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No. 41389

THE PRESIDENCY

No. 33 18 January 2018

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

Act No. 16 of 2017: Legal Practice Amendment Act, 2017

OFISI KAMONGAMELI

No. 33 18 January 2018

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwa kuluntu jikelele kolu xwebhu:—

Ino 16 ka 2017: nguMthetho Wokwenz' Utshintsho Kumsebenzi Wobugqwetha ka 2017

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- (b) by the substitution in subsection (1)(a) for the full stop at the end of subparagraph (xiv) of the expression; “and”; and
- (c) by the addition in subsection (1)(a) of the following subparagraph:
 - “(xv) establish, promote, administer, assist in the establishment, the promotion, or the administration of—
 - (aa) insurance schemes;
 - (bb) medical aid schemes or medical benefit schemes;
 - (cc) pension funds, provident funds, pension schemes or benevolent schemes,
 for legal practitioners, former legal practitioners, for the employees of such legal practitioners, for the officials and employees of the Council and for the dependents of—
 - (A) legal practitioners;
 - (B) former legal practitioners;
 - (C) employees of legal practitioners; and
 - (D) officials and employees of the Council;”.

Amendment of section 23 of Act 28 of 2014

- 3. Section 23 of the principal Act is hereby amended —
 - (a) by the substitution of subsection (1) of the following subsection:
 - “(1) The Council must[, **subject to subsection (2) and progressively,**] establish [a] Provincial [**Council in every province of the Republic**] Councils the areas of jurisdiction of which must correspond with the areas under the jurisdiction of the Divisions of the High Court of South Africa as determined by the Minister, from time to time, in terms of section 6(3) of the Superior Courts Act, 2013 (Act No. 10 of 2013), and may delegate to the Provincial Councils such powers and functions which, in the interests of the legal profession are better performed at provincial level.”; and
 - (b) by the deletion of subsection (2).

Amendment of section 33 of Act 28 of 2014

- 4. Section 33 of the principal Act is hereby amended—
 - (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 - “Subject to any other law, no person other than a practising legal practitioner who has been admitted and enrolled as such in terms of this Act may, in expectation of any fee, commission, gain or reward—”; and
 - (b) by the substitution for subsection (3) of the following subsection:
 - “(3) No person may, in expectation of any fee, commission, gain or reward, directly or indirectly, perform any act or render any service which in terms of any other law may only be done by an advocate, attorney, conveyancer or notary, unless that person is [an] a practising advocate, attorney, conveyancer or notary, as the case may be.”.

Amendment of section 62 of Act 28 of 2014

- 5. Section 62 of the principal Act is hereby amended by the addition of the following subsection:
 - “(3) The members of the board of control of the Attorneys Fidelity Fund who hold office as members of that board at the date of commencement of Chapter 2, shall remain in office in that capacity as members of the Board for a period of six months after that date or until the members referred to in subsection (1) have been elected, whichever occurs later.”.

Amendment of section 91 of Act 28 of 2014

6. Section 91 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Any bank at which a trust account practice keeps its trust account or any separate account forming part of its trust account, must, if so directed by the Council or the Board, furnish the Council or the Board with a signed **[statement] transaction history** of that account for the period determined by the Council or the Board, as the case may be.” 5

Amendment of section 94 of Act 28 of 2014

7. Section 94 of the principal Act is hereby amended by the deletion in subsection (1) of paragraph (e). 10

Amendment of section 96 of Act 28 of 2014

8. Section 96 of the principal Act is hereby amended —

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

“(4) The **[duration of the] National Forum [is for a period not exceeding three years and it]** ceases to exist on the date of the meeting with the Council as envisaged in section 105(3), which date may not be later than 31 October 2018 **[commencement of Chapter 2]**.”; and 15

(b) by the deletion of subsection (5).

Amendment of section 97 of Act 28 of 2014

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9. Section 97 of the principal Act is hereby amended—

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

“(ii) the establishment of the Provincial Councils **[and their areas of jurisdiction, taking into account the factors referred to in section 23(2)(a)]**.”; 25

(b) by the deletion in subsection (1)(a) of subparagraph (iv);

(c) by the substitution in subsection (1)(a) for subparagraph (v) of the following subparagraph:

“(v) all the practical vocational training requirements that candidate attorneys or pupils must comply with before they can be admitted by the court as **[a] legal practitioners**.”; 30

(d) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) make rules, as provided for in section 109(2) and (3).” 35

(e) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(2) (a) The National Forum must, within 24 months of the commencement of this Chapter, negotiate with, and reach an agreement with, the law societies referred to in section 56 of the Attorneys Act **[and any other similar statutory bodies still regulating the legal profession established in the former homelands]**, in respect of the transfer of their assets, rights, liabilities, obligations and staff, to the Council or Provincial Councils as well as a date on which the law societies shall be dissolved and such transfer effected: Provided that such date may not be later than six months after the date of commencement of Chapter 2.”; 40
and 45

(f) by the addition of the following subsection:

“(6) The National Forum must, at least six months before the date of commencement of Chapter 2, make recommendations to the Minister for purposes of making the regulations contemplated in section 94.”

Amendment of section 109 of Act 28 of 2014

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10. Section 109 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (b) of the following paragraph:

“(bA) The Minister must, after receiving recommendations from the National Forum as contemplated in section 97(6), and in consultation with the National Forum, make the regulations contemplated in section 94 by publication in the *Gazette*, before the date of commencement of Chapter 2.”; and

(b) by the addition of the following subsection:

“(3) The National Forum must, before the date of commencement of Chapter 2, make rules as contemplated in section 95(1) and (3) by publication in the *Gazette* and the provisions of subsection (2)(b), (c) and (d) apply with the changes required by the context.”

Amendment of section 114 of Act 28 of 2014

11. Section 114 of the principal Act is hereby amended by the addition of the following subsection: 20

“(5) Every attorney who, on the date referred to in section 120(4), has the right of appearance in the High Court of South Africa, the Supreme Court of Appeal or the Constitutional Court in terms of any law, retains that right after the commencement of this Act.” 25

Substitution of section 117 of Act 28 of 2014

12. The following section is hereby substituted for section 117 of the principal Act:

“Transitional provisions relating to existing law societies

117. The existing law societies must continue to perform their powers and functions until the [commencement of Chapter 2] date of transfer contemplated in section 97(2)(a).” 30

Amendment of section 120 of Act 28 of 2014

13. Section 120 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Chapter 2 comes into operation [three years after the date of commencement of Chapter 10 or] on any [earlier] date fixed by the President by proclamation in the *Gazette*.” 35

Short title

14. This Act is called the Legal Practice Amendment Act, 2017.