

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
JUDICIAL MATTERS
AMENDMENT BILL**

[B 14—2016]

*(As agreed to by the Portfolio Committee on Justice and Correctional Services
(National Assembly))*

[B 14A—2016]

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AMENDMENTS AGREED TO

JUDICIAL MATTERS AMENDMENT BILL
[B 14—2016]

NEW CLAUSE

1. On page 14, after Clause 34 to insert the following new Clause:

Amendment of section 1 of Act 32 of 2007, as amended by section 48 of Act 7 of 2013 and section 1 of Act 5 of 2015

35. Section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the insertion before the definition of “sexual penetration” of the following definition:

“**sexual offences court**” means a court that has a court roll that deals exclusively with the bail application, plea proceedings, trial or sentencing of a person in criminal proceedings arising out of—

- (a) an alleged commission of a sexual offence in terms of the common law, any offence in terms of the Sexual Offences Act, 1957 (Act No. 23 of 1957), or any offence in terms of this Act;
- (b) any offence in terms of any other law which has a bearing on sexual offences contemplated in paragraph (a), or which involves the complainant against whom a sexual offence contemplated in paragraph (a) is alleged to have been committed; or
- (c) any offence in terms of any other law which the Director of Public Prosecutions having jurisdiction, or a prosecutor authorised thereto in writing by him or her, deems expedient or necessary for the administration of justice in a particular case, to be disposed of together with an offence contemplated in paragraph (a),

and which has facilities, measures, services and requirements as prescribed by the Minister by regulation in terms of section 55A(6) of the Act;”.

CLAUSE 37

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 55A of Act 32 of 2007, as inserted by section 2 of Act 43 of 2013

38. Section 55A of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended—

- (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Subject to subsection (2), the Minister may by notice in the *Gazette* designate any—

(a) Division of the High Court of South Africa or the main seat or any local seat of a Division referred to in section 6 of the Superior Courts Act, 2013 (Act No. 10 of 2013); or

(b) Magistrate's Court, as defined in section 1 of the Superior Courts Act, 2013 [(Act No. 10 of 2013)], [as] at which a sexual offences court [exclusively for the purposes of the trial of any person or other proceedings arising out of—

(a) an alleged commission of a sexual offence in terms of the common law, any offence in terms of the Sexual Offences Act, 1957 (Act No. 57 of 1957, or any offence in terms of this Act; or

(b) any act or omission which constitutes an offence in terms of any other law which has a bearing on sexual offences, as the Director of Public Prosecutions having jurisdiction may, in writing, authorise] must be established.

(2) The Minister must exercise the power provided for in subsection (1)—

(a) in consultation with the Chief Justice, [the head of the court in question as defined in section 1 of the Superior Courts Act, 2013, and, in the case of a Magistrate's Court, the Judge President who, in terms of section 8(4)(c) of the Superior Courts Act, 2013, is responsible for the coordination of judicial functions of the Magistrate's Courts falling within his or her area of jurisdiction] who must consult—

(i) if a Division of the High Court of South Africa or the main seat or any local seat thereof, is to be designated, the Judge President of the Division; or

(ii) if a court for a regional division, referred to in section 2(g) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), is to be designated, the Judge President and the magistrate at the head of a regional division; or

(iii) if a court for a district, referred to in section 2(f) of the Magistrates' Courts Act, 1944, is to be designated, the Judge President and the head of the administrative region contemplated in the Magistrates' Courts Act, 1944; and

(b) after consultation with the National Director of Public Prosecutions.”;

(b) by the substitution for subsection (5) of the following subsection:

“(5) This section does not preclude any court referred to in subsection (1)(a) or (b) from dealing with the matters referred to in that subsection if it has not been [designated] established as a sexual offences court.”; and

(c) by the addition of the following subsections:

“(6) The facilities, measures, services and requirements as prescribed by the Minister by regulation made in terms of section 67 in respect of sexual offences cases and the courts established as sexual offences courts in terms of subsection (1), must be in place and complied with, within the periods as may be prescribed by the Minister.

(7) Upon establishing a court as a sexual offences court in terms of subsection (1), the following persons must ensure that sexual offences cases in that court receive priority and must, for this purpose, issue directives to the judicial officers of that court:

- (a) In the case of a Division of the High Court of South Africa or the main seat or any local seat thereof, the Judge President of the Division;
- (b) in the case of a court for a regional division, the magistrate at the head of a regional division referred to in subsection (2)(a)(ii); or
- (c) in the case of a court for a district, the head of the administrative region referred to in subsection (2)(a)(iii).

(8) The directives referred to in subsection (7) may only be issued—

- (a) after consultation with the National Director of Public Prosecutions; and
- (b) with the approval of the Chief Justice.

(9) The Chief Justice must monitor the application of the directives issued in terms of subsection (8).

CLAUSE 42

1. On page 18, in line 27, to omit “2016” and to substitute “2017”.
2. On page 18, in line 28, to omit “and 37” and to substitute “, 35 and 38”.