

QUALIFICATION OF LEGAL PRACTITIONERS AMENDMENT ACT 78 OF 1997

[ASSENTED TO 26 NOVEMBER 1997] [DATE OF COMMENCEMENT: 5 DECEMBER 1997]

(Afrikaans text signed by the President)

as amended by

Jurisdiction of Regional Courts Amendment Act 31 of 2008
[with effect from a date to be proclaimed - see PENDLEX]

ACT

To amend the Admission of Advocates Act, 1964, the Attorneys Act, 1979, and the Recognition of Foreign Legal Qualifications and Practice Act, 1993, so as to provide for the requirement of a universal legal qualification in order to be admitted and enrolled to practise as an advocate or an attorney; and to provide for matters connected therewith.

- 1** Amends section 3 (2) (a) (i) of the Admission of Advocates Act 74 of 1964 by substituting item (aa) .
- 2** Amends section 2 of the Attorneys Act 53 of 1979 , as follows: paragraph (a) substitutes subsection (1) (a) ; paragraph (b) inserts subsection (1) (a A) ; paragraph (c) renumbers the existing subsection (1) (a A) to subsection (1) (a B) ; paragraph (d) deletes subsection (1) (b) ; paragraph (e) substitutes subsection (1) (c) ; paragraph (f) substitutes subsection (1) (c A) ; and paragraph (g) substitutes in subsection (1A) the words preceding paragraph (a) .
- 3** Amends section 2 of the Attorneys Act 53 of 1979 by substituting the words preceding paragraph (a) .
- 4** Amends section 4 (b) of the Attorneys Act 53 of 1979 by substituting subparagraph (ii).
- 5** Amends section 4A (b) of the Attorneys Act 53 of 1979 by substituting subparagraph (ii).
- 6** Amends section 8 of the Attorneys Act 53 of 1979 by substituting subsection (1).
- 7** Amends section 11 (3) of the Attorneys Act 53 of 1979 , as follows: paragraph (a) substitutes the words preceding paragraph (a) ; paragraph (b) substitutes paragraph (a) (i); and paragraph (c) substitutes paragraph (b) .
- 8** Amends section 13 of the Attorneys Act 53 of 1979 , as follows: paragraph (a) substitutes subsection (1) (b) ; and paragraph (b) substitutes subsection (3).
- 9** Amends section 15 (1) (b) (iii) of the Attorneys Act 53 of 1979 by substituting items (aa) , (bb) and (cc) .
- 10** Amends section 6 (2) (a) (i) of the Recognition of Foreign Legal Qualifications and Practice Act 114 of 1993 by substituting the words following upon item (bb) .

11 Transitional provisions

- (1) Any person who at the commencement of this Act-
 - (a) has satisfied the requirements for the degree of *baccalaureus procurationis* ; or

- (b) was registered as a student at any university in the Republic with a view to obtaining the degree of *baccalaureus procurationis* and has satisfied the requirements for the said degree on or before 31 December 2004,

shall for the purposes of sections 2 (1) (a) , 2A, 4A (b) (ii), 11 (3), 13 (3) and 15 (1) (b) (iii) (aa) of the Attorneys Act, 1979 (Act 53 of 1979), as amended by this Act, be deemed to have satisfied the requirements of the degree referred to in paragraph (a) of section 2 (1) of that Act.

(2) Any candidate attorney who at the commencement of this Act-

- (a) has satisfied the requirements for the degree of *baccalaureus procurationis* ; or
- (b) was registered as a student at any university in the Republic with a view to obtaining the degree of *baccalaureus procurationis* and provided that he or she has satisfied the requirements for the said degree on or before 31 December 2004,

shall be entitled to appear in any court, other than any division of the High Court, a court of the regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), or a Divorce Court established under section 10 of the Administration Amendment Act, 1929 (Act 9 of 1929), and before any board, tribunal or similar institution in which his or her principal is entitled to appear, instead of or on behalf of such principal, who shall be entitled to charge the fees for such appearances as if he or she himself or herself had appeared.

[NB: Sub-s. (2) has been substituted by s. 10 (2) of the Jurisdiction of Regional Courts Amendment Act 31 of 2008, a provision which will be put into operation by proclamation. See PENDLEX .]

(3) Nothing in this Act contained shall prejudice any right or privilege, including the right to appear in or before any court of law, tribunal or other body, vested in any person who at the commencement of this Act-

- (a) was duly admitted and enrolled-
 - (i) as an attorney in terms of the Attorneys Act, 1979 (Act 53 of 1979); or
 - (ii) as an advocate in terms of the Admission of Advocates Act, 1964 (Act 74 of 1964); or
- (b) enjoyed such right or privilege on account of being in possession of any qualification in law, whether prescribed by law or not.

(4) Any provision contained in any other law which is inconsistent with the provisions of section 3 of the Admission of Advocates Act, 1964, or sections 2, 2A, 4, 4A, 8, 11, 13 and 15 of the Attorneys Act, 1979, as amended by this Act, shall be deemed to be amended to the extent of the inconsistency thereof.

(5) Every university in the Republic with a faculty of law, shall take all reasonable steps so as to ensure that students are able to register for the degree referred to in section 3 (2) (a) (i) of the Admission of Advocates Act, 1964, and section 2 (1) (a) of the Attorneys Act, 1979, at that university on or before 31 December 1998.

12 Short title

This Act shall be called the Qualification of Legal Practitioners Amendment Act, 1997.

PENDLEX: Qualification of Legal Practitioners Amendment Act 78 of 1997

after amendment by the Jurisdiction of Regional Courts Amendment Act 31 of 2008

Section 11 (2)

Any candidate attorney who at the commencement of this Act-

- (a) has satisfied the requirement for the degree of *baccalaureus procurationis* ; or
- (b) was registered as a student at any university in the Republic with a view to obtaining the degree of *baccalaureus procurationis* and provided that he or she has satisfied the requirements for the said degree on or before 31 December 2004,

shall be entitled to appear in any court, other than any High Court, or a court of a regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), and before any board, tribunal or similar institution in which his or her principal is entitled to appear, instead of or on behalf of such principal, who shall be entitled to charge the fees for such appearance as if he or she himself or herself had appeared.

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