewende rekening van die vennootskap te werk nie.

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(10) Any banking institution or building society at which a practitioner keeps a trust account or savings or other interest-bearing account referred to in this section, shall not by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that the practitioner is not entitled to all money paid into such account or with which such account is credited: Provided that the provisions of this subsection shall not relieve such banking institution or building society from any liability or obligation which legally exists and to which it would be subject apart from the provisions of this Act. 5 10

(11) Notwithstanding anything in subsection (10) contained, a banking institution or building society at which a practitioner keeps the trust account or savings or other interest-bearing account referred to in this section, shall not, in respect of any liability of the practitioner to such banking institution or building society, not 15 being a liability arising out of or in connection with any such account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against money standing to the credit of any such account.

(12) The provisions of this section shall not be construed— 20

- (a) as depriving any banking institution or building society of any existing right;
- (b) as taking away or affecting any claim, lien, counter-claim, right of set-off, or charge of any kind which a practitioner has against or on any money held or 25 received by him on account of any person;
- (c) as relieving any practitioner who has, in terms of subsection (2), invested any money referred to in subsection (1), of any liability in respect thereof.

(13) Any banking institution or building society at which a 30 practitioner keeps a trust account or savings or other interest-bearing account referred to in this section, shall, if so directed by the council of the society of the province in which such practitioner is practising, furnish the council with a signed certificate which indicates the balance of such account at the 35 date or dates stated by the council.

(14) This section shall not apply to the State Attorney or a professional assistant in his office.

Trust property not to form part of assets of practitioner.

79. Notwithstanding anything to the contrary in any law or the common law contained, trust property which is expressly 40 registered in the name of a practitioner, or jointly in the name of a practitioner and any other person in his or their capacity as administrator, trustee, curator, or agent, as the case may be, shall not form part of the assets of that practitioner or other person.

Minister may prescribe fees.

80. The Minister may, after consultation with the judges- 45 president of the various courts and the presidents of the various societies, by notice in the *Gazette* prescribe a scale of fees which shall be paid in respect of the—

- (a) examination of articles of clerkship in terms of section 5; 50
- (b) registration of articles of clerkship;
- (c) examination of documents in terms of section 10 (5);
- (d) registration of a cession of articles of clerkship in terms of section 10 (5);
- (e) admission or readmission as an attorney; 55
- (f) admission or readmission as a notary;
- (g) admission or readmission as a conveyancer;
- (h) enrolment as a practitioner under section 20.

Regulations.

81. (1) The Minister may after consultation with, except in the 60 case of regulations made under paragraph (f) or (g), with the Chief Justice of South Africa and after consultation with the presidents of the various societies and, in the case of regulations made under paragraph (b), also after consultation with the various universities in South Africa which have law faculties and the Board for the 65 Recognition of Examinations in Law established by section 16 of



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(10) 'n Bankinstelling of bouvereniging waar 'n praktisyn 'n in hierdie artikel bedoelde trust-, spaar- of ander rentegewende rekening hou, word nie bloot weens die naam of beskrywing waaronder die rekening bekend staan, geag te weet dat die 5 praktisyn nie op alle geld daarop inbetaal of waarmee dit gekrediteer is, geregtig is nie: Met dien verstande dat die bepalings van hierdie subartikel nie so 'n bankinstelling of bouvereniging onthef van enige aanspreeklikheid of verpligting wat regtens bestaan en waaraan hy afgesien van die bepalings van 10 hierdie Wet onderworpe sou wees nie.

(11) Ondanks die bepalings van subartikel (10), het of verkry 'n bankinstelling of bouvereniging waar 'n praktisyn 'n in hierdie artikel bedoelde trust-, spaar- of ander rentegewende rekening hou, ten opsigte van enige aanspreeklikheid van die praktisyn 15 teenoor so 'n bankinstelling of bouvereniging wat nie 'n aanspreeklikheid is wat ontstaan het uit of in verband met so 'n rekening nie, geen verhaal of reg, hetsy by wyse van skuldverge-lyking, teeneis, koste of andersins, op gelde wat op krediet van so 'n rekening staan nie.

(12) Die bepalings van hierdie artikel word nie so uitgelê nie dat—

- (a) 'n bankinstelling of bouvereniging enige bestaande reg ontnem word;
- (b) enige eis, retensiereg, teeneis, reg op skuldverge-lyking 25 of vordering van enige aard wat 'n praktisyn het teen of op enige gelde deur hom op rekening van iemand gehou of ontvang, ontnem of geraak word;
- (c) 'n praktisyn wat gelde in subartikel (1) bedoel ingevolge subartikel (2) belê het, van enige aanspreeklikheid ten 30 opsigte daarvan onthef word.

(13) 'n Bankinstelling of bouvereniging waar 'n praktisyn 'n in hierdie artikel bedoelde trust-, spaar- of ander rentegewende rekening hou, verstrek wanneer daartoe gelas deur die raad van die orde van die provinsie waarin so 'n praktisyn praktiseer, aan 35 die raad 'n ondertekende sertifikaat wat aandui wat die balans is van so 'n rekening op die datum of datums deur die raad vermeld.

(14) Hierdie artikel is nie van toepassing op die Staatsprokureur of 'n professionele assistent in sy kantoor nie.

79. Ondanks andersluidende bepalings van 'n wet of die 40 gemene reg maak trustgoed wat uitdruklik op naam van 'n praktisyn, of gesamentlik op die naam van 'n praktisyn en 'n ander persoon, geregistreer is in sy of hul hoedanigheid van administrateur, trustee, kurator of agent, na gelang van die geval, nie deel van die bates van daardie praktisyn of ander persoon uit 45 nie.

Trustgoed vorm nie deel van bates van praktisyn nie.

80. Die Minister kan, na raadpleging met die regters-president 50 van die onderskeie howe en die presidente van die onderskeie ordes, by kennisgewing in die *Staatskoerant* 'n skaal van gelde voorskryf wat betaal moet word ten opsigte van die—

Minister kan gelde voorskryf.

- (a) ondersoek van 'n leerkontrak ingevolge artikel 5;
- (b) registrasie van 'n leerkontrak;
- (c) ondersoek van stukke ingevolge artikel 10 (5);
- (d) registrasie van 'n oordrag van 'n leerkontrak ingevolge 55 artikel 10 (5);
- (e) toelating of hertoelating as prokureur;
- (f) toelating of hertoelating as notaris;
- (g) toelating of hertoelating as transportbesorger;
- (h) inskrywing as praktisyn ingevolge artikel 20.

81. (1) Die Minister kan na raadpleging met, behalwe in die 60 geval van regulasies kragtens paragraaf (f) of (g) uitgevaardig, die Hoofregter van Suid-Afrika en na oorlegpleging met die presidente van die verskillende ordes en, in die geval van regulasies kragtens paragraaf (b) uitgevaardig, ook na oorlegpleging met die verskillende universiteite in Suid-Afrika met regs- 65 fakulteite en die Raad vir die Erkenning van Regseksamens ingestel

Regulasies.

