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KAAPSTAD, 18 JUNIE 1980

OFFICE OF THE PRIME MINISTER

KANTOOR VAN DIE EERSTE MINISTER

No. 1255.

18 June 1980.

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

No. 76 of 1980: Attorneys Amendment Act, 1980.

No. 1255.

18 Junie 1980.

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

No. 76 van 1980: Wysigingswet op Prokureurs, 1980.

Wet No. 76, 1980

WYSIGINGSWET OP PROKUREURS, 1980

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op Prokureurs, 1979, ten einde voorsiening te maak dat 'n sekere tydperk van afwesigheid van die kantoor van sy prinsipaal van 'n klerk onder leerkontrak geag word kragtens leerkontrak gedien te gewees het; die vrystelling van diens onder leerkontrak en die toelating en verwydering van die rol van prokureurs verder te reël; sekere teksveranderings aan te bring; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 4 Junie 1980.)

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

Wysiging van
artikel 7 van
Wet 53 van 1979.

1. Artikel 7 van die Wet op Prokureurs, 1979 (hieronder die Hoofwet genoem), word hierby gewysig deur die volgende subartikel by te voeg: 5

„(5) Ondanks die bepalings van artikel 6 word 'n tydperk van afwesigheid van hoogstens 6 maande van die kantoor van sy prinsipaal van 'n klerk onder leerkontrak vir die bywoning van 'n opleidingskursus wat deur die betrokke orde goedgekeur is, geag, indien hy daardie kursus ten genoeë van daardie orde voltooi het, kragtens leerkontrak gedien te gewees het.”. 10

Wysiging van
artikel 13 van
Wet 53 van 1979.

2. Artikel 13 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan, en genoemde paragraaf (a), deur onderskeidelik die volgende woorde en paragraaf te vervang: 15

„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 prokureur van die hooggeregshof of hoëhof van enige land of gebied wat vir die doeleindes van hierdie **[artikel]** subartikel goedgekeur is by regulasie uitgevaardig kragtens artikel 81 (1) (a)— 20

(a) word— 25

(i) 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; of

(ii) as bedoelde land of gebied vir die doeleindes van hierdie subparagraaf aangewys is by regulasie uitgevaardig kragtens artikel 81 (1) (a), sonder dat hy gepraktiseer het soos in subparagraaf (i) beoog, van diens kragtens leerkontrak vrygestel.”. 30

GENERAL EXPLANATORY NOTE:

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

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Attorneys Act, 1979, so as to make provision for a certain period of absence of an articulated clerk from the office of his principal to be deemed to have been served under articles of clerkship; to further regulate the exemption from service under articles and the admission and removal from the roll of attorneys; to effect certain textual alterations; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 4 June 1980.)

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

1. Section 7 of the Attorneys Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the addition of the following subsection: Amendment of section 7 of Act 53 of 1979.

10 “(5) Notwithstanding the provisions of section 6, any period of absence not exceeding 6 months of an articulated clerk from the office of his principal for the purpose of attending a training course approved by the society concerned, shall, if that articulated clerk has completed that course to the satisfaction of that society, be deemed to have been served under articles of clerkship.”.

15 2. Section 13 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1), and the said paragraph (a), of the following words and paragraph, respectively: Amendment of section 13 of Act 53 of 1979.

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

25 (a) shall—

 (i) 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; or

30 (ii) if the country or territory referred to has been designated for the purposes of this subparagraph by regulation made under section 81 (1) (a), without having practised as contemplated in subparagraph

 (i),

35 be exempted from service under articles;”.

Wet No. 76, 1980

WYSIGINGSWET OP PROKUREURS, 1980

Invoeging van
artikel 13A in
Wet 53 van 1979.

3. Die volgende artikel word hierby na artikel 13 in die Hoofwet ingevoeg:

„Sekere prokureurs moet aan sekere voorwaardes voldoen alvorens hulle geregtig is om vir eie rekening te praktiseer. **13A. Iemand bedoel in artikel 13 (1) (a) (ii) wat ingevolge hierdie Wet as prokureur toegelaat en ingeskryf is, mag nie daardie beroep vir eie rekening beoefen nie, tensy hy na sy toelating en inskrywing vir 'n tydperk van minstens 3 jaar gepraktiseer het op die voorwaardes wat by regulasie kragtens artikel 81 (1) (j) uitgevaardig, bepaal word.**”

Wysiging van
artikel 22 van
Wet 53 van 1979.

