

BUITENGEWONE



EXTRAORDINARY

# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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## REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER.

No. 347.]

[13th March, 1968.

It is hereby notified that the Acting State President has assented to the following Acts which are hereby published for general information:—

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No. 9, 1968.]

## ACT

To amend the provisions of the Criminal Procedure Act, 1955, with regard to definitions; the jurisdiction of a court in respect of the trial of offences committed outside its area of jurisdiction; the release on bail of an accused before conclusion of the preparatory examination; the release on bail of an accused committed for trial or sentence; the fixing of bail within a prescribed period; the power of a superior court to admit an accused to bail; the payment of a deposit instead of entering into recognizances; the release of juvenile offenders without bail; the release on bail or otherwise of persons arrested for certain offences; the granting of leave of absence from trial; arrest and punishment for failure to obey a subpoena or to remain in attendance; witnesses from prison; the payment of expenses of witnesses; the superscription before section 254; the conviction of an accused on plea of guilty or evidence of confession; the admissibility as evidence of entries in bankers' books; the summoning of an accused to appear in inferior court; notice to appear in inferior court; charges in remitted cases; the imposition of another sentence in lieu of certain prescribed compulsory sentences; the payment of a fine without appearance in court; the powers of courts to impose suspended sentences or a caution or reprimand; the power of a court to order an accused to pay compensation; an application for leave to appeal; a special entry of irregularity or illegality; certain offences in respect of which no information may be published; the compounding of certain minor offences; and to provide for incidental matters.

*(English text signed by the Acting State President.)*  
*(Assented to 29th February, 1968.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 56 of 1955, as amended by section 22 of Act 50 of 1956, section 1 of Act 9 of 1958 and section 3 of Act 75 of 1959.

1. Section 1 of the Criminal Procedure Act, 1955 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "aggravating circumstances" of the following definition:

"‘bank’ means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), and includes the Land and Agricultural Bank of South Africa referred to in section 3 of the Land Bank Act, 1944 (Act No. 13 of 1944), and a building society as defined in section 1 of the Building Societies Act, 1965 (Act No. 24 of 1965);”.

Insertion of section 4A in Act 56 of 1955.

2. The following section is hereby inserted in the principal Act after section 4:

"Trial of any offence committed within the area of jurisdiction of an attorney-general shall take place within the area of jurisdiction of any other attorney-general at direction of the Minister.

4A. (1) Whenever any person is alleged to have committed an offence within the area in respect of which a particular attorney-general has been appointed, the Minister may, if he deems it in the interests of the administration of justice, by notice served on such person, direct that the trial of that person in respect of such offence shall take place at a place specified in the notice within the area in respect of which any other attorney-general has been appointed, and thereupon the provisions of this Act and of the laws referred to in sections 3 and 4 shall apply as if such person had committed such offence at the place so specified.

(2) The direction of the Minister shall be final and not subject to appeal to any court."

Amendment of section 87 of Act 56 of 1955, as amended by section 24 of Act 50 of 1956.

3. Section 87 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No accused against whom a preparatory examination has been instituted shall before the issue of the warrant for his committal for trial or sentence be entitled to be released on bail: Provided that the magistrate may, subject to the provisions of section 108*bis*, in his discretion release the accused on bail before the preparatory examination is concluded."

Substitution of section 88 of Act 56 of 1955.

4. The following section is hereby substituted for section 88 of the principal Act:

"Accused entitled to be admitted to bail if committed for trial or sentence.

88. Every person committed for trial or sentence in respect of any offence is, subject to the provisions of section 108*bis*, entitled as soon as the warrant of committal for his trial or sentence is issued, to be released on bail: Provided that where any person has been committed for trial or for sentence upon a charge of any offence, the magistrate to whom application for bail is made, may, if he has reason to believe that notwithstanding any conditions of a recognizance, such person is not likely to appear as required or to comply with any condition imposed (without prejudice to such person's rights under section 97) refuse to admit him to bail."

Substitution of section 91 of Act 56 of 1955.

5. The following section is hereby substituted for section 91 of the principal Act:

"Magistrate to fix the bail within twenty-four hours.

91. (1) A magistrate to whom an application for bail is made under section 90 shall, within twenty-four hours thereafter, give his decision thereon and, if the application is granted, fix the amount of the bail.

(2) The charge against the accused as recorded on the warrant of committal shall be accepted by the magistrate as the charge upon which the accused has in fact been committed."

Substitution of section 98 of Act 56 of 1955.