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the Universities Act, 1955 (Act No. 61 of 1955), make regulations determining the following:

- (a) The countries or territories which shall be approved of for the purposes of section 13 (1) or 17;
- (b) the examination, if any, in the principles of Roman Dutch Law and statute law of the Republic, which any person referred to in section 13 (1) shall be required to pass before being admitted and enrolled as an attorney under this Act;
- (c) whether any person referred to in section 13 (1) shall be exempted or not from passing any practical examination referred to in section 14 (1) (a), (b) or (c) or any part thereof before being admitted and enrolled as an attorney under this Act;
- (d) the circumstances under which any person shall, for the purposes of admission as a notary or conveyancer under section 18, be exempted from passing the practical examination referred to in section 14 (1) (d) or (e);
- (e) the rights, duties and powers of a *curator bonis* appointed under section 78 (9);
- (f) the time when and the manner in which any interest referred to in section 78 (3) shall be paid to the fund;
- (g) the acts which shall not be performed by any person other than a practitioner or an agent referred to in section 22 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944);
- (h) the certificate which shall be endorsed on any document specified in the regulations by any person preparing such document for or on behalf of any other person;
- (i) whether any person exempted under section 13 (1) from service under articles or any category of persons so exempted shall, either temporarily or permanently, be exempted or not from any or both of the examinations referred to in section 15 (1) (f) and, in the case of any person or category of persons temporarily so exempted, the period of such exemption.

(2) The Minister may, for the purposes of the provisions of this Act relating to the fund, with the concurrence of the Chief Justice of South Africa and after consultation with the presidents of the several societies, make regulations relating to—

- (a) the method of payment and recovery of any contribution to the fund;
- (b) the investment of so much of the fund as is not immediately required for the purposes thereof;
- (c) the form in which and the periods within which notice is to be given to a society and the board of control in respect of claims against the fund and the particulars thereof, and the conditions subject to which and the extent to which the board of control may settle claims without recourse to legal proceedings;
- (d) the form of certificates to be issued to practitioners and of declarations, applications, notices and documents to be used in relation to any application or refusal of any application relating to the fund;
- (e) the obtaining of evidence for the purposes of the fund that any person has been admitted to practise or is still practising or has ceased to practise, or as to the reason why any person has discontinued practice, and generally for the obtaining of information which is considered necessary or desirable for the purposes of determining the merits of applications for fidelity fund certificates or matters related thereto;
- (f) the election of a chairman, vice-chairman and other office-bearers of the board of control;
- (g) the appointment, remuneration and dismissal of officers of the board of control;
- (h) the opening of offices for and the regulation of the management and administration of the board of control,



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by artikel 16 van die Wet op Universiteite, 1955 (Wet No. 61 van 1955), regulasies uitvaardig wat die volgende bepaal:

- (a) Die lande of gebiede wat vir die doeleindes van artikel 13 (1) of 17 goedgekeur word;
  - 5 (b) die eksamen (as daar is) in die beginsels van Romeins-Hollandse reg en statutereg van die Republiek waarin iemand in artikel 13 (1) bedoel, moet slaag voordat hy as prokureur kragtens hierdie Wet toegelaat en ingeskryf word;
  - 10 (c) die vrystelling al dan nie van iemand in artikel 13 (1) bedoel van enige praktiese eksamen in artikel 14 (1) (a), (b) of (c) bedoel of 'n gedeelte daarvan voordat hy kragtens hierdie Wet as prokureur toegelaat en ingeskryf word;
  - 15 (d) die omstandighede waaronder iemand, vir die doel van toelating as notaris of transportbesorger ingevolge artikel 18, daarvan vrygestel word om te slaag in die praktiese eksamen vermeld in artikel 14 (1) (d) of (e);
  - 20 (e) die regte, pligte en bevoegdhede van 'n ingevolge artikel 78 (9) aangestelde *curator bonis*;
  - (f) die tyd wanneer en die wyse waarop enige in artikel 78 (3) bedoelde rente aan die fonds betaal moet word;
  - (g) die handelinge wat nie deur 'n ander persoon as 'n praktisyn of 'n in artikel 22 van die Wet op Landdros-howe, 1944 (Wet No. 32 van 1944), bedoelde wetsagent verrig mag word nie;
  - 25 (h) die sertifikaat wat op 'n in die regulasies vermelde dokument geëndosseer moet word deur iemand wat so 'n dokument vir of namens iemand anders opstel;
  - 30 (i) die vrystelling al dan nie van iemand wat kragtens artikel 13 (1) van diens kragtens leerkontrak vrygestel is of enige kategorie van persone wat aldus vrygestel is, tydelik of permanent, van enige van of albei die in artikel 15 (1) (f) bedoelde eksamens en, in die geval van
  - 35 'n persoon of 'n kategorie van persone wat tydelik aldus vrygestel is, die tydperk van sodanige vrystelling.
- (2) Die Minister kan, vir die doeleindes van die bepalings van hierdie Wet met betrekking tot die fonds, met die instemming van die Hoofregter van Suid-Afrika en na oorlegpleging met die
- 40 presidente van die onderskeie ordes regulasies uitvaardig betref-fende—
- (a) die metode van betaling en verhaal van enige bydrae tot die fonds;
  - (b) die belegging van soveel van die fonds as wat vir die
  - 45 doeleindes daarvan nie onmiddellik nodig is nie;
  - (c) die vorm waarin en die tydperke waarbinne kennis aan 'n orde en die beheerraad gegee moet word ten opsigte van eise teen die fonds en die besonderhede daarvan, en die voorwaardes onderworpe waaraan en mate waarin
  - 50 die beheerraad eise kan vereffen sonder om van 'n regsproses gebruik te maak;
  - (d) die vorm van sertifikate wat uitgereik moet word aan praktisyns en van verklarings, aansoeke, kennisgewings en dokumente wat gebruik moet word ten opsigte van 'n
  - 55 aansoek of weiering van 'n aansoek met betrekking tot die fonds;
  - (e) die verkryging van getuienis vir die doeleindes van die fonds dat iemand toegelaat is om te praktiseer of nog praktiseer of nie meer praktiseer nie, of betreffende die
  - 60 rede waarom enigiemand nie meer praktiseer nie, en oor die algemeen ter verkryging van inligting wat nodig of wenslik geag word vir vasstelling van die meriete van aansoeke om getrouheidswaarborgsertifikate of aange-leenthede wat daarmee in verband staan;
  - 65 (f) die verkiesing van 'n voorsitter, ondervoorsitter en ander ampsdraers van die beheerraad;
  - (g) die aanstelling, besoldiging en ontslag van amptenare van die beheerraad;
  - (h) die opening van kantore vir en die reëling van die bestuur en administrasie van die beheerraad, met

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including the manner and form in which all agreements, deeds and documents shall be drawn up and executed by, for or on behalf of the board of control;

- (i) the authorization of the board of control or any committee thereof to subpoena and to examine on oath 5 any person whose evidence is deemed necessary to enable the said board or committee to decide on the validity of any claim submitted against the fund;
- (j) generally, such other matters which are considered necessary for the implementation of the intention of this 10 Act in respect of the fund.