4. Artikel 22 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

„(2) Indien dit vir die hof blyk dat iemand ten opsigte van wie 'n orde van voorneme is om 'n aansoek ingevolge subartikel (1) te doen, die Republiek verlaat het en dat hy waarskynlik nie van voorneme is om na die Republiek terug te keer nie en dat dit onbekend is waar hy hom bevind, kan die hof gelas dat die betekening aan daardie persoon van enige prosesstuk in verband met so 'n aansoek kan geskied deur die publikasie van daardie prosesstuk in 'n Afrikaanse en 'n Engelse koerant wat in omloop is in die distrik waarin genoemde persoon se laasbekende besigheidsadres, soos in die stukke van die betrokke orde aangeteken, geleë is.”

Wysiging van
artikel 81 van
Wet 53 van 1979.

5. Artikel 81 van die Hoofwet word hierby gewysig—
(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

„(a) die lande of gebiede wat vir die doeleindes van artikel 13 (1) of 17 goedgekeur word en vir die doeleindes van artikel 13 (1) (a) (ii) aangewys word;”;

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

„(b) die eksamen, as daar is, in die beginsels van Romeins-Hollandse reg en statutereg van die Republiek, of van slegs statutereg van die Republiek, waarin iemand in artikel 13 (1) bedoel, moet slaag voordat hy as prokureur kragtens hierdie Wet toegelaat en ingeskryf word;”;

(c) deur die volgende paragraaf by subartikel (1) te voeg:

„(j) die voorwaardes vir die doeleindes van artikel 13A waarop iemand bedoel in artikel 13 (1) (a) (ii) wat ingevolge hierdie Wet as prokureur toegelaat en ingeskryf is, toegelaat word om te praktiseer voordat hy geregtig is om vir eie rekening te praktiseer.”

Wysiging van
artikel 83 van
Wet 53 van 1979.

6. Artikel 83 van die Hoofwet word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang:

„(7) Iemand wat enige bepaling van subartikels (1) tot (6) of van artikel 13A oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 ten opsigte van elke misdryf.”

Vervanging van
sekere
uitdrukkings in
Wet 53 van 1979.

7. Die Hoofwet word hierby gewysig deur die uitdrukkings „artikel 2 (a)”, „artikel 2 (a) of (c)” en „artikel 2 (d)” oral waar hulle voorkom deur onderskeidelik die uitdrukkings „artikel 2 (1) (a)”, „artikel 2 (1) (a) of (c)” en „artikel 2 (1) (d)” te vervang.

Kort titel.

8. Hierdie Wet heet die Wysigingswet op Prokureurs, 1980.

ATTORNEYS AMENDMENT ACT, 1980

Act No. 76, 1980

3. The following section is hereby inserted in the principal Act after section 13:

Insertion of
section 13A in
Act 53 of 1979.

“Certain attorneys must comply with certain conditions before being entitled to practise on their own account.”

13A. Any person contemplated in section 13 (1) (a) (ii) who has been admitted and enrolled as an attorney in terms of this Act, shall not be entitled to practise that profession on his own account, unless he has after his admission and enrolment practised for a period of not less than 3 years on such conditions as may be determined by regulation made under section 81 (1) (j).”.

4. Section 22 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

Amendment of
section 22 of
Act 53 of 1979.

“(2) If it appears to the court that a person in respect of whom a society intends making an application under subsection (1), has left the Republic and that he probably does not intend to return to the Republic and that his whereabouts are unknown, the court may order that service on that person of any process in connection with such application may be effected by the publication of such process in an Afrikaans and an English newspaper circulating in the district in which the said person's last known business address, as entered in the records of the society concerned, is situated.”.

5. Section 81 of the principal Act is hereby amended—

Amendment of
section 81 of
Act 53 of 1979.

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

“(a) the countries or territories which shall be approved of for the purposes of section 13 (1) or 17 and be designated for the purposes of section 13 (1) (a) (ii);”;

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

“(b) the examination, if any, in the principles of Roman Dutch law and statute law of the Republic, or of statute law of the Republic only, 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) by the addition to subsection (1) of the following paragraph:

“(j) the conditions for the purposes of section 13A on which a person contemplated in section 13 (1) (a) (ii) who has been admitted and enrolled as an attorney in terms of this Act, shall be allowed to practise before being entitled to practise on his own account.”.

6. Section 83 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

Amendment of
section 83 of
Act 53 of 1979.

“(7) A person who contravenes any of the provisions of subsections (1) to (6) or of section 13A shall be guilty of an offence and on conviction liable to a fine not exceeding R500 in respect of each offence.”.

7. The principal Act is hereby amended by the substitution for the expressions “section 2 (a)”, “section 2 (a) or (c)” and “section 2 (d)” wherever they occur of the expressions “section 2 (1) (a)”, “section 2 (1) (a) or (c)” and “section 2 (1) (d)”, respectively.

Substitution of
certain
expressions in
Act 53 of 1979.

8. This Act shall be called the Attorneys Amendment Act, 1980.

Short title.