6. The following section is hereby substituted for section 98 of the principal Act:

"Power of superior court to admit to bail.

98. Subject to the provisions of section 108*bis* and any other law, a superior court having jurisdiction in respect of any offence may at any stage of any proceedings taken in any court in respect of that offence, release the accused on bail."

Substitution of section 105 of Act 56 of 1955.

7. The following section is hereby substituted for section 105 of the principal Act:

"Deposit instead of recognizance.

105. (1) (a) When any person is required by any court, judge, magistrate or judicial officer to enter into recognizances with or without sureties under any of the provisions of this Act, such court, judge, magistrate or judicial

officer may, except in the case of a bond for good behaviour, instead of causing such recognizances to be entered into, permit him or some person on his behalf to deposit a sum of money or Government securities to such amount as the court, judge, magistrate or judicial officer may fix.

- (b) Whenever any person is entitled to be released on bail on depositing a sum of money or an amount in Government securities fixed in terms of paragraph (a) and is detained at a place appointed under any law for the holding of periodical courts, any policeman referred to in subsection (2) at such place may at any time when no judicial officer is available, release such person on bail if he or some person on his behalf deposits with such policeman the sum of money or the amount in Government securities so fixed.

(2) If a person is charged with any offence other than an offence specified in Part II of the Second Schedule or has been arrested by virtue of a warrant referred to in section 211 (1) or 309 (3), any policeman holding a rank or post designated by the Minister from time to time for the purposes of this section by notice in the *Gazette*, may at a police station or police post, at any time when no judicial officer is available, release such person on bail if he or any other person on his behalf deposits with such policeman, such sum of money as the policeman may fix, or furnishes to such policeman such security in lieu of bail as the latter deems sufficient.

(3) Whenever any person is released on bail in terms of subsection (1) or (2), conditions in writing of the same nature as the conditions prescribed by this Chapter in respect of recognizances, shall be made in respect of the money or Government securities deposited or the security furnished, and the provisions of sections 99*bis*, 100, 101, 102, 104, 106 and 107 shall apply *mutatis mutandis* in respect of the money, Government securities or security so deposited or furnished, as the case may be, and in respect of the person released on bail and the person who has deposited or furnished such money, Government securities or security on behalf of the person released on bail.

(4) No person shall be allowed to deposit or furnish on behalf of any other person any sum of money, or any Government securities or any security in terms of this section if the court, judge, magistrate, judicial officer or policeman concerned has reason to believe that such person, at any time before or after depositing such sum of money or Government securities, or furnishing such security, has been indemnified or will be indemnified by any person in any manner against loss of such sum of money, Government securities or security or that he has received or will receive any financial benefit in connection with the deposit or provision of such sum of money, Government securities or security.

(5) The provisions of subsection (4) shall not apply to the legal representative of an accused who deposits or furnishes any sum of money or any government securities or security in terms of the provisions of this section on behalf of such accused.”

Amendment of section 108 of Act 56 of 1955, as amended by section 102 of Act 33 of 1960, section 8 of Act 92 of 1963 and section 5 of Act 96 of 1965.

8. Section 108 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If any person under the age of eighteen years is charged with an offence, any court which or any magistrate or policeman who may under any provision of this Chapter release such person on bail, may, instead of releasing him on bail, or instead of detaining him, place him in a place of safety as defined in section 1 of the Children’s Act, 1960 (Act No. 33 of 1960), pending his appearance or further appearance before a court or magistrate, or until he is otherwise dealt with according to law or, unless he is charged with treason, murder, contravention of any provision of the Suppression of Communism Act, 1950 (Act No. 44 of 1950), or that Act as applied by any other law, in respect of which a minimum or compulsory punishment applies, or contravention of section 21 of the General Law Amendment Act, 1962 (Act No. 76 of 1962), or section 2 or 3 of the Terrorism Act, 1967 (Act No. 83 of 1967)—

- (a) release him without bail and warn him to appear before a court or magistrate at a time and on a date then fixed by the court, magistrate or policeman; or
- (b) release him without bail to the care of the person in whose custody he is and warn that person to bring him or cause him to be brought before a court or magistrate at a time and on a date then fixed as aforesaid.”.

Substitution of section 108bis of Act 56 of 1955, as inserted by section 4 of Act 39 of 1961 and amended by section 17 of Act 76 of 1962, section 9 of Act 37 of 1963, section 23 of Act 80 of 1964 and section 6 of Act 96 of 1965.

