

No. 56, 1957.]

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

ACT

To consolidate the laws relating to the establishment of the office of the State Attorney and matters incidental thereto.

(Afrikaans text signed by the Officer Administering the Government.)
(Assented to 20th June, 1957.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Establishment
of office of
State Attorney.

1. (1) There shall be established in Pretoria under the control of the Minister of Justice an office called the office of the State Attorney.

(2) Branches of the State Attorney's office may from time to time and subject to like control, be established at other places in the Union.

(3) The office of the State Attorney for the Union, and any branch thereof, existing at the commencement of this Act, shall be deemed to have been established under this section.

Appointments
in the office
of the State
Attorney and
branches thereof.

2. (1) The Minister of Justice may, subject to the laws governing the public service—

(a) appoint as State Attorney a person admitted and entitled to practise as an attorney in any one of the superior courts of the Union, who shall be in charge of the office of the State Attorney established under this Act;

(b) appoint a person qualified as aforesaid to be in charge of any branch of such office, and such other persons as may be necessary for the proper performance of the business of the said office or any branch thereof.

(2) The creation, grading and classification of all posts on the establishment of the State Attorney's office and any branch thereof and the remuneration and conditions of service, including retiring benefits, of all persons occupying such posts shall be governed by the laws governing the public service.

(3) Any person holding office as State Attorney at the commencement of this Act, and any person holding an appointment in the office of the State Attorney or in any branch thereof at such commencement, shall be deemed to have been appointed under this section.

(4) The Minister of Justice may require any person appointed or deemed to have been appointed under this section, to carry out and exercise such powers, duties and functions, in addition to performing the functions hereinafter prescribed, as the said Minister may prescribe and as such person may be qualified to perform.

(5) Anything to the contrary notwithstanding in any law, practice or custom in force or prevailing in any part of the Union, the State Attorney and any person holding an appointment in the State Attorney's office, or in any branch thereof, may, notwithstanding that he is an attorney, notary or conveyancer, receive a salary in respect of all services rendered or to be rendered by him under his appointment.

Functions of
State Attorney's
Office.

3. (1) The functions of the office of the State Attorney and of its branches shall be the performance in any court or in any part of the Union of such work on behalf of the Government of the Union as is by law, practice or custom performed by attorneys, notaries and conveyancers or by parliamentary agents: Provided that the functions in regard to his duties as parliamentary agent shall be subject to the Standing Rules of the respective Houses of Parliament.

(2) There may also be performed at the State Attorney's office or at any of its branches like functions for or on behalf of the administration of any province and for or on behalf of the South African Railways and Harbours Administration, subject to such terms and conditions as may be arranged between the Minister of Justice and the administration concerned.

(3) There may also be performed at the State Attorney's office or at any of its branches, if the Minister of Justice so directs, 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, or in or in connection with any matter where, in the opinion of the Minister of Justice, it is in the public interest that such functions be performed at the said office or at one of its branches.

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

4. The rights, privileges and duties of an attorney, notary or conveyancer lawfully performing functions described in section *three*, 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 province of the Union where such functions are being performed.

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

5. 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 province of the Union where such functions are being performed.

Recovery of costs when work performed at State Attorney's office.

6. (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 the State Attorney, or any person employed in the State Attorney's office or a branch thereof and admitted and entitled to practise as aforesaid, has appeared, or in any matter wherein he 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, and notwithstanding any provision in the Stamp Duties and Fees Act, 1911 (Act No. 30 of 1911), or in any other law, any document filed, lodged, registered or issued by the State Attorney or any person employed in the State Attorney's office or any branch thereof shall be subject to the stamp duty and any fee of office to which it would have been subject if it had been filed, lodged, registered or issued by a practitioner in private practice.

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

Right to exercise function at places where no fixed office.

7. Notwithstanding anything to the contrary in any law, practice or custom, the State Attorney and any person employed in his office and admitted and entitled to practise as aforesaid and any person nominated by him and likewise admitted and entitled to practise may, subject to the provisions of sections *four* and *five*, exercise his functions in any court in the Union though he may have no fixed office or branch office at the place where such court sits.

Employment of correspondents by State Attorney and matters incidental thereto.

8. (1) The State Attorney shall be entitled in the exercise of his 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 would be entitled to do if he were an attorney in private practice.

(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.

Regulations.

9. The Governor-General 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 Union at which branches of the office of the State Attorney shall be established and the number of persons who may be employed at any such branch;

- (c) as to the instruction and employment of attorneys, notaries and conveyancers, by or on behalf of the State Attorney;
- (d) providing for—
 - (i) a minimum period for which a person who has completed his service under articles to the State Attorney or a professional assistant in the office, or a branch of the office, of the State Attorney, shall serve the State in such office or in any branch of such office, which period may vary according to the period of service under such articles;
 - (ii) an amount (which may vary according to the period served in such office or in any such branch under such articles or after completion of service thereunder) which any person who fails to complete his service under articles to the State Attorney or such professional assistant, or so to serve the State for the period so provided for, may be required to pay to the State; and
 - (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.

Repeal of Acts.

10. (1) Subject to the provisions of sub-section (2), the State Attorney Act, 1925 (Act 25 of 1925), the State Attorney Amendment Act, 1955 (Act 10 of 1955), and section *one* of the State Attorney Amendment Act, 1957, are hereby repealed.

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

Short title.

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