

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**ATTORNEYS AMENDMENT
BILL**

[B 9—2014]

*(As agreed to by the Portfolio Committee on Justice and Correctional Services
(National Assembly))*

[B 9A—2014]

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AMENDMENTS AGREED TO

ATTORNEYS AMENDMENT BILL

[B 9—2014]

CLAUSE 1

1. On page 3, in line 1, to omit “council” and to substitute “[**council** society”.
2. On page 3, in line 4, after “by”, to omit “such” and to substitute “[**such** the”.
3. On page 3, in line 4, after “council”, to insert “of such society”.
4. On page 3, in line 7, to delete the definition of “**court**”, and to substitute the following definition:

“ ‘**court**’ means any [**court of a provincial division**] Division of the High Court referred to in section 6(1) of the Superior Courts Act, 2013 (Act No.10 of 2013), or any local seat thereof having jurisdiction;”;
5. On page 3, in line 21, to delete the definition of “**High Court**”, and to substitute the following definition:

“ ‘**High Court**’ means the High Court of South Africa as constituted in terms of section 6 of the Superior Courts Act, 2013 (Act No. 10 of 2013);”.

CLAUSE 2

1. On page 4, in line 6, to omit “a Superior Court”, and to substitute:

“the High Court, the Supreme Court of Appeal, or the Constitutional Court”.

CLAUSE 3

1. On page 4, in line 15, after “council”, to insert “of the society”.

CLAUSE 7

1. On page 5, in line 12, to omit the second “any”, and to substitute “[**any** the”.
2. On page 5, in line 12, to omit “[**High**]” and to substitute “High”.
3. On page 5, in line 12, to omit “Superior”.
4. On page 5, in line 12, after “Court,”, to insert:

“the Supreme Court of Appeal or the Constitutional Court”
5. On page 5, in line 17, to omit “subsections,” and to substitute “subsection”.

6. On page 5, in line 21, to omit:
 “, subject to subsection (2B)”.
7. On page 5, from line 25, to omit subclause (2B).

CLAUSE 10

1. On page 6, in line 20, after “council”, to insert “of the society”.

CLAUSE 16

1. On page 8, in line 12, after “writing”, to insert “in accordance with the rules of such law society”.
2. On page 8, in line 25, after “the”, to omit “articles of association” and to substitute:

“**[articles of association]** memorandum of incorporation”.

CLAUSE 19

1. On page 9, in line 11, after “or” to omit “magistrates”, and to substitute “a magistrate’s”.

CLAUSE 21

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 56 of Act 53 of 1979, as amended by section 15 of Act 115 of 1993

21. The following section is hereby substituted for section 56 of the principal Act:

“Continued existence of certain law societies

- 56.** (1) The law societies known as—
- (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 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;
- shall, **[notwithstanding the provisions of section 86,]** from the commencement of section 21 of the Attorneys Amendment Act, 2014, continue to exist as juristic persons under the following names:
- (i) The Cape Law Society in the case of the law society referred to in paragraph (a);

- (ii) The Law Society of the Free State in the case of the law society referred to in paragraph (b);
- (iii) The Law Society of the Northern Provinces, in the case of the law society referred to in paragraph (c); and
- (iv) The KwaZulu-Natal Law Society in the case of the law society referred to in paragraph (d).

(2) The societies referred to in subsection (1) have jurisdiction over all attorneys practising in their areas of jurisdiction as follows:

- (a) The Cape Law Society has jurisdiction over all attorneys practising in the provinces of the Western Cape, the Eastern Cape and the Northern Cape;
- (b) The Law Society of the Free State has jurisdiction over all attorneys practising in the province of the Free State;
- (c) The Law Society of the Northern Provinces has jurisdiction over all attorneys practising in the provinces of Gauteng, Mpumalanga, the North West and Limpopo; and
- (d) The KwaZulu-Natal Law Society has jurisdiction over all attorneys practising in the province of KwaZulu-Natal.

(3) Any law society not mentioned to in subsection (2) and which still exists or operates in terms of any other law immediately before section 21 of the Attorneys Amendment Act, 2014, comes into operation, shall dissolve on the date on which that section comes into operation: Provided that the Minister may, by notice in the *Gazette*, after consultation with the Law Society of South Africa, the law society into which the dissolving law society is to be amalgamated and the law society which is to be dissolved, determine any necessary arrangements in relation to the dissolution, including, subject to subsection (4), the transfer or disposal of assets and liabilities, the payment of costs and the manner in which surplus staff members of such society are to be dealt with.

(4) All the rights and obligations of any society which dissolves in terms of subsection (3) shall, on dissolution, transfer as follows:

- (a) The rights and obligations of any society in the former Republic of Bophuthatswana or Venda transfer to the Law Society of the Northern Provinces referred to in subsection (2)(c); and
- (b) the rights and obligations of any society in the former Republic of Transkei or Ciskei transfer to the Cape Law Society referred to in subsection (2)(a).

(5) (a) Any pending court proceedings by or against a law society referred to in subsection (3) shall, after its dissolution, be continued by or against the society to which the rights and obligations have been transferred in terms of subsection (4).

(b) Any pending disciplinary enquiries or steps taken or those enquiries or steps which may have been taken by a law society referred to in subsection (3) before its dissolution, shall be continued or taken by the society to which those rights and obligations have been transferred in terms of subsection (4), as if the former society had not been dissolved.”.

CLAUSE 22

1. On page 10, in line 13, to omit “56(3)” and to substitute “56(2)”.
2. On page 10, in line 28, after “must,” to omit:
“after the practitioner becomes a member and”.

CLAUSE 23

1. On page 10, in line 39, to omit “its” and to substitute “[its] the”.
2. On page 10, in line 40, to omit “that” and to substitute “[that] the”.
3. On page 10, in line 43, to omit “that” and to substitute “[that] the”.
4. On page 10, in line 44, to omit “that” and to substitute “[that] the”.

CLAUSE 25

1. On page 11, in line 27, to omit “its”, and to substitute “[its] the”.
2. On page 11, in line 34, after the second “the”, to “omit” “Transvaal”, and to substitute “Northern Provinces”.

CLAUSE 26

1. On page 11, in line 53, after “59(g)(ii)”, to omit “which”.

CLAUSE 33

1. On page 13, after line 16, to insert:

(5) Despite the provisions of section 15(1)(b)(ivA), any person who, in terms of the Attorneys, Notaries and Conveyancers Act, 1984 (Act 29 of 1984) (Bophuthatswana), was, immediately before the commencement of section 33(b) of the Attorneys Amendment Act, 2014, entitled to be admitted and enrolled as an attorney, continues to be so entitled: Provided that all other requirements of this Act for admission and enrolment as an attorney have been met.
2. On page 13, in line 17, to omit “(5)” and to substitute “(6)”.
3. On page 13, from line 21, to omit:

“: Provided that all requirements for such degree must be completed within five years after the date of coming into operation of section 33(b) of the Attorneys Amendment Act, 2014, or within such period as an Act of Parliament which in future rationalises the legal profession, may determine”.
4. On page 13, in line 25, to omit “further”.
5. On page 13, from line 28, to omit subclause (6)”.

LONG TITLE

1. On page 2, in the eleventh line, after “**High Court;**” to insert:

“to change the names of certain law societies;”.

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