9. Section 108bis of the principal Act is hereby amended—

- (a) by the substitution for the proviso to subsection (1) of the following subsections:

“(1A) If no evidence has been led against a person referred to in subsection (1) at a preparatory examination or trial within a period of ninety days after his arrest, he may at any time after the expiry of that period on notice in writing to the attorney-general apply to a judge or a court or magistrate in whose area of jurisdiction he is being detained, to be released on bail.

(1B) The judge, court or magistrate to whom or to which the application is made, may in his or its discretion order the release of the applicant on bail on such terms and conditions as he or it may direct, or he or it may dismiss the application or otherwise deal with it as he or it deems fit.”; and

- (b) by the insertion in subsection (2) of the following paragraph, the existing subsection becoming paragraph (a):

“(b) Whenever any person arrested for an offence referred to in subsection (1) applies to be released on bail or otherwise and the public prosecutor informs the judge, court or magistrate to whom or to which the application is made that the matter has been referred to the attorney-general concerned with a view to the issuing of an order in terms of subsection (1), such person shall, pending the decision of the attorney-general, not be released on bail or otherwise: Provided that, if no such order is issued within the period of fourteen days immediately following upon the date on which such judge, court or magistrate is so informed, such person may again apply to be released on bail or otherwise and may, subject to the provisions of any law, be so released.”.

Amendment of section 156bis of Act 56 of 1955, as inserted

10. Section 156bis of the principal Act is hereby amended by the substitution for all the words preceding paragraph (a) of the following words:

by section 51 of Act 68 of 1957 and amended by section 24 of Act 80 of 1964.

“156bis. If two or more accused are charged jointly at a trial before a court established under section 2 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), or at a trial without a jury before a superior court, with any offence, whether the same or different offences, and the court is, at any time after the commencement of the trial, satisfied upon application made in person by any such accused or his representative—”.

Amendment of section 211 of Act 56 of 1955.

11. Section 211 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) If any person summoned to attend at any criminal proceedings or who during his attendance at any criminal proceedings was warned by the court to attend those criminal proceedings again, fails to attend the criminal proceedings concerned at the hour and on the day specified in the summons or warning, or if he attended but failed to remain in attendance, and the court in which the said proceedings are conducted, is satisfied from a statement under oath or from the return of the person who was required to serve the summons or from the record of the said proceedings that a summons to attend the said proceedings was directed to and duly served on such person, or that he is evading service of the said summons or that he was warned in terms of this section to attend the said proceedings or that he attended but failed to remain in attendance, the court may issue a warrant directing that he be arrested and brought, at a time and place stated in the warrant, or as soon thereafter as possible, before the court or any magistrate.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The court may in a summary manner enquire into the said person’s failure to obey the summons or to comply with the warning referred to in subsection (1) or to remain in attendance, and unless it is proved that the said person has a reasonable excuse for such failure, the court may sentence him to pay a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding three months.”.

Amendment of section 216 of Act 56 of 1955.

12. Section 216 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The expenses mentioned in subsection (3) shall be determined in accordance with the scale prescribed under section 87 (4) (c) of the Prisons Act, 1959 (Act No. 8 of 1959).”.

Amendment of section 218 of Act 56 of 1955, as amended by section 28 of Act 80 of 1964.

13. Section 218 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Regulations under subsection (3) may empower such officers in the service of the State as may be specified therein, in cases where payment of allowances in accordance with the tariffs prescribed by such regulations may cause undue hardship or in cases of persons who are resident outside the Republic, to authorize the payment of allowances in accordance with higher tariffs than the tariffs so prescribed.”.

Substitution of superscription before section 254 of Act 56 of 1955.

14. The following superscription is hereby substituted for the superscription before section 254 of the principal Act:

“*Evidence of Accomplices and certain other Persons.*”.

Amendment of section 258 of Act 56 of 1955.

15. Section 258 of the principal Act is hereby amended by the substitution for the proviso to subsection (1) (b) of the following proviso:

“Provided that if the offence to which he pleads guilty is such that the court is of opinion that it does not merit

punishment of imprisonment without the option of a fine or of whipping or of a fine exceeding twenty-five pounds, it may, if the prosecutor does not tender evidence of the commission of the offence, convict the accused of such offence upon his plea of guilty, without other proof of the commission of the offence, and thereupon impose any competent sentence other than imprisonment or any other form of detention without the option of a fine or whipping or a fine exceeding twenty-five pounds, or it may deal with him otherwise in accordance with law."

