

State Attorney Act 56 of 1957¹

[ASSENTED TO 20 JUNE 1957]

[DATE OF COMMENCEMENT: 28 JUNE 1957]

(Afrikaans text signed by the Officer Administering the Government)

as amended by

General Law Further Amendment [Act 93 of 1962](#)
State Attorney Amendment [Act 7 of 1966](#)
State Attorney Amendment [Act 45 of 1980](#)
Transfer of Powers and Duties of the State President [Act 97 of 1986](#)
General Law Third Amendment [Act 129 of 1993](#)
General Law Amendment [Act 49 of 1996](#)
State Attorney Amendment [Act 13 of 2014](#)

ACT

To consolidate the laws relating to the establishment of offices of State Attorney and matters connected therewith.

[Long title substituted by [s. 11](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

¹ The administration and the powers or functions entrusted by legislation transferred to the Minister of Justice and Constitutional Development (Proc 199 in GG 51368 of 11 October 2024)

1 Establishment of offices of State Attorney

(1) The Minister of Justice and Constitutional Development may establish offices of State Attorney in order to promote the efficient and effective performance of the functions provided for in section 3.

(2) The office of the State Attorney established in Pretoria and the branches thereof, existing at the commencement of the State Attorney Amendment Act, 2014, are deemed to have been established as offices of State Attorney under this section.

[S. 1 substituted by [s. 1](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

2 Appointment of Solicitor-General, State Attorneys and other persons in offices of State Attorney and termination of appointment

(1) The Minister of Justice and Constitutional Development may, subject to the laws governing the public service, appoint as Solicitor-General, a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned-

- (a) who is admitted as an attorney in any division of the High Court of South Africa; or
- (b) who-
 - (i) is admitted as an advocate in any division of the High Court of South Africa;
 - (ii) was previously admitted as an attorney in any division of the High Court of South Africa and practised as such;
 - (iii) has not been struck off the Roll of attorneys or Roll of advocates, as the case may be; and
 - (iv) is eligible to be re-admitted as an attorney,

and who shall, with due regard to the ethical norms and standards in the attorneys' profession, be subject to the direction and supervision of the Minister.

(2) The Solicitor-General is appointed for a term of five years, which may be extended by the Minister of Justice and Constitutional Development for any further period or periods of not more than five years at a time.

(3) The Minister of Justice and Constitutional Development may, subject to the laws governing the public service and after consultation with the Solicitor-General, appoint-

- (a) as State Attorneys, fit and proper persons who are admitted and entitled to practise as attorneys in any division of the High Court of South Africa, and who shall be the heads of offices of State Attorney established or deemed to have been established in terms of section 1;
- (b) as many persons, who are fit and proper, and who are admitted and entitled to practise as attorneys in any division of the High Court of South Africa, as may be necessary for the proper performance of the business of an office of State Attorney; and
- (c) such other persons as may be necessary for the proper performance of the business of an office of State Attorney.

(4) (a) The appointment of a Solicitor-General in terms of this section shall, subject to the laws governing the public service, and after following due process, terminate-

- (i) if a division of the High Court of South Africa orders that-
 - (aa) his or her name be struck off the Roll of attorneys or Roll of advocates, as the case may be; or
 - (bb) he or she be suspended from practice as a sanction arising out of disciplinary processes instituted by the relevant professional governing body in the legal profession; or
- (ii) in terms of any ground provided for in section 17 of the Public Service Act, 1994 ([Proclamation 103 of 1994](#)).

(b) The appointment of a State Attorney or attorney in terms of this section shall, subject to the laws governing the public service, and after following due process, terminate-

- (i) if a division of the High Court of South Africa orders that-
 - (aa) his or her name be struck off the Roll of attorneys; or
 - (bb) he or she be suspended from practice as a sanction arising out of disciplinary processes instituted by the relevant professional governing body in the legal profession; or
- (ii) in terms of any ground provided for in section 17 of the Public Service Act, 1994.