(3) Regulations made under subsection (1) (g) may provide for exemption, either temporarily or permanently or partially or wholly, from the prohibitions therein contained in respect of particular persons or categories of persons or in respect of any 15 specified matter connected with any act mentioned in such regulations: Provided that no exemption granted permanently shall be cancelled or withdrawn unless such cancellation or withdrawal has been approved by resolution of the Senate and the House of 20 Assembly.

(4) Any regulation made under subsection (1) (h) may provide for penalties by way of a fine not exceeding R50 or imprisonment for a period not exceeding 3 months for any contravention thereof or failure to comply therewith.

(5) Regulations made by the Minister under subsection (2) shall 25 be published in the *Gazette* and shall thereupon have the same force and effect as if they were enacted in this Act.

## Rules of court.

82. The Chief Justice may, after consultation with the judges president of the several provincial divisions and with the presidents of the several societies, make rules of court so as to 30 provide for—

- (a) the qualifications of examiners appointed under section 14;
- (b) the manner in which examinations referred to in section 14 shall be conducted; 35
- (c) the registration fees payable by candidates for the examinations referred to in section 14;
- (d) the procedure to be followed and the information to be supplied to the court by any applicant for admission under this Act; 40
- (e) the nature and form of the oath which shall be taken and signed by any person before admission and enrolment under this Act;
- (f) any other matter considered necessary for giving effect to the provisions of this Act, excluding Chapters II and 45 III.

## Offences.

83. (1) No person other than a practitioner shall practise or hold himself out as a practitioner or pretend to be, or make use of any name, title or addition or description implying or creating the impression that he is a practitioner or is recognized by law as such 50 or perform any act which he is in terms of any regulations made under section 81 (1) (g) prohibited from performing.

(2) No person shall orally or by means of any written or printed matter or in any other manner, directly or indirectly, either for himself or for any other person, canvass, advertise or tout for, or 55 make known his preparedness or that of such other person to undertake any work, whether for or without remuneration, in connection with the drawing up of a will or other testamentary writing, or the administration or liquidation or distribution of the estate of any deceased or insolvent person, mentally ill person, or 60 any person under any other legal disability.

(3) Notwithstanding anything to the contrary in any law contained, no person other than an advocate or an attorney or an agent referred to in section 22 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall appear for or on behalf of any 65



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- inbegrip van die wyse waarop en die vorm waarin ooreenkomste, aktes en dokumente deur, vir of namens die beheerraad opgestel en voltooi word;
- (i) die magtiging van die beheerraad of 'n komitee daarvan om iemand wie se getuienis nodig geag word om daardie raad of komitee in staat te stel om oor die geldigheid van 'n eis teen die fonds te besluit, te dagvaar en onder eed te ondervra;
- (j) in die algemeen, sodanige ander sake as wat nodig geag word ten einde aan die doelstellings van hierdie Wet met betrekking tot die fonds uitvoering te gee.

(3) Regulasies kragtens subartikel (1) (g) uitgevaardig, kan voorsiening maak vir tydelike of permanente of gedeeltelike of algehele vrystelling van die verbodsbepalings daarin vervat ten opsigte van bepaalde persone of kategorieë van persone of ten opsigte van enige vermelde aangeleentheid wat in verband staan met enige in sodanige regulasies vermelde handeling: Met dien verstande dat geen vrystelling wat permanent toegestaan is, gekanselleer of ingetrek word nie tensy sodanige kansellasië of intrekking by besluit van die Senaat en die Volksraad goedgekeur is.

(4) 'n Kragtens subartikel (1) (h) uitgevaardigde regulasie kan voorsiening maak vir strawwe by wyse van 'n boete van hoogstens R50 of gevangenisstraf vir 'n tydperk van hoogstens 3 maande vir 'n oortreding daarvan of versuim om dit na te kom.

(5) Regulasies deur die Minister kragtens subartikel (2) uitgevaardig, word in die *Staatskoerant* gepubliseer en het dan dieselfde regskrag asof dit in hierdie Wet verorden was.

82. Die Hoofregter kan, na oorlegpleging met die regters- Hofreëls.  
president van die onderskeie provinsiale afdelings en met die presidente van die onderskeie ordes, hofreëls uitvaardig ten einde voorsiening te maak vir—

- (a) die kwalifikasies van eksaminatore benoem kragtens artikel 14;
- (b) die wyse waarop die in artikel 14 bedoelde eksamens afgeneem word;
- (c) die inskrywingsgelde betaalbaar deur kandidate vir die in artikel 14 bedoelde eksamens;
- (d) die prosedure wat gevolg moet word en die inligting wat aan die hof verstrek moet word deur 'n aansoeker om toelating kragtens hierdie Wet;
- (e) die aard en vorm van die eed wat deur iemand voor toelating en inskrywing kragtens hierdie Wet afgelê en onderteken moet word;
- (f) enige ander aangeleentheid wat nodig geag word om aan die bepalings van hierdie Wet, uitgesonderd Hoofstukke II en III, uitvoering te gee.

83. (1) Iemand wat nie 'n praktisyn is nie, mag nie praktiseer of  
hom as 'n praktisyn voordoen of voorgee om 'n praktisyn te wees of gebruik maak van 'n naam, titel, toevoeging of beskrywing wat impliseer of die indruk skep dat hy 'n praktisyn is of regtens as sodanig erken word of enige handeling verrig wat hy ingevolge 'n kragtens artikel 81 (1) (g) uitgevaardigde regulasie verbied is om te verrig nie.

(2) In verband met die opstel van 'n testament of ander testamentêre stuk, of die administrasie of likwidasië of distribusie van die boedel van 'n oorlede of insolvente persoon, geestesongestelde persoon of 'n persoon wat aan 'n ander regsonbevoegdheid onderhewig is, mag niemand mondeling of deur middel van 'n geskrif of drukwerk of op enige ander wyse, direk of indirek, hetsy vir homself of vir enige ander persoon, werk werf, daarvoor adverteer of smous, of sy gereedheid of dié van sodanige ander persoon om werk, hetsy teen of sonder besoldiging, te onderneem, bekend maak nie.

(3) Ondanks andersluidende bepalings van die een of ander wet, mag geen persoon behalwe 'n advokaat of 'n prokureur of 'n in artikel 22 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), bedoelde wetsagent, vir of namens enige ander persoon

other person in any proceedings or categories of proceedings which are held under the provisions of any law and which have been designated by the Minister by notice in the *Gazette* after consultation with the presidents of the various societies.

(4) Any practitioner who has been struck off the roll or suspended from practice shall not, while he is so struck off or suspended, continue to practise as a practitioner directly or indirectly for his own account or in partnership or association with any other person, or, except with the written consent of the society concerned, and, if he is a person who, in terms of section 5quat (1) (b) of the Internal Security Act, 1950 (Act No. 44 of 1950), has been struck off the roll, also with the written consent of the Minister, be employed in any capacity connected with the profession of a practitioner.