Substitution of section 264 of Act 56 of 1955.

16. The following section is hereby substituted for section 264 of the principal Act:

"Entries in bankers' books admissible as evidence in certain cases.

264. The entries in ledgers, day-books, cash-books and other account books of any bank shall be admissible as *prima facie* evidence of the matters, transactions and accounts therein recorded, on proof being given by the affidavit in writing of a director, manager or officer of that bank, or by other evidence that such ledgers, day-books, cash-books or other account books are or have been the ordinary books of such bank, and that the said entries have been made in the usual and ordinary course of business, and that such books are in, or come immediately from, the custody or the control of such bank."

Amendment of section 309 of Act 56 of 1955, as amended by section 29 of Act 50 of 1956 and section 31 of Act 92 of 1963.

17. Section 309 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) If any person fails to appear at the hour and on the day appointed for his appearance to answer any charge, and the court is satisfied upon the return of the person required to serve the summons that he was duly summoned or if it appears from evidence given under oath that he is evading service of the summons, or if it appears from such evidence that he attended but failed to remain in attendance, the court in which the said criminal proceedings are conducted, may issue a warrant, directing that he be arrested and brought, at a time and place stated in the warrant, or as soon thereafter as possible, before the court or any magistrate."

Amendment of section 309bis of Act 56 of 1955, as inserted by section 23 of Act 16 of 1959 and amended by section 32 of Act 92 of 1963.

18. Section 309bis of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) If a peace officer has reasonable grounds for believing that an inferior court will on convicting any person of any offence, impose a sentence of a fine not exceeding twenty-five pounds and hands to such person a written notice in the prescribed form calling upon him to appear to answer a charge of having committed such offence, such person shall, except for the purposes of section 310 (2), be deemed to have been duly summoned under section 309 to appear to answer the charge at the time and place stated in the notice."

Amendment of section 311 of Act 56 of 1955.

19. Section 311 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

"(a) If the accused has been released on bail, the court shall cause a notice to be served on him stating that the case has been remitted to it to be dealt with and requiring him to appear at the hour and on the day appointed for the trial."

Insertion of section 335A in Act 56 of 1955.

20. The following section is hereby inserted in the principal Act after section 335:

"In case of mitigating circumstances another sentence may be imposed in lieu of certain prescribed compulsory sentences.

335A. (1) Whenever a court is bound to impose upon a person convicted by it of an offence, a punishment prescribed by section 334*ter* (2), 334*quat* (2) or 335 (2) and is of opinion that there are circumstances which justify the imposition of a lighter sentence than such prescribed punishment, it shall enter those circumstances on the record of the proceedings and shall—

- (a) if it is bound to sentence such person to the punishment prescribed by section 334*ter* (2), impose upon him, in lieu thereof, a sentence of imprisonment for a period not exceeding two years;
- (b) if it is bound to sentence such person to the punishment prescribed by section 334*quat* (2), impose upon him, in lieu thereof, a sentence of imprisonment for a period not exceeding five years; or
- (c) if it is bound to sentence such person to the punishment prescribed by section 335 (2), impose upon him, in lieu thereof, a sentence of imprisonment for a period not exceeding nine years.

(2) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall be competent to impose the punishment prescribed by subsection (1) (a) and the court of a regional division shall be competent to impose the punishments prescribed by subsection (1) (b) and (c)."

Amendment of section 351 of Act 56 of 1955.

21. Section 351 of the principal Act is hereby amended by the substitution in subsection (1) for the words "fifteen pounds" whenever they occur of the words "twenty-five pounds".

Amendment of section 352 of Act 56 of 1955, as amended by section 38 of Act 16 of 1959, section 100 of Act 33 of 1960, section 40 of Act 92 of 1963 and section 13 of Act 96 of 1965.

22. Section 352 of the principal Act is hereby amended by the deletion of paragraph (b) of subsection (2).

Amendment of section 357 of Act 56 of 1955, as amended by section 43 of Act 92 of 1963 and section 15 of Act 96 of 1965.

23. Section 357 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (5) of the following paragraph:

"(c) When a superior court has made any award of compensation, costs or expenses under this section, the registrar of the court shall forward a certified copy of the award to the clerk of the court of the magistrate's court of the district designated by the court, or, if no district has been designated by the court, to the clerk of the court of the magistrate's court of the district wherein the offence in question was committed, and thereupon such award shall have the same effect as a civil judgment of that magistrate's court."

Substitution of section 363 of Act 56 of 1955.