(5) (a) Whenever the post of Solicitor-General is vacant or if the Solicitor-General is for any reason absent or unable to exercise his or her powers or to perform his or her functions in terms of this Act, the Minister of Justice and Constitutional Development may appoint any person who meets the criteria for appointment referred to in subsection (1), to act in that post.

(b) Whenever a post of state attorney is vacant or if a state attorney is for any reason absent or unable to perform his or her functions in terms of this Act, the Minister of Justice and Constitutional Development may, after consultation with the Solicitor-General, appoint any person who meets the criteria for appointment referred to in subsection (3), to act in that post.

(6) The Minister of Justice and Constitutional Development may delegate any power conferred on him or her under this section to the Solicitor-General.

(7) The creation, grading and classification of the post of Solicitor-General and all posts on the establishment of all offices of State Attorney and the remuneration and conditions of service of all persons occupying such posts, are determined by the laws governing the public service.

(8) (a) The person holding office as State Attorney in charge of the office of the State Attorney in Pretoria and any person in charge of any branch of that office at the commencement of the State Attorney Amendment Act, 2014, is deemed to have been appointed as a State Attorney under this section.

(b) Any other person holding an appointment in the office of the State Attorney in Pretoria and any branch thereof at the commencement of the State Attorney Amendment Act, 2014, is deemed to have been appointed under this section.

(9) The Minister of Justice and Constitutional Development may require any person appointed in terms of subsection (3) or deemed to have been appointed under subsection (8), to exercise such powers and perform such functions as the Minister may determine, in addition to the exercise of their powers and performance of their functions in terms of this Act.

(10) Despite anything to the contrary in any law, practice or custom in force or prevailing in any part of the Republic, the Solicitor-General and any person holding an appointment in an office of State Attorney may, notwithstanding that he or she is an attorney, notary or conveyancer, receive a salary in respect of all services rendered or to be rendered by him or her under his or her appointment.

[S. 2 amended by [s. 1 of Act 7 of 1966](#) and substituted by s. 2 of [Act 13 of 2014](#) (wef 7 February 2020).]

3 Functions of offices of State Attorney

(1) The functions of the offices of State Attorney shall be the performance in any court or in any part of the Republic of such work on behalf of the Government of the Republic as is by law, practice or custom performed by attorneys, notaries and conveyancers.

(2) There may also be performed at the offices of State Attorney like functions for or on behalf of the administration of any province, subject to such terms and conditions as may be arranged between the Minister of Justice and Constitutional Development and the administration concerned.

(3) Unless the Minister of Justice and Constitutional Development otherwise directs, there may also be performed at the offices of State Attorney like functions in or in connection with any matter in which the Government or such an administration as aforesaid, though not a party, is interested or concerned in, or in connection with any matter where, in the opinion of a State Attorney or of any person acting under his or her authority, it is in the public interest that such functions be performed at the said offices.

(4) The Minister of Justice and Constitutional Development shall after consultation with the Solicitor-General, who must consult with the State Attorneys, determine policy relating to the functions of the offices of State Attorney as set out in this section, which must include the following:

- (a) The coordination and management of all litigation in which the State is involved;
- (b) the briefing of advocates;
- (c) the outsourcing of legal work, including the instruction of correspondent attorneys;
- (d) initiating, defending and opposing of matters; and
- (e) implementing alternative dispute resolution mechanisms in the resolution of litigation against the State,

which must be observed by all persons appointed in the offices of State Attorney.

(5) The policy relating to the functions of the offices of State Attorney referred to in subsection (4) and any amendments thereto must be-

- (a) approved by Cabinet; and
- (b) tabled in Parliament by the Minister of Justice and Constitutional Development.

[S. 3 amended by [s. 35 of Act 93 of 1962](#), by s. 2 of [Act 7 of 1966](#) and by [s. 1 of Act 49 of 1996](#) and substituted by s. 3 of [Act 13 of 2014](#) (wef 7 February 2020).]

3A Powers and functions of Solicitor-General

(1) The Solicitor-General shall-

- (a) be the executive officer of all offices of State Attorney;
- (b) exercise control, direction and supervision over all offices of State Attorney; and
- (c) in implementing the policy referred to in section 3 (4), issue directives and standards regarding the functions referred to in that section, which standards and directives must be observed by all persons appointed in the offices of State Attorney.

