

SPECIAL ISSUE

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KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 3rd April, 2024

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THE ADVOCATES (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Advocates Act to exempt members of Parliament from continuing legal education; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Advocates (Amendment) Act, 2024.

Short title.

2. Section 81 of the Advocates Act is amended by deleting subsection (3) and replacing with the following new subsection—

Amendment of section 81 of Cap 16.

(3) A rule made under this section shall not require a Speaker of either House of Parliament or a member of Parliament who is an advocate and holds a practising certificate to undertake continuing legal education during their tenure as Speaker or Member of Parliament.

MEMORANDUM OF OBJECTS AND REASONS

The principle object of the Bill is to amend section 81 of the Advocates Act to exempt members of the Senate who are advocates of the High Court of Kenya from the requirement to undertake continuing legal education.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill neither delegates legislative powers to the Cabinet Secretary nor limits fundamental rights and freedoms.

Statement of how the Bill concerns county governments

This Bill affects the professional development of members of the Senate who are advocates of the High Court of Kenya. The Senate's roles under Article 96 of the Constitution includes representing counties by considering, debating and approving Bills that concern counties. Any Bill which touches on the welfare of Members of the Senate directly affects the Senate's ability to undertake its aforementioned constitutional mandate.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 28th February, 2024.

MOGENI ERICK OKONG'O,
Senator.

Section 81 of Chapter 16 that the Bill proposes to amend—

Power to make rules.

81. (1) The Council of the Society, with the approval of the Chief Justice, may make rules with regard to—

- (a) the professional practice, conduct and discipline of advocates;
- (b) the keeping of accounts by advocates;
- (c) the annual submission to the Council of a certificate by an accountant registered under the Accountants Act (Cap. 531) or by some other person or class of persons specified by such Council that he has examined the books, accounts and documents of the advocate to such extent as may be prescribed and stating—
 - (i) whether or not he is satisfied that, during the period covered by his certificate, the advocate has complied with the rules for the time being in force regulating the keeping of accounts by advocates; and
 - (ii) if he is not so satisfied, the matters in respect of which he is not satisfied;
- (d) the retention or otherwise by advocates of interest earned on moneys deposited, received or held for or on account of clients;
- (e) the issue of practising certificates, the fee payable thereon and the duties of the Registrar with respect to the issuing of such certificates;
 - (ee) the procedure for the conferment of, and the privileges attached to, the rank of Senior Counsel;
- (f) the establishment of a compensation fund for the benefit of clients;
- (g) indemnity for clients against loss or damage arising from claims in respect of any civil liability incurred by an advocate or his employee, or from breach of trust by the advocate or his employee;
- (h) continuing professional education for all advocates practising in Kenya;
- (i) generally for the better carrying out of the provisions of this Act, other than Parts III, IV, IX, X and XI.

(2) If an advocate fails to comply with any rules made under this section, any person may make a complaint in respect of that failure to the Disciplinary Tribunal.

(3) No rule made under this section shall require an advocate who is a member of the National Assembly or the Speaker and who holds a practising certificate to undergo continuing legal education during his tenure as such member or as the Speaker.