24. The following section is hereby substituted for section 363 of the principal Act:

"Applications for condonation, for leave to appeal, and for leave to lead further evidence.

363. (1) An accused convicted of any offence before a superior court whether sitting with or without a jury, may, within a period of fourteen days of the passing of any sentence as a result of such conviction, or within such extended period as may on application (in this section referred to as an application for condonation) on good cause be allowed, apply—

- (a) if the conviction was by a special criminal court, to that court, or any judge who was a member of that court, or if no such judge is available, to any judge of the provincial or local division



within whose jurisdiction the special criminal court sat; and

- (b) if the conviction was by any other court, to the judge who presided at the trial, or if he is not available, or if in the case of a conviction before a circuit court, the said court is not sitting, to any other judge of the provincial or local division of which the aforesaid judge was a member when he so presided,

for leave to appeal to the appeal court against his conviction or against any sentence or order following thereon (in this section referred to as an application for leave to appeal), and an accused convicted of any offence before any such court on a plea of guilty may, within the same period, apply for leave so to appeal against any sentence or any order following thereon.

(2) Every application for leave to appeal shall set forth clearly and specifically the grounds upon which the accused desires to appeal: Provided that if the accused applies verbally for such leave immediately after the passing of the sentence, he shall state such grounds and they shall be taken down in writing and form part of the record.

(3) When in any application under subsection (1) for leave to appeal it is shown by affidavit—

- (a) that further evidence which would presumably be accepted as true, is available;
- (b) that if accepted the evidence could reasonably lead to a different verdict or sentence; and
- (c) save in exceptional cases, that there is a reasonably acceptable explanation for the failure to produce the evidence before the close of the trial,

the court hearing the application may receive that evidence and any further evidence rendered necessary thereby, including any evidence in rebuttal called by the prosecutor and any evidence called by the court.

(4) Any evidence received in pursuance of an application under subsection (1) for leave to appeal, shall for the purposes of an appeal be deemed to be evidence taken or admitted at the trial.

(5) If an application under subsection (1) for leave to appeal is granted, the registrar of the court granting such application shall cause notice to be given accordingly to the registrar of the court of appeal without delay, and shall cause to be transmitted to the said registrar a certified copy of the record including copies of the evidence, whether oral or documentary, taken or admitted at the trial, and a statement of the grounds of appeal: Provided that, instead of the whole record, with the consent of the accused and the attorney-general, copies (one of which shall be certified) may be transmitted of such parts of the record as may be agreed upon by the attorney-general and the accused to be sufficient, in which event the court of appeal may nevertheless call for the production of the whole record.

(6) If an application under subsection (1) for condonation or leave to appeal is refused or if in any application for leave to appeal an application for leave to call further evidence is refused, the accused may, within a period of twenty-one days of

such refusal, or within such extended period as may on good cause be allowed, by petition addressed to the Chief Justice submit his application for condonation or for leave to appeal or his application for leave to call further evidence, or all such applications, as the case may be, to the court of appeal, at the same time giving written notice that this has been done to the registrar of the provincial or local division (other than a circuit court) within whose jurisdiction the trial has taken place, and of which the judge who presided at the trial was a member when he so presided. Such registrar shall forward to the court of appeal a copy of the application or applications in question and of the reasons for refusing such application or applications.

(7) The petition may be considered in Chambers by the Chief Justice or by any other judge of the court of appeal to whom it may be referred by the Chief Justice.

(8) The judge considering the petition may—

- (a) call for any further information from the judge who heard the application for condonation or the application for leave to appeal or the application for leave to call further evidence or who presided at the trial to which any such application relates;
- (b) order that the application or applications in question or any of them be argued before him at a time and place appointed;
- (c) whether he has acted under paragraph (a) or (b) or not—
  - (i) in the case of an application for condonation, grant or refuse the application and, if he grants the application, direct that an application for leave to appeal shall be made within the period fixed by him to the court or judge referred to in subsection (1) or, if he deems it expedient, that an application for leave to appeal shall be submitted under subsection (4) within the period fixed by him as if it had been refused by the court or judge referred to in subsection (1);
  - (ii) in the case of an application for leave to appeal or an application for leave to call further evidence, grant or refuse the application or, if such judge is of the opinion that the application for leave to call further evidence should have been granted, he may, before deciding upon the application for leave to appeal, or, in the case where the court or judge referred to in subsection (1) has granted the application for leave to appeal but has refused leave to call further evidence, set aside the refusal of the said court or judge to grant leave to call further evidence and remit the matter in order that further evidence may be received in accordance with the provisions of subsection (3); or
- (d) refer the matter to the court of appeal for consideration, whether upon argument or otherwise, and the court of appeal may thereupon deal with the matter in any manner referred to in paragraph (c).