(5) A practitioner shall not, except with the written consent of the society concerned, and, in the case of a person who, in terms of section 5quat (1) (b) of the Internal Security Act, 1950, has been struck off the roll, also with the written consent of the Minister, employ in any capacity any person who has been struck off the roll or suspended from practice, while such person is so struck off or suspended.

(6) A practitioner shall not make over to or share or divide with any person other than a practitioner in, or a legal practitioner outside, the Republic, either by way of partnership, commission or allowance or in any other manner any portion of his professional fees.

(7) A person who contravenes any of the provisions of subsections (1) to (6) shall be guilty of an offence and on conviction liable to a fine not exceeding R500 in respect of each offence.

(8) (a) Any person, except a practising practitioner, who for or in expectation of any fee, gain or reward, direct or indirect, to himself or to any other person, draws up or prepares or causes to be drawn up or prepared any of the following documents, namely—

(i) any agreement, deed or writing relating to immovable property or to any right in or to immovable property, other than contracts of lease for periods not exceeding five years, conditions of sale or brokers' notes;

(ii) any will or other testamentary writing;

(iii) any memorandum or articles of association or prospectus of any company;

(iv) any agreement, deed or writing relating to the creation or dissolution of any partnership or any variation of the terms thereof;

(v) any instrument or document relating to or required or intended for use in any action, suit or other proceeding in a court of civil jurisdiction within the Republic,

shall be guilty of an offence and on conviction liable in respect of each offence to a fine not exceeding R500 and in default of payment thereof to imprisonment not exceeding six months.

(b) The expression "fee, gain or reward, direct or indirect" referred to in paragraph (a) shall not apply to—

(i) the salary or emoluments of an employee if no fee, gain or reward is sought or obtained by his employer from the person on whose behalf the document was drawn or prepared; or

(ii) any commission or other remuneration to which any person is or may be entitled either by law or otherwise for services rendered in his capacity as executor, administrator, trustee, curator, tutor or guardian by virtue of his appointment as such by any court of law or under the provisions of any will or other testamentary writing, or as agent for any person holding such appointment.



verskyn nie in enige verrigtinge of kategorieë van verrigtinge wat kragtens die bepalings van een of ander wet plaasvind en wat deur die Minister, na oorleg met die presidente van die verskillende ordes, by kennisgewing in die *Staatskoerant* aangewys is.

5 (4) 'n Praktisyn wat van die rol geskrap of in sy praktyk geskors is, mag nie, terwyl hy aldus geskrap of geskors is, voortgaan om as praktisyn direk of indirek vir eie rekening of in vennootskap of vereniging met enige ander persoon te praktiseer nie, of, behalwe met die skriftelike toestemming van die betrokke  
10 orde, en indien hy iemand is wat kragtens artikel 5quat (1) (b) van die Wet op Binnelandse Veiligheid, 1950 (Wet No. 44 van 1950), van die rol geskrap is, ook met die skriftelike toestemming van die Minister, in enige hoedanigheid in verband met die beroep van 'n praktisyn, in diens wees nie.

15 (5) 'n Praktisyn mag nie, behalwe met die skriftelike toestemming van die betrokke orde, en, in die geval van 'n persoon wat kragtens artikel 5quat (1) (b) van die Wet op Binnelandse Veiligheid, 1950, van die rol geskrap is, ook met die skriftelike  
20 toestemming van die Minister, iemand in enige hoedanigheid in diens neem wat van die rol geskrap of in sy praktyk geskors is solank so iemand aldus geskrap of geskors is nie.

(6) 'n Praktisyn mag nie enige gedeelte van sy professionele besoldiging oormak aan of deel of verdeel met 'n ander persoon wat nie 'n praktiserende praktisyn in, of 'n regspraktisyn buite, die  
25 Republiek is nie, hetsy by wyse van vennootskap, kommissie of korting of op enige ander wyse.

(7) Iemand wat enige bepaling van subartikels (1) tot (6) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 ten opsigte van elke misdryf.

30 (8) (a) Enigiemand behalwe 'n praktiserende praktisyn wat vir of met die verwagting van enige besoldiging, voordeel of beloning, direk of indirek, vir homself of vir 'n ander persoon, enige van die volgende dokumente opstel of voorberei of laat opstel of voorberei, naamlik—

35 (i) enige ooreenkoms, akte of stuk met betrekking tot onroerende goed of tot enige reg op of tot onroerende goed, behalwe huurkontrakte vir termyn van hoogstens vyf jaar, verkoopsvoorwaardes of makelaarsbriewe;

40 (ii) enige testament of ander testamentêre geskrif;

(iii) enige akte van oprigting of statute of prospektus van 'n maatskappy;

45 (iv) enige ooreenkoms, akte of geskrif met betrekking tot die stigting of ontbinding van 'n vennootskap of 'n verandering van die voorwaardes daarvan;

(v) enige stuk of dokument met betrekking tot of benodig of bedoel vir gebruik in 'n aksie, geding of ander proses in 'n hof met siviele jurisdiksie in die Republiek,

50 is aan 'n misdryf skuldig en by skuldigbevinding strafbaar ten opsigte van elke misdryf met 'n boete van hoogstens R500 en by wanbetaling daarvan met gevangenisstraf van hoogstens ses maande.

55 (b) Die uitdrukking „besoldiging, voordeel of beloning, direk of indirek” in paragraaf (a) vermeld, het nie betrekking nie op—

60 (i) die salaris of betaling van 'n werknemer, indien geen besoldiging, voordeel of beloning deur sy werkgever van die persoon namens wie die dokument opgestel of voorberei is, verlang of verkry word nie; of

65 (ii) kommissie of ander besoldiging waarop 'n persoon geregtig is of kan wees hetsy by wet of andersins vir dienste gelewer in sy hoedanigheid as eksekuteur, administrateur, trustee, kurator, tutor of voog uit hoofde van sy aanstelling as sodanig deur 'n geregshof of ingevolge die bepalings van 'n testament of ander testamentêre geskrif, of as verteenwoordiger van 'n persoon wat so 'n aanstelling hou.

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(9) Any practitioner who does not comply with the provisions of section 78 (1), (3) or (4), shall be guilty of an offence and on conviction liable to a fine not exceeding R200.

