



For attention:

Mr V Ramaano

Portfolio Committee on Justice and Correctional Services

By email:

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COMMENTS ON THE ATTORNEYS AMENDMENT BILL

Please find below comments in relation to the Attorneys Amendment Bill (B9—2014) ("the Amendment Bill").

Clause 1(a) — definition of "advocate"

1. In the light of the fact that the term "*High Court*" is defined, the words "*of South Africa*" should be deleted from the definition of "*advocate*".

Clause 1(l) — definition of "unprofessional or dishonourable or unworthy" conduct

2. The Amendment Bill should be revised to clarify who will make the determination, how the determination will be made and which factors will be taken into account in determining whether conduct is "*unprofessional or dishonourable or unworthy*".

Clause 2(1) — amendment of section 2 of the principal Act

3. The term "*Superior Court*" should be defined.¹

Clause 3(c) — amendment of section 3 of the principal Act

4. It is unclear what is meant by the term "*professional assistant*". This should be clarified in the Amendment Bill. Further, it may be prudent to amend the principal Act by inserting the words "*as a professional assistant in a firm of attorneys or at a professional company*" under a paragraph which appears before paragraph (i) (for example, a new paragraph (cA)) and then the words which appear in the proposed paragraph (j) could then appear under a new paragraph (i)(iii). Any consequential amendments should also be made (for example, deleting or inserting the word "*and*" after a paragraph, where necessary).

¹ See line 6 on page 4 of the Amendment Bill. See also clause 7(a) of the Amendment Bill, at line 12 on page 5.

Clause 19 — amendment of section 49 of the principal Act

5. The words "or magistrates' court..." should be amended to state "or a magistrate's court".²

Clause 26 — amendment of section 75 of the principal Act

6. This sentence is unclear and should be revised. In this regard, it is unclear why the word "which" has been used in line 53 on page 11. It is also unclear what the words "in terms of any law repealed by section 35 of the Attorneys Amendment Act, 2014" are intended to qualify. Do they qualify all the persons and bodies listed in this clause, the words "any person with whom or which such council has concluded any agreement referred to in section 59(g)(ii)", the agreement or all of the above? While it is noted that the "Memorandum on the Objects of the Attorneys Amendment Bill, 2014" states that it is intended to "extend the limitation [in section 75] to agreements which were concluded under any law repealed in terms of clause 35",³ this intention is not clear from the sentence.

Yours faithfully



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² See line 11 on page 9 of the Amendment Bill.

³ See paragraph 3.17 of the Memorandum on the Objects of the Attorneys Amendment Bill, 2014.