(9) The decision of a judge of the court of appeal, or of the court of appeal, as the case may be, to grant or refuse any application, shall be final.

(10) Notice shall be given to the attorney-general concerned and the accused of the date fixed for the hearing of any application under this section, and

of any place appointed under subsection (8) for any hearing.”.

Substitution of section 364 of Act 56 of 1955.

25. The following section is hereby substituted for section 364 of the principal Act:

“Special entry of irregularity or illegality.

364. (1) If an accused thinks that any of the proceedings in connection with or during his trial, whether by jury or not, before a superior court are irregular or not according to law, he may, either during his trial or within a period of fourteen days after his conviction, or within such extended period as may upon application (in this section referred to as an application for condonation) on good cause be allowed, apply for a special entry to be made on the record (in this section referred to as an application for a special entry) stating in what respect the proceedings are alleged to be irregular or not according to law and such a special entry shall, upon such application for a special entry, be made unless the court to which or the judge to whom the application for a special entry is made is of opinion that the application is not made *bona fide*, or that it is frivolous or absurd, or that the granting of the application would be an abuse of the process of the Court.

(2) Save as hereinafter provided an application for condonation or for a special entry shall be made to the judge who presided at the trial, or if he is not available, or if in the case of a conviction before a circuit court, the said court is not sitting, to any other judge of the provincial or local division of which that judge was a member when he so presided.

(3) If the accused was convicted by a special criminal court, an application for condonation or for a special entry shall be made to that court, or if that court is not sitting, to any judge who was a member of that court, or if no such judge is available, to any judge of the provincial or local division within whose area of jurisdiction the special criminal court sat.

(4) The terms of a special entry shall be settled by the court which or the judge who grants the application for a special entry.

(5) If an application for condonation or for a special entry is refused, the accused may, within a period of twenty-one days of such refusal, or within such extended period as may on good cause be allowed, by petition addressed to the Chief Justice, apply to the court of appeal for condonation or for a special entry to be made on the record stating in what respect the proceedings are alleged to be irregular or not according to law, as the case may be, and thereupon the provisions of subsections (7), (8), (9) and (10) of section 363 shall, *mutatis mutandis*, apply.”.

Amendment of section 386 of Act 56 of 1955, as amended by section 102 of Act 33 of 1960.

26. Section 386 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) If an accused is charged with an offence referred to in section 64 (5) no person shall at any time (subject to the provisions of subsection (4)) publish by radio or in any document any information relating to the said charge or any information disclosed at any proceedings relating to such charge, unless the judge or officer presiding at such

trial has, after having consulted the person against or in connection with whom the offence charged is alleged to have been committed (or if he is a minor, his guardian), given his consent, conveyed in a document signed by himself or by the registrar or clerk of the court, to such publication.

(2) No person shall at any time publish in any manner described in subsection (1), the name, address, school, place of occupation or any other information likely to reveal the identity of any person under the age of eighteen years who is being or has been charged with any offence: Provided that, if the Minister or if the judge or judicial officer who presides or presided at the trial of such person is of the opinion that such publication would be just and equitable and in the interest of any particular person, he may, subject to the provisions of subsection (1), by order dispense with the prohibition contained in this subsection to such an extent as may be specified in the order."

Amendment of section 387 of Act 56 of 1955, as amended by section 49 of Act 92 of 1963.

27. Section 387 of the principal Act is hereby amended by the substitution for paragraphs (c), (d) and (e) of subsection (2) of the following paragraphs, the existing paragraph (f) becoming paragraph (e):

"(c) Not later than seven days after receipt of any sum of money as provided in paragraph (a), the local authority concerned shall forward to the magistrate of the district wherein the offence is alleged to have been committed a copy of the notification relating to the payment concerned.

(d) If the magistrate finds that the amount specified in the notification exceeds the amount determined in terms of subsection (5) in respect of the offence concerned he shall notify the local authority of the amount whereby the amount specified in the notification exceeds the amount so determined and the local authority concerned shall pay the amount of such excess without delay to the magistrate, after which it shall immediately be refunded by the magistrate to the person concerned."

Short title.

28. This Act shall be called the Criminal Procedure Amendment Act, 1968.