(10) Any person who directly or indirectly purports to act as a practitioner or to practice on his own account or in partnership without being in possession of a fidelity fund certificate, shall be guilty of an offence and on conviction liable to a fine not exceeding R500 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

(11) The provisions of subsection (2) shall not apply— 10

(a) in the Republic, excluding the Territory, to any board of executors, or trust company (not being a private company within the meaning of section 104 of the Companies Act, 1926 (Act No. 46 of 1926)), licensed as such on or before 31 December 1938 under the Licences Consolidation Act, 1925 (Act No. 32 of 1925), or, in the Territory, to any board of executors or trust company licensed as such on or before 1 May 1960 under the Licences Consolidation Ordinance, 1935 (Ordinance No. 13 of 1935, of the Territory), which— 20

- (i) has in its name or title words indicating that its objects or functions include work in connection with a matter mentioned in subsection (2); or
- (ii) on signboards, nameplates or notices exhibited on the premises in which it carries on business, on its stationery, or on its usual annual calendars or in any advertisement in the public press, or in its annual reports or any report of the proceedings at an annual general meeting, makes known by a simple statement to that effect that its objects or functions include any such work; 30

(b) to any person who in reply to a direct enquiry voluntarily made to him by someone else makes known the preparedness of himself or some other person to perform any such work;

(c) to any shareholder or employee of a board of executors or trust company mentioned in paragraph (a) who canvasses another shareholder or employee of the same board of executors or trust company on behalf of such board or company; 35

(d) to any practitioner or any commercial banking institution or any board of executors or trust company who indicates in any public notice required by law in connection with the liquidation or administration of any estate, that he or it does such work; 40

(e) to any practitioner who makes known in such manner as may be approved by the society of the province in which he practises, that he does such work; 45

(f) to any person (not being a board of executors or trust company mentioned in paragraph (a) or a company registered under the Companies Act, 1926 (Act No. 46 of 1926), or a commercial banking institution)— 50

- (i) who on 21 February 1941 held a valid broker's or agent's licence issued under the Licences Consolidation Act, 1925 (Act No. 32 of 1925); or
- (ii) who on 1 May 1960 held a valid broker's or agent's licence issued under the Licences Consolidation Ordinance, 1935 (Ordinance No. 13 of 1935 of the Territory), 55

who in the Republic excluding the Territory, in the case of a person referred to in subparagraph (i), or in the Territory, in the case of a person referred to in subparagraph (ii), on a signboard, nameplate or notice exhibited on the premises where he carries on business, 60



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(9) 'n Praktisyn wat nie aan die bepalings van artikel 78 (1), (3) of (4) voldoen nie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R200.

(10) Iemand wat voorgee om vir sy eie rekening of in 5 vennootskap direk of indirek as praktisyn op te tree of te praktiseer terwyl hy nie in besit van 'n getrouheidswaarborgsertifikaat is nie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 of met gevangenisstraf vir 'n tydperk van hoogstens 6 maande of met daardie boete sowel 10 as daardie gevangenisstraf.

(11) Die bepalings van subartikel (2) is nie van toepassing nie—

(a) in die Republiek, uitgesonderd die Gebied, op 'n 15 eksekuteurskamer of trustmaatskappy (behalwe 'n private maatskappy soos bedoel in artikel 104 van die Maatskappywet, 1926 (Wet No. 46 van 1926)) voor of op 31 Desember 1938 as sodanig gelisensieer ingevolge die „Licenties Konsolidatie Wet, 1925” (Wet No. 32 van 1925), of in die Gebied, op 'n eksekuteurskamer of 20 trustmaatskappy voor of op 1 Mei 1960 as sodanig gelisensieer ingevolge die Konsolidasie-ordonnansie betreffende Lisensies, 1935 (Ordonnansie No. 13 van 1935, van die Gebied), wat—

(i) in sy naam of titel woorde het wat aandui dat sy 25 oogmerke of werksaamhede werk insluit in verband met 'n aangeleentheid in subartikel (2) genoem; of

(ii) op uithangborde, naamplate of kennisgewings wat 30 op die perseel waarin hy besigheid dryf, vertoon word, op sy skryfpapier, of op sy gewone jaarlikse almanakke of in 'n advertensie in die openbare pers, of in sy jaarverslae of verslag van die verrigtings by 'n algemene jaarvergadering, by 35 wyse van 'n blote verklaring te dien effekte bekend maak dat sy oogmerke of werksaamhede sodanige werk insluit;

(b) op iemand wat in antwoord op 'n direkte navraag 40 vrywillig deur iemand anders by hom gedoen, sy bereidwilligheid of dié van iemand anders bekend maak om sodanige werk te verrig;

(c) op 'n aandeelhouer of werknemer van 'n eksekuteurskamer of trustmaatskappy in paragraaf (a) vermeld wat 'n 45 ander aandeelhouer of werknemer van dieselfde eksekuteurskamer of trustmaatskappy ten behoeve van sodanige kamer of maatskappy werf;

(d) op 'n praktisyn of 'n handelsbankinrigting of 'n 50 eksekuteurskamer of trustmaatskappy wat in 'n by wet voorgeskrewe openbare kennisgewing in verband met die likwidasië of bereddering van 'n boedel aandui dat hy sodanige werk verrig;

(e) op 'n praktisyn wat op die wyse goedgekeur deur die 55 orde van die provinsie waarin hy praktiseer, bekend maak dat hy sodanige werk verrig;

(f) op 'n persoon (behalwe 'n eksekuteurskamer of 'n 60 trustmaatskappy in paragraaf (a) vermeld, of 'n maatskappy geregistreer kragtens die Maatskappywet, 1926 (Wet No. 46 van 1926), of 'n handelsbankinrigting)—

(i) wat op 21 Februarie 1941 'n geldige makelaars- of 65 agentlisensie uitgereik kragtens die „Licenties Konsolidatie Wet, 1925” (Wet No. 32 van 1925), gehou het; of

(ii) wat op 1 Mei 1960 'n geldige makelaars- of 60 agentlisensie uitgereik kragtens die Konsolidasie-ordonnansie betreffende Lisensies, 1935 (Ordonnansie No. 13 van 1935, van die Gebied), gehou het,

65 wat in die Republiek, uitgesonderd die Gebied, in die geval van 'n in subparagraaf (i) bedoelde persoon, of in die Gebied, in die geval van 'n in subparagraaf (ii) bedoelde persoon, op 'n uithangbord, naamplate of kennisgewing vertoon op die perseel waar hy sy

- (g) on his stationery or in any advertisement in the public press, makes known by a simple statement to that effect that his business includes any such work;
- (g) in the Republic excluding the Territory, to any accountant who on 21 February 1941, or in the Territory to any accountant who on 1 May 1960, was entitled to use any designation provided for by the Chartered Accountants Designation (Private) Act, 1927 (Act No. 13 of 1927), and who still is so entitled, who on a signboard or nameplate exhibited on the premises in which he carries on business, or on his stationery, makes known by a simple statement to that effect that his business includes any such work, provided he had on the date mentioned by such means made known that his business included such work.

(12) The provisions of subsection (8) shall not apply to—

- (a) any person in the employment of a practising practitioner drawing or preparing or causing to be drawn or prepared any of the documents concerned in the course of his employment and on behalf of his employer;
- (b) any agent referred to in section 22 of the Magistrates' Courts Act, 1944, and any person in the employment of such agent, acting in the course of his employment and on behalf of his employer, drawing or preparing or causing to be drawn or prepared any of the documents concerned, in so far as such agent was prior to the commencement of this Act entitled to draw or prepare or cause to be drawn or prepared any of the aforementioned documents and to charge a fee therefor;
- (c) any person in the employment of the State, the Railway Administration, a provincial administration, the administration of the Territory or the Land and Agricultural Bank of South Africa drawing or preparing or causing to be drawn or prepared any of the documents concerned in the course of his duty;
- (d) any trustee under the laws relating to insolvency or any executor, administrator or curator or any liquidator of a company drawing or preparing any of the documents concerned in the course of his statutory duties and receiving such fees as may be allowed by law;
- (e) any person—  
(i) who on 31 December 1938 was the manager or secretary or attorney in the employment of a board of executors or trust company or any branch thereof licensed as such under the Licences Consolidation Act, 1925 (Act No. 32 of 1925); or  
(ii) who on 1 May 1960 was the manager or secretary or attorney in the employment of a board of executors or trust company or any branch thereof licensed as such under the Licences Consolidation Ordinance, 1935 (Ordinance No. 13 of 1935, of the Territory),  
in respect of any such document drawn or prepared by him in such capacity in the Republic excluding the Territory, in the case of a person referred to in subparagraph (i), or in the Territory, in the case of a person referred to in subparagraph (ii), in so far as immediately prior to the relevant date aforementioned he in his said capacity was entitled to draw or prepare such a document and to charge a fee therefor;
- (f) any practising advocate in so far as he would be entitled but for the passing of this Act to draw or prepare any of the aforesaid documents in the ordinary course of his profession.

(13) Any practitioner who contravenes subsection (1), (3) or (4)



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- besigheid dryf, op sy skryfpapier of in 'n advertensie in die openbare pers by wyse van 'n blote verklaring te dien effekte, bekend maak dat sy besigheid werk van dié aard insluit;
- 5 (g) in die Republiek, uitgesonderd die Gebied, op 'n rekenmeester wat op 21 Februarie 1941, of in die Gebied, 'n rekenmeester wat op 1 Mei 1960 geregtig was om 'n by die Geoktrooieerde Rekenmeesters Benaming (Private) Wet, 1927 (Wet No. 13 van 1927),
- 10 bepaalde benaming te gebruik en wat nog aldus geregtig is, wat op 'n uithangbord of naamplaat vertoon op die perseel waar hy sake doen of op sy skryfpapier by wyse van 'n blote verklaring te dien effekte bekend maak dat sy besigheid werk van dié aard insluit, mits hy op
- 15 genoemde datum op sodanige wyse bekend gemaak het dat sy besigheid werk van dié aard insluit.
- (12) Die bepalings van subartikel (8) is nie van toepassing nie op—
- 20 (a) iemand in diens van 'n praktiserende praktisyn wat enige van die betrokke dokumente opstel of voorberei of laat opstel of voorberei in die loop van sy diens en namens sy werkgever;
- (b) 'n wetsagent in artikel 22 van die Wet op Landdros-  
25 howe, 1944, bedoel, en iemand in diens van so 'n wetsagent, wat in die loop van sy diens en namens sy werkgever optree, en wat enige van die betrokke dokumente opstel of voorberei of laat opstel of voorbe-  
30 rei, vir sover so 'n wetsagent voor die inwerkingtreding van hierdie Wet geregtig was om een of ander van voormelde dokumente op te stel of voor te berei of te laat opstel of voorberei en besoldiging daarvoor te vra;
- (c) 'n persoon in diens van die Staat, die Spoorwegadminis-  
35 trasie, 'n provinsiale administrasie, die administrasie van die Gebied of die Land- en Landboubank van Suid-Afrika wat by die uitvoering van sy pligte enige van die betrokke dokumente opstel of voorberei of laat opstel of voorberei;
- (d) 'n kurator ingevolge die wetsbepalings betreffende insolvensie of 'n eksekuteur, administrateur of kurator  
40 of likwidateur van 'n maatskappy wat enige van die betrokke dokumente in die loop van sy wetlike pligte opstel of voorberei en sodanige gelde ontvang as wat regtens toegelaat word;
- (e) iemand—
- 45 (i) wat op 31 Desember 1938 die bestuurder of sekretaris of prokureur in diens was van 'n eksekuteurskamer of trustmaatskappy of tak daarvan, as sodanig gelisensieer ingevolge die „Licenties Konsolidasie Wet, 1925” (Wet No. 32 van 1925); of
- 50 (ii) wat op 1 Mei 1960 die bestuurder of sekretaris of prokureur in diens was van 'n eksekuteurskamer of trustmaatskappy of tak daarvan, as sodanig gelisensieer ingevolge die Konsolidasie-ordonnansie  
55 betreffende Lisensies, 1935 (Ordonnansie No. 13 van 1935, van die Gebied),
- ten opsigte van die een of ander sodanige dokument deur hom in dié hoedanigheid in die Republiek, uitgeson-  
60 derd die Gebied, in die geval van 'n in subparagraaf (i) bedoelde persoon, of in die Gebied, in die geval van 'n in subparagraaf (ii) bedoelde persoon, opgestel of voorberei, vir sover hy onmiddellik voor die betrokke voormelde datum in sy genoemde hoedanigheid geregtig was om so 'n dokument op te stel of voor te berei en gelde daarvoor te vra;
- 65 (f) enige praktiserende advokaat vir sover hy, indien hierdie Wet nie aangeneem was nie, geregtig sou wees om een of ander van voormelde dokumente in die gewone loop van sy professie op te stel of voor te berei.
- (13) 'n Praktisyn wat subartikel (1), (3) of (4) van artikel 78 of

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of section 78 or subsection (2), (5) or (6) of this section shall also be guilty of unprofessional conduct and be liable to be struck off the roll or suspended from practice.

(14) Subsection (8) shall not in any way affect the provisions of the Natal Conveyancers Act, 1926 (Act No. 24 of 1926).

(15) (a) Any person who has been summoned under section 71 who—

(i) fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the person presiding at the enquiry; 10

(ii) refuses to take the oath or make an affirmation when required by the person presiding at the enquiry to do so;

(iii) fails, without sufficient cause, to produce any book, document, record or thing which he has in terms of section 71 (2) been required to produce;

(iv) fails, without sufficient cause, to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him,

shall be guilty of an offence and on conviction liable to a fine not exceeding R100.

(b) Any person who at an enquiry referred to in section 71 gives false evidence after having been sworn or after having made an affirmation, shall be guilty of an offence and on conviction liable to the penalties prescribed by the law in respect of perjury.

Law society of Cape Province may exercise certain powers in Transkei.

84. The law society of the province of the Cape of Good Hope, and its council, president and secretary, may in respect of matters and persons in Transkei perform any functions which are similar to the functions assigned to them by Chapter I or this Chapter and which are assigned to them in respect of such persons and matters in Transkei. 30

Application of Act to Territory.

85. (1) This Act, any amendment thereof and any scale of fees, rule or regulation made under this Act or deemed to have been so made shall, subject to subsection (2), also apply in the Territory, including the Eastern Caprivi Zipfel. 35

(2) Regulations made under section 81 (1) (g) or deemed to have been so made under this Act, shall apply in the Territory, including the Eastern Caprivi Zipfel, only if the Minister by notice in the *Gazette* declares them to be so applicable, and such regulations shall in that event apply from a date specified or to be specified in the notice. 40

Repeal of laws and savings.

86. (1) Subject to the provisions of subsections (2) and (3), the laws set out in the Schedule are hereby repealed to the extent set out in the third column thereof. 45

(2) (a) Any person referred to in subsection (1) of section 34 of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934), who in terms of that subsection was immediately prior to the commencement of this Act entitled to be admitted and enrolled as an attorney shall continue to be so entitled. 50

(b) The provisions of this Act shall not be construed so as to deprive any person referred to in subsection (2) of the said section 34 of the right to be admitted as an attorney or a notary or conveyancer or to practise in Natal as an advocate as well as an attorney. 55

(c) (i) Any person referred to in subsection (4) of the said section 34 shall notwithstanding the provisions of section 15 (1) (d) of this Act be entitled to be admitted as an attorney, provided he complies with all the other requirements of this Act. 60

(ii) Any person referred to in subsection (5) of the said section 34 shall receive from his employer the salary referred to in that subsection from the date or



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subartikel (2), (5) of (6) van hierdie artikel oortree, is ook skuldig aan onprofessionele gedrag en kan van die rol geskrap of in sy praktyk geskors word.

(14) Subartikel (8) raak nie op enige wyse die bepalings van die 5 Natalse Transportbesorgerswet, 1926 (Wet No. 24 van 1926), nie.

(15) (a) Iemand wat kragtens artikel 71 gedagvaar is en wat—

10 (i) sonder voldoende rede versuim om op die tyd en plek in die dagvaarding bepaal, te verskyn, of om aanwesig te bly totdat die persoon wat by die ondersoek voorsit hom van verdere bywoning onthef;

(ii) weier om die eed af te lê of 'n bevestiging te maak wanneer hy deur die persoon wat by die ondersoek voorsit, aangesê word om dit te doen;

15 (iii) sonder voldoende rede versuim om 'n boek, dokument, oorkonde of saak oor te lê wat hy ingevolge artikel 71 (2) aangesê is om oor te lê;

20 (iv) sonder voldoende rede versuim om volledig en bevredigend na sy beste kennis en geloof te antwoord op 'n vraag wat wettig aan hom gestel is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100.

25 (b) Iemand wat by 'n ondersoek in artikel 71 bedoel valse getuienis aflê nadat hy beëdig is of 'n bevestiging gemaak het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat deur die reg ten opsigte van meinede voorgeskryf word.

84. Die orde van die provinsie die Kaap die Goeie Hoop en die raad, die president en die sekretaris daarvan kan ten opsigte van 30 aangeleenthede en persone in Transkei werksaamhede verrig wat soortgelyk is aan werksaamhede wat by Hoofstuk I of hierdie Hoofstuk aan hulle opgedra is en wat by 'n wet van Transkei aan hulle ten opsigte van sodanige aangeleenthede en persone opgedra word.

35 85. (1) Hierdie Wet, 'n wysiging daarvan en enige skaal van gelde, reël of regulasie wat kragtens hierdie Wet uitgevaardig is of geag word uitgevaardig te wees, is, behoudens subartikel (2), ook in die Gebied, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing.

40 (2) Regulasies kragtens artikel 81 (1) (g) uitgevaardig of wat ingevolge hierdie Wet geag word aldus uitgevaardig te wees, is in die Gebied, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing slegs indien die Minister by kennisgewing in die *Staatskoerant* verklaar dat hulle aldus van toepassing is, en 45 sodanige regulasies is in dié geval van toepassing vanaf 'n datum wat in die kennisgewing genoem word of genoem is.

86. (1) Behoudens die bepalings van subartikels (2) en (3) word die wette in die Bylae vermeld hierby herroep in die mate in die derde kolom daarvan uiteengesit.

50 (2) (a) Iemand vermeld in subartikel (1) van artikel 34 van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (Wet No. 23 van 1934), wat ingevolge daardie subartikel onmiddellik voor die inwerkingtreding van hierdie Wet geregtig was om as prokureur toegelaat en ingeskryf te word, bly aldus geregtig.

55 (b) Die bepalings van hierdie Wet word nie so uitgelê dat dit iemand in subartikel (2) van gemelde artikel 34 vermeld die reg ontnem om as 'n prokureur, notaris of transportbesorger toegelaat te word, of om in Natal as advokaat sowel as prokureur te praktiseer nie.

60 (c) (i) Iemand vermeld in subartikel (4) van gemelde artikel 34 is, ondanks die bepalings van artikel 15 (1) (d) van hierdie Wet, geregtig om as prokureur toegelaat te word, mits hy aan al die ander vereistes van hierdie Wet voldoen.

65 (ii) Iemand in subartikel (5) van gemelde artikel 34 vermeld, ontvang van sy werkgewer die salaris in daardie subartikel vermeld vanaf die datum of die

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- from the expiry of the period referred to in that subsection.
- (d) (i) Any articulated clerk referred to in subsection (6) of the said section 34, shall be entitled to appear as provided in that subsection, and the principal of any such clerk shall be entitled to charge fees in respect of such appearance as if he had appeared himself.
- (ii) The provisions of section 8 (3) of this Act shall *mutatis mutandis* apply in respect of an articulated clerk referred to in subparagraph (i).
- (e) (i) The Natal Provincial Division of the Supreme Court may remove the name of any person referred to in subsection (1) of section 35 of the Attorneys, Notaries and Conveyancers Admission Act, 1934, from the roll of attorneys, notaries and conveyancers upon an application of which notice was given as mentioned in that section, and thereupon the provisions referred to in that subsection shall apply in respect of such person.
- (ii) Such division may upon an application, of which notice was given as mentioned in that section, of any person whose name was removed from the roll of attorneys, notaries and conveyancers under subparagraph (i), again admit such person as an attorney or a notary or conveyancer, subject to the provisions of subsection (2) of the said section 35.
- (iii) The provisions of subsection (3) of section 35 shall apply in respect of an application referred to in this paragraph and in respect of the order of admission granted on the ground of such application.
- (3) Anything done or deemed to have been done under any provision of a law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of this Act.

Short title.

87. This Act shall be called the Attorneys Act, 1979.



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- verstryking van die tydperk in daardie subartikel vermeld.
- (d) (i) 'n Klerk onder leerkontrak in subartikel (6) van gemelde artikel 34 vermeld, is geregtig om te verskyn soos in daardie subartikel bepaal, en die prinsipaal van so 'n klerk is geregtig om vir sodanige verskyning gelde te bereken asof hy self verskyn het.
- (ii) Die bepalings van artikel 8 (3) van hierdie Wet is *mutatis mutandis* van toepassing ten opsigte van 'n klerk onder leerkontrak in subparagraaf (i) bedoel.
- (e) (i) Die Natalse Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika kan die naam van 'n persoon vermeld in subartikel (1) van artikel 35 van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934, op 'n aansoek waarvan soos in daardie artikel vermeld, kennis gegee is, van die rol van prokureurs, notarisse en transportbesorgers verwyder, en daarna is die bepalings vermeld in daardie subartikel ten opsigte van so 'n persoon van toepassing.
- (ii) Daardie afdeling kan op 'n aansoek, waarvan soos in daardie artikel vermeld, kennis gegee is, van 'n persoon wie se naam kragtens subparagraaf (i) van die rol van prokureurs, notarisse en transportbesorgers verwyder is, daardie persoon weer as prokureur, notaris of transportbesorger toelaat behoudens die bepalings van subartikel (2) van gemelde artikel 35.
- (iii) Die bepalings van subartikel (3) van artikel 35 is van toepassing ten opsigte van 'n aansoek in hierdie paragraaf bedoel en ten opsigte van die bevel van toelating op grond van so 'n aansoek toegestaan.
- (3) Enigiets gedoen of geag gedoen te gewees het kragtens 'n bepaling van 'n wet by subartikel (1) herroep, word geag kragtens die ooreenstemmende bepaling van hierdie Wet gedoen te gewees het.

