

No. 19, 1963.]

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ACT

To amend the Magistrates' Courts Act, 1944.

(Afrikaans text signed by the State President.)
(Assented to 9th March, 1963.)

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 9 of Act 32 of 1944, as amended by section 8 of Act 40 of 1952, section 17 of Act 50 of 1956, section 38 of Act 68 of 1957 and section 24 of Act 93 of 1962.

1. Section *nine* of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in sub-sections (2) and (3) for the words "Under-Secretary or Assistant-Secretary for Justice or the" of the words "or Deputy Secretary for Justice or an Under-Secretary for Justice or the Administrative Control Officer or"; and
- (b) by the substitution for sub-section (4) of the following sub-section:

"(4) In applying this section to a district or sub-district under the administrative control of the Minister of Bantu Administration and Development, any reference therein to an officer of a specified rank in the Department of Justice shall be construed as a reference to an officer of a corresponding rank in the Department of Bantu Administration and Development."

Amendment of section 15 of Act 32 of 1944, as amended by section 11 of Act 40 of 1952.

2. Section *fifteen* of the principal Act is hereby amended—

- (a) by the substitution in the Afrikaans text of sub-section (2) for the words "gedien" and "diening" of the words "beteken" and "betekening", respectively; and
- (b) by the addition of the following sub-section:

"(3) An officer in the service of a province of a class defined by the administrator of that province by notice in the *Official Gazette* of the province concerned, shall be competent to serve any process of the court or any other document in a case in which a prosecution takes place for an offence in terms of any law of that province as if he had been appointed as a deputy messenger of the court."

Amendment of section 29 of Act 32 of 1944, as amended by section 13 of Act 40 of 1952 and section 39 of Act 68 of 1957.

3. Section *twenty-nine* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

- "(1) Subject to the provisions of this Act, the court, in respect of causes of action, shall have jurisdiction in—
- (a) actions in which is claimed the delivery or transfer of any property, movable or immovable, not exceeding one thousand rand in value;
 - (b) actions of ejectment against the occupier of any premises or land within the district: Provided that where the right of occupation of any such premises or land is in dispute between the parties, such right does not exceed one thousand rand in clear value to the occupier;
 - (c) actions for the determination of a right of way, notwithstanding the provisions of section *forty-six*;
 - (d) actions on or arising out of a liquid document or a mortgage bond where the claim does not exceed two thousand rand;
 - (e) actions on or arising out of any agreement as defined in sub-section (1) of section *one* of the Hire-Purchase Act, 1942 (Act No. 36 of 1942), where the claim or the value of the property in dispute does not exceed two thousand rand;
 - (f) actions other than those already mentioned in this section, where the claim or the value of the matter in dispute does not exceed one thousand rand."

Amendment of section 30 of Act 32 of 1944.

4. Section *thirty* of the principal Act is hereby amended by the substitution in paragraphs (a) and (b) of sub-section (3) for the words "twenty pounds" of the words "forty rand".

Amendment of section 46 of Act 32 of 1944.

5. Section *forty-six* of the principