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VAN DIE REPUBLIEK VAN SUID-AFRIKA

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CAPE TOWN, 26TH MARCH, 1969.

DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 434. 26 Maart 1969.

No. 434. 26th March, 1969.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

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

No. 15 van 1969: Wet op die Instelling van die Noord-Kaapse Afdeling van die Hooggeregshof van Suid-Afrika, 1969.

No. 15 of 1969: Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969.

Act No. 15, 1969 ESTABLISHMENT OF THE NORTHERN CAPE DIVISION OF THE SUPREME COURT OF SOUTH AFRICA ACT, 1969.

ACT

To establish the Northern Cape Division of the Supreme Court of South Africa; to abolish the Griqualand West Local Division of the said Supreme Court; and to make provision for matters incidental thereto.

(*Afrikaans text signed by the State President.*)
(Assented to 13th March, 1969.)

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

PART I.

Amendment of section 1 of Act 59 of 1959.

1. Section 1 of the Supreme Court Act, 1959 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (1) for the definition of "provincial division" of the following definition:

"'provincial division' includes the Eastern Cape division, the Northern Cape division and the South-West Africa division;"

Amendment of section 3 of Act 59 of 1959.

2. Section 3 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 6 of Act 59 of 1959.

3. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The provincial divisions of the Transvaal and Natal shall exercise concurrent jurisdiction in the areas of jurisdiction of the Witwatersrand and the Durban and Coast local divisions respectively."

Amendment of section 7 of Act 59 of 1959.

4. Section 7 of the principal Act is hereby amended—

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

"(1) The judge president of a provincial division may by notice in the *Gazette* divide the area under the jurisdiction of that division into circuit districts, and may from time to time by like notice alter the boundaries of any such district."; and

(b) by the deletion of subsection (4).

Substitution of section 8 of Act 59 of 1959.

5. The following section is hereby substituted for section 8 of the principal Act:

"Disposal of records and execution of judgments of circuit courts.

8. (1) Within thirty days after the termination of the sittings of any circuit local division, the registrar thereof shall, subject to any directions of the presiding judge, transmit all records in connection with the proceedings in that division to the registrar of the provincial division concerned to be filed of record as records of that division.

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(2) Any judgment, order, decree or sentence of a circuit local division, may, subject to any applicable rules for the time being in force, be carried into execution by means of process of that division or of the provincial division concerned."

Amendment of section 19 of Act 59 of 1959.

6. Section 19 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:
“(2) No appeal jurisdiction or review jurisdiction under subsection (1) shall be exercised by a local division.”

Amendment of section 20 of Act 59 of 1959, as amended by section 2 of Act 85 of 1963 and section 41 of Act 80 of 1964.

7. Section 20 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:
“(3) Whenever the parties to any civil proceedings in connection with which an appeal may be made as provided in paragraph (a) of subsection (1), lodge with the registrar of the division from whose judgment or order the appeal is to be made, notice in writing of their consent to the appeal being heard and determined by the appellate division, the said division shall have jurisdiction, provided any leave required under paragraph (b) of subsection (2) has been granted, to hear and determine the appeal without an intermediate appeal having first been heard and determined by the appropriate provincial division.”

Amendment of section 22 of Act 59 of 1959.

8. Section 22 of the principal Act is hereby amended by the substitution for all the words preceding paragraph (a) of the following words:
“The appellate division or a provincial division shall have power—”

Amendment of section 24 of Act 59 of 1959.

9. Section 24 of the principal Act is hereby amended by the substitution in subsection (1) for all the words preceding paragraph (a) of the following words:
“The grounds upon which the proceedings of any inferior court may be brought under review before a provincial division are—”

Amendment of section 43 of Act 59 of 1959, as amended by section 39 of Act 93 of 1962, section 11 of Act 85 of 1963 and section 42 of Act 80 of 1964.

10. Section 43 of the principal Act is hereby amended by the deletion of paragraph (c) of subsection (2).

Substitution of First Schedule to Act 59 of 1959, as amended by section 15 of Act 102 of 1967.

11. The following Schedule is hereby substituted for the First Schedule to the principal Act:

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"First Schedule.

PROVINCIAL AND LOCAL DIVISIONS OF THE SUPREME COURT OF SOUTH AFRICA AND THEIR AREAS OF JURISDICTION.

Name of Division.	Seat of Court.	Area of Jurisdiction.
Appellate Division of the Supreme Court of South Africa	Bloemfontein .	The Republic.
Cape of Good Hope Provincial Division of the Supreme Court of South Africa	Cape Town . .	The province of the Cape of Good Hope excluding those portions over which the Eastern Cape and Northern Cape divisions exercise jurisdiction.
Eastern Cape Division of the Supreme Court of South Africa	Grahamstown .	That portion of the province of the Cape of Good Hope eastward of and including the magisterial districts of Humansdorp, Steytlerville, Jansenville, Aberdeen, Murraysburg, Graaff-Reinet, Middelburg, Hanover and Colesberg.
Northern Cape Division of the Supreme Court of South Africa	Kimberley . .	The magisterial districts of Barkly West, Britstown, Carnarvon, De Aar, Gordonia, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Mafeking, Philipstown, Postmasburg, Prieska, Richmond, Taung, Victoria-West Vryburg and Warrenton.
Natal Provincial Division of the Supreme Court of South Africa	Pietermaritzburg .	The province of Natal.
Orange Free State Provincial Division of the Supreme Court of South Africa	Bloemfontein .	The province of the Orange Free State.
Transvaal Provincial Division of the Supreme Court of South Africa	Pretoria . . .	The province of the Transvaal.
South-West Africa Division of the Supreme Court of South Africa	Windhoek. . .	The territory of South-West Africa and the port and settlement of Walvis Bay, but excluding the area referred to in section 38 (5) of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968).