87. Hierdie Wet heet die Wet op Prokureurs, 1979.

Kort titel.

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## Schedule

## LAWS REPEALED

No. and year of law	Title	Extent of repeal
—	South Africa Act, 1909 .....	Section 115
Act No. 23 of 1934	Attorneys, Notaries and Conveyancers Admission Act, 1934	The whole
Act No. 16 of 1938	Attorneys, Notaries and Conveyancers Admission (Amendment) Act, 1938	The whole
Act No. 19 of 1941	Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941	The whole (except section 5)
Act No. 31 of 1944	Attorneys' Admission (Military Service) Act, 1944	The whole
Act No. 22 of 1949	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1949	The whole
Act No. 32 of 1952	General Law Amendment Act, 1952 .....	Section 11
Act No. 18 of 1956	Legal Practitioners' Amendment Act, 1956 ...	The whole
Act No. 31 of 1957	State Attorney Amendment Act, 1957 .....	The whole
Act No. 74 of 1959	Legal Practitioners' Fidelity Fund Amendment Act, 1959	The whole
Act No. 82 of 1959	Universities Amendment Act, 1959 .....	Sections 11, 12 and 13
Act No. 81 of 1962	Legal Practitioners' Amendment Act, 1962 ...	The whole
Act No. 11 of 1963	Women Legal Practitioners Act, 1963 .....	The whole
Act No. 63 of 1964	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1964	The whole
Act No. 26 of 1965	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1965	The whole
Act No. 67 of 1967	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1967	The whole
Act No. 70 of 1968	General Law Amendment Act, 1968 .....	Sections 14 to 18
Act No. 15 of 1969	Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969	Section 14
Act No. 93 of 1970	Attorneys, Notaries and Conveyancers Admission Amendment Act, 1970	The whole
Act No. 71 of 1971	Legal Practitioners' Fidelity Fund Amendment Act, 1971	The whole
Act No. 102 of 1972	General Law Amendment Act, 1972 .....	Section 6
Act No. 62 of 1973	General Law Amendment Act, 1973 .....	Section 5
Act No. 94 of 1974	Second General Law Amendment Act, 1974 ..	Section 21
Act No. 41 of 1975	Law Societies' Act, 1975 .....	The whole
Act No. 57 of 1975	General Law Amendment Act, 1975 .....	Sections 2 to 6
Act No. 14 of 1976	Attorneys Amendment Act, 1976 .....	The whole
Act No. 115 of 1976	Second Attorneys Amendment Act, 1976 .....	The whole
Act No. 4 of 1977	Legal Practitioners' Fidelity Fund Amendment Act, 1977	The whole
Act No. 81 of 1978	Attorneys Amendment Act, 1978 .....	The whole



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## Bylae

## WETTE HERROEP

No. en jaar van wet	Titel	In hoeverre herroep
—	„Zuid-Afrika Wet, 1909” .....	Artikel 115
Wet No. 23 van 1934	Toelating van Prokureurs, Notaris en Transportbesorgers Wet, 1934.	Die geheel
Wet No. 16 van 1938	Toelating van Prokureurs, Notaris en Transportbesorgers (Wysigings) Wet, 1938.	Die geheel
Wet No. 19 van 1941	Toelating van Prokureurs Wysigings- en Regspraktisyns-getrouheidsfondswet, 1941.	Die geheel (behalwe artikel 5)
Wet No. 31 van 1944	Wet op Toelating van Prokureurs (Militêre Diens), 1944.	Die geheel
Wet No. 22 van 1949	Wysigingswet op Toelating van Prokureurs, Notaris en Transportbesorgers, 1949.	Die geheel
Wet No. 32 van 1952	Algemene Regswysigingswet, 1952 .....	Artikel 11
Wet No. 18 van 1956	Wysigingswet op Regspraktisyns, 1956 .....	Die geheel
Wet No. 31 van 1957	Wysigingswet op die Staatsprokureur, 1957 ...	Die geheel
Wet No. 74 van 1959	Wysigingswet op die Getrouheidsfonds vir Regspraktisyns, 1959.	Die geheel
Wet No. 82 van 1959	Wysigingswet op Universiteite, 1959 .....	Artikels 11, 12 en 13
Wet No. 81 van 1962	Wysigingswet op Regspraktisyns, 1962 .....	Die geheel
Wet No. 11 van 1963	Wet op Vroue-regspraktisyns, 1963 .....	Die geheel
Wet No. 63 van 1964	Wysigingswet op die Toelating van Prokureurs, Notaris en Transportbesorgers, 1964.	Die geheel
Wet No. 26 van 1965	Wysigingswet op die Toelating van Prokureurs, Notaris en Transportbesorgers, 1965.	Die geheel
Wet No. 67 van 1967	Wysigingswet op die Toelating van Prokureurs, Notaris en Transportbesorgers, 1967.	Die geheel
Wet No. 70 van 1968	Algemene Regswysigingswet, 1968 .....	Artikels 14 tot 18
Wet No. 15 van 1969	Wet op die Instelling van die Noord-Kaapse Afdeling van die Hooggeregshof van Suid-Afrika, 1969.	Artikel 14
Wet No. 93 van 1970	Wysigingswet op die Toelating van Prokureurs, Notaris en Transportbesorgers, 1970.	Die geheel
Wet No. 71 van 1971	Wysigingswet op die Regspraktisynsgetrouheidsfonds, 1971.	Die geheel
Wet No. 102 van 1972	Algemene Regswysigingswet, 1972 .....	Artikel 6
Wet No. 62 van 1973	Algemene Regswysigingswet, 1973 .....	Artikel 5
Wet No. 94 van 1974	Tweede Algemene Regswysigingswet, 1974 ..	Artikel 21
Wet No. 41 van 1975	Wet op Prokureursordes, 1975 .....	Die geheel
Wet No. 57 van 1975	Algemene Regswysigingswet, 1975 .....	Artikels 2 tot 6
Wet No. 14 van 1976	Wysigingswet op Prokureurs, 1976 .....	Die geheel
Wet No. 115 van 1976	Tweede Wysigingswet op Prokureurs, 1976 ...	Die geheel
Wet No. 4 van 1977	Wysigingswet op die Regspraktisynsgetrouheidsfonds, 1977.	Die geheel
Wet No. 81 van 1978	Wysigingswet op Prokureurs, 1978. ....	Die geheel

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