

REPUBLIC OF SOUTH AFRICA

RENAMING OF HIGH COURTS BILL

*(As introduced in the National Assembly (proposed section 75);
explanatory summary of Bill published in Government Gazette No. 30799 of
21 February 2008)
(The English text is the official text of the Bill)*

(MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

[B 5—2008]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE HERBENAMING VAN DIE HOË HOWE

*(Soos ingedien by die Nasionale Vergadering (voorgestelde artikel 75);
verduidelikende opsomming van Wetsontwerp in Staatskoerant No. 30799 van
21 Februarie 2008 gepubliseer)
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(MINISTER VIR JUSTISIE EN STAATKUNDIGE ONTWIKKELING)

[W 5—2008]

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BILL

To make provision for the renaming of the High Courts of the Republic; and to provide for matters connected therewith.

PREAMBLE

WHEREAS item 16(6)(a) of Schedule 6 to the Constitution of the Republic of South Africa, 1996, provides that as soon as practical after the new Constitution took effect, all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution;

AND WHEREAS item 16(4)(a) of Schedule 6 to the Constitution provides that a provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or a general division of such a court, becomes a High Court under the new Constitution without any alteration in its area of jurisdiction, subject to any rationalisation contemplated in item 16(6) of Schedule 6 to the Constitution;

AND WHEREAS the rationalisation process envisaged in item 16(6) of Schedule 6 to the Constitution is a comprehensive and ongoing process and is to be based on a policy framework which is still being finalised in conjunction with all relevant role-players;

AND WHEREAS the enactment and implementation of legislation emanating from this policy framework will require more time before the rationalisation process is brought to its conclusion;

AND WHEREAS it is undesirable to retain and use the names of certain High Courts, some of which still reflect their apartheid origins;

AND WHEREAS there may be uncertainty as to the names of the High Courts, it is necessary to facilitate certainty and uniformity as to the names of all High Courts,

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Change of names of High Courts

1. Notwithstanding the provisions of the Supreme Court Act, 1959 (Act No. 59 of 1959), or any other law, but subject to an Act of Parliament giving effect to the rationalisation contemplated in item 16(6)(a) of Schedule 6 to the Constitution, the High Courts seated in the places mentioned in the first column of the table hereunder, shall be known by the names set out in the second column of the said table:

TABLE

SEAT OF HIGH COURT	NAME OF HIGH COURT	
Bisho	Eastern Cape High Court, Bisho	
Bloemfontein	Free State High Court, Bloemfontein	5
Cape Town	Western Cape High Court, Cape Town	
Durban	KwaZulu-Natal High Court, Durban	
Grahamstown	Eastern Cape High Court, Grahamstown	
Johannesburg	South Gauteng High Court, Johannesburg	
Kimberley	Northern Cape High Court, Kimberley	10
Mmabatho	North West High Court, Mmabatho	
Mthatha	Eastern Cape High Court, Mthatha	
Pietermaritzburg	KwaZulu-Natal High Court, Pietermaritzburg	
Port Elizabeth	Eastern Cape High Court, Port Elizabeth	
Pretoria	North Gauteng High Court, Pretoria	15
Thohoyandou	Limpopo High Court, Thohoyandou	

Short title and commencement

2. This Act is called the Renaming of High Courts Bill, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE RENAMING OF HIGH COURTS BILL, 2008

1. PURPOSE OF BILL

The purpose of the Bill is to address the undesirable situation where certain High Courts are still referred to by their names under the constitutional dispensation prior to 1994 and to facilitate certainty and uniformity regarding the names of the High Courts.

2. OBJECTS OF BILL

2.1 Item 16 of Schedule 6 to the Constitution provides, among others, that—

- (a) as soon as practical after the new Constitution took effect, all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution; and
- (b) a provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or a general division of such a court, becomes a High Court under the new Constitution without any alteration in its area of jurisdiction, subject to the rationalisation process referred to in paragraph (a).

2.2 Since—

- (a) the rationalisation process referred to above is a comprehensive and ongoing process and is to be based on a policy framework which is still being finalised in conjunction with all relevant role-players;
 - (b) the enactment and implementation of legislation emanating from this policy framework will require more time before the rationalisation process is brought to its conclusion;
 - (c) it is undesirable that certain High Courts are often still referred to by their names used under the constitutional dispensation prior to 1994; and
 - (d) there may also be uncertainty as to the names of the High Courts,
- the Bill is intended to address the concerns referred to in paragraphs (c) and (d) above by means of a statutory provision, subject to the said rationalisation process.

3. DEPARTMENTS/BODIES/PERSONS CONSULTED

The Chief Justice, as head of the judiciary.

4. IMPLICATIONS FOR PROVINCES

None.

5. FINANCIAL IMPLICATIONS

None.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Justice and Constitutional Development are of the view that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.