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Name of Division.	Seat of Court.	Area of Jurisdiction.
Durban and Coast Local Division of the Supreme Court of South Africa	Durban . . .	The magisterial districts of Alfred, Port Shepstone, Umzinto, Umhlanga, Durban, Pinetown, Inanda, Ndwendwe, Mapumulo, Lower Tugela, Mtunzini, Eshowe, Nkandhla, Entonjaneni, Lower Umfolozi, Mahlabatini, Hlabisa, Nongoma, Ubombo and Ingwavuma.
Witwatersrand Local Division of the Supreme Court of South Africa	Johannesburg. .	In civil matters: The magisterial districts of Alberton, Benoni, Boksburg, Brakpan, Delmas, Germiston, Johannesburg, Kempton Park, Krugersdorp, Nigel, Randfontein, Roodepoort and Springs. In criminal matters: The magisterial districts of Alberton, Boksburg, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randfontein and Roodepoort."

Transitional provisions.

12. As from the date of commencement of this Act—

- (a) any reference in any law or document to the Griqualand West Local Division of the Supreme Court of South Africa shall be construed as a reference to the Northern Cape Division of the said Supreme Court;
- (b) anything done by, in or in relation to the said Local Division shall be deemed to have been done by, in or in relation to the said Northern Cape Division;
- (c) any person appointed as judge of the said Local Division shall be deemed to have been appointed as a judge of the said Northern Cape Division.

Pending matters emanating from Northern Cape Division.

13. The amendments effected by this Act shall not affect any matter arising under the Administration of Estates Act, 1965 (Act No. 66 of 1965), the Insolvency Act, 1936 (Act No. 24 of 1936), or any other law and which emanated from the area of jurisdiction of the Northern Cape Division of the Supreme Court of South Africa and which was brought up for consideration in the office of the Master of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa before the date of commencement of this Act, and such matter shall be proceeded with and disposed of as if this Act had not been passed.

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PART II.

Substitution of section 28ter of Act 23 of 1934, as inserted by section 14 of Act 26 of 1965.

14. The following section is hereby substituted for section 28ter of the Attorneys, Notaries and Conveyancers Act, 1934: "Jurisdiction of certain divisions of the Supreme Court to remove from the roll or suspend attorneys, notaries or conveyancers in certain instances. 28ter. Notwithstanding anything to the contrary in any law contained, the Eastern Cape Division and the Northern Cape Division of the Supreme Court of South Africa shall, in addition to any jurisdiction which the said divisions might otherwise have, have jurisdiction respectively, in any application for the removal from the roll or the suspension of an attorney, notary or conveyancer practising within the respective areas of jurisdiction of such divisions and admitted or enrolled at any time after the commencement of this Act by the Cape of Good Hope Provincial Division of the Supreme Court of South Africa."

Amendment of section 1 of Act 32 of 1944, as amended by section 2 of Act 40 of 1952.

15. Section 1 of the Magistrates' Courts Act, 1944, is hereby amended by the substitution for the definition of "court of appeal" of the following definition:

"'court of appeal' means the provincial division of the Supreme Court to which an appeal lies from the magistrate's court;".

Substitution of section 83 of Act 32 of 1944.

16. The following section is hereby substituted for section 83 of the Magistrates' Courts Act, 1944:

"Appeal from magistrate's court. 83. Subject to the provisions of section 82, a party to any civil suit or proceeding in a court may appeal to the provincial division of the Supreme Court having local jurisdiction against—
(a) any judgment of the nature described in section 48;
(b) any rule or order made in such suit or proceeding and having the effect of a final judgment, including any order under Chapter IX and any order as to costs;
(c) any decision overruling an exception, when the parties concerned consent to such an appeal before proceeding further in an action or when it is appealed from in conjunction with the principal case, or when it includes an order as to costs."

Amendment of section 103 of Act 32 of 1944, as amended by section 8 of Act 16 of 1959 and section 29 of Act 93 of 1962.

17. Section 103 of the Magistrates' Courts Act, 1944, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any person convicted of any offence by the judgment of any magistrate's court (including a person discharged after conviction under any provision of the Criminal Procedure Act, 1955), may appeal against such conviction and against any sentence or order of the court following thereupon to the provincial division of the Supreme Court having jurisdiction."

Amendment of section 105 of Act 32 of 1944.

18. Section 105 of the Magistrates' Courts Act, 1944, is hereby amended by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs:

"(a) if the matter was brought before the provincial division of the Supreme Court in terms of section 103 (1), re-instate the conviction, sentence or order of the magistrate's court appealed from, either in its original form or in such a modified form as the Appellate Division may think desirable; or
(b) if the matter was brought before the provincial division in terms of section 104 (2), give such decision or take such action as the provincial division ought, in the opinion of the Appellate Division, to have given or

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taken (including any action under section 104 (5)) and thereupon the provisions of subsection (4) of that section shall *mutatis mutandis* apply.”.

Amendment of section 34 of Act 54 of 1956.

19. Section 34 of the Water Act, 1956, is hereby amended by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) a water court to be known as the Northern Cape Water Court, which shall have jurisdiction in that portion of the said province in which the Northern Cape Division of the Supreme Court of South Africa exercises jurisdiction; and”.

Amendment of section 3 of Act 66 of 1965.

20. Section 3 of the Administration of Estates Act, 1965, is hereby amended by the deletion of subsection (3).

Short title and commencement.

21. This Act shall be called the Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.