(2) The Solicitor-General shall-

- (a) exercise the powers and perform the functions as determined in terms of this Act or any other law; and
- (b) perform any other function that may be required of him or her by the Minister of Justice and Constitutional Development.

(3) The directives and standards referred to in subsection (1) (c) and any amendments thereto must be tabled in Parliament by the Minister of Justice and Constitutional Development.

(4) (a) The Solicitor-General may, subject to paragraphs (b) and (c) and any conditions he or she may determine, delegate in writing, any power conferred on him or her under this Act to any person appointed by the Minister of Justice and Constitutional Development in terms of section 2 (3) (a) and (b).

(b) The Solicitor-General is not divested of any power so delegated and may amend or set aside any decision made in the

exercise of that power, subject to any rights that may have accrued to a person as a result of the decision.

(c) The Solicitor-General may not delegate the power to issue directives and standards conferred on him or her in terms of subsection (1) (c).

[S. 3A inserted by [s. 4](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

4 Rights, privileges and duties of persons performing functions under Act

The rights, privileges and duties of an attorney, notary or conveyancer lawfully performing functions described in section 3, shall, except as is specially provided by this Act, include any of the rights, privileges and duties respectively possessed by or imposed on an attorney, notary or conveyancer practising in the division of the Supreme Court of South Africa where such functions are being performed.

[S. 4 substituted by [s. 3](#) of [Act 7 of 1966](#).]

5 Functions of notaries and conveyancers to be performed by notaries and conveyancers only

The said functions, in so far as they are functions which by law, custom or practice can be performed by an attorney, a notary or a conveyancer only, shall be performed by an attorney, a notary or a conveyancer (as the case may be) admitted and entitled to practise in the division of the Supreme Court of South Africa where such functions are being performed.

[S. 5 substituted by [s. 4](#) of [Act 7 of 1966](#).]

6 Recovery of costs when work performed at offices of State Attorney

[Heading amended by [s. 10](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(1) In every application, motion, action, suit or other legal proceedings of a civil nature in or before any court in or in connection with which a State Attorney, or any person employed in an office of State Attorney and admitted and entitled to practise as aforesaid, has appeared, or in any matter wherein such State Attorney or any such person has acted in the performance of any of the said functions, fees and costs may be taxed and recovered in the same manner as if such functions had been performed by a practitioner in private practice.

[Sub-s. (1) substituted by [s. 5](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(2) Notwithstanding anything to the contrary in any law, such fees and costs shall in the case of any such application, motion, action, suit or other legal proceedings include the amount of any fee of office which would have been payable and borne by the Government of the Republic (including any administration referred to in subsection (2) of section *three*) in respect of any document filed, lodged, registered or issued by a State Attorney or by any person employed in an office of State Attorney, if such document were not exempt from such fee under the provisions of any law.

[Sub-s. (2) substituted by [s. 5](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(3) Notwithstanding anything to the contrary in any law but subject to the provisions of subsection (2), any document filed, lodged, registered or issued by a State Attorney or by any person employed in an office of State Attorney shall not be subject to any fee of office: Provided that any such fee which would but for this subsection be legally payable and borne otherwise than by the Government of the Republic (including any administration referred to in subsection (2) of section *three*), may be recovered from the person concerned by a State Attorney or by any person employed in an office of State Attorney.

[Sub-s. (3) substituted by [s. 5](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(4) Any duty, fees and costs recovered shall be paid into the Consolidated Revenue Fund.

[S. 6 substituted by [s. 36](#) of [Act 93 of 1962](#).]

7 Right to exercise function at places other than offices of State Attorney

Notwithstanding anything to the contrary in any law, practice or custom, a State Attorney and any person employed in his or her office and admitted and entitled to practise as aforesaid and any person nominated by him or her and likewise admitted and entitled to practise may, subject to the provisions of sections *four* and *five*, exercise his or her functions in any court in the Republic even though there is no office of State Attorney at the place where such court sits.

[S. 7 substituted by [s. 6](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

8 Employment of correspondents by State Attorney and matters incidental thereto

(1) A State Attorney shall be entitled in the exercise of his or her functions aforesaid to instruct and employ as correspondent any attorney or other qualified person to act in any legal proceedings or matters in any place in the same way and, *mutatis mutandis*, subject to the same rules, terms and conditions as govern attorneys in private practice, and shall be entitled to receive and recover from such correspondent the same allowances as he or she would be entitled to do if he or she were an attorney in private practice.

[Sub-s. (1) substituted by [s. 11 \(a\)](#) of [Act 129 of 1993](#) and by [s. 7 \(a\)](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(1)*bis* Notwithstanding anything to the contrary in any law, the provisions of subsections (2), (3) and (4) of section *six* shall *mutatis mutandis* apply in respect of any legal proceedings or matters in which any such attorney or other person has been so instructed and employed.

[Sub-s. (1)*bis* inserted by [s. 37](#) of [Act 93 of 1962](#).]

(2) Any allowances recovered shall be paid into the Consolidated Revenue Fund, and any such correspondent shall be entitled to accept such employment and make such allowances.

(3) (a) A State Attorney may delegate any power conferred upon him or her under this section to any person employed in an office of State Attorney.

(b) A State Attorney is not divested of any power so delegated and may amend or set aside any decision made in the exercise of that power, subject to any rights that may have accrued to a person as a result of the decision.

[Sub-s. (3) added by [s. 11 \(b\)](#) of [Act 129 of 1993](#) and substituted by [s. 7 \(b\)](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

9 Regulations

The Minister of Justice and Constitutional Development may make regulations, not inconsistent with this Act-

(a) defining the qualifications, powers, duties and jurisdiction of persons who may be appointed under this Act;

(b) prescribing the places within the Republic at which offices of State Attorney shall be established and the number of persons who may be employed at such offices;

[Para. (b) substituted by [s. 8 \(b\)](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(c) as to the instruction and employment of attorneys, notaries and conveyancers, by or on behalf of a State Attorney;

[Para. (c) substituted by [s. 8 \(b\)](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

(d) providing for-

- (i) a minimum period for which a person who has completed his or her service under articles to a State Attorney or a professional assistant in an office of State Attorney, shall serve the State in such office, which period may vary according to the period of service under such articles;
[Sub-para. (i) substituted by s. 8 (c) of [Act 13 of 2014](#) (wef 7 February 2020).]
- (ii) an amount (which may vary according to the period served in an office of State Attorney under such articles or after completion of service thereunder) which any person who fails to complete his or her service under articles to a State Attorney or a professional assistant in an office of State Attorney, or so to serve the State for the period so provided for, may be required to pay to the State; and
[Sub-para. (ii) substituted by s. 8 (c) of [Act 13 of 2014](#) (wef 7 February 2020).]
- (iii) the recovery of any amount which is so required to be paid,

and generally for the better carrying out of the objects and purposes of this Act.

[S. 9 amended by [s. 5](#) of [Act 7 of 1966](#), by [s. 46](#) of [Act 97 of 1986](#) and by s. 8 (a) of [Act 13 of 2014](#) (wef 7 February 2020).]

9A Performance by offices of State Attorney of work on behalf of government of foreign state

If agreed upon between the Government of the Republic and the government of any other state, an office of State Attorney may perform such kind of work as is performed under this Act by the said office on behalf of the Government of the Republic, for or on behalf of the government of that other state in any court or in any part of the Republic or in that state, subject to such conditions as may be so agreed upon.

[S. 9A inserted by [s. 1](#) of [Act 45 of 1980](#) and substituted by [s. 9](#) of [Act 13 of 2014](#) (wef 7 February 2020).]

10

(1) Repeals the State Attorney Act 25 of 1925, the State Attorney Amendment Act 10 of 1955, and section 1 of the State Attorney Amendment Act 31 of 1957.

(2) Any regulation made and any other action taken under any provision of a law repealed by subsection (1), shall be deemed to have been made or taken under the corresponding provision of this Act.

11 Short title

This Act shall be called the State Attorney Act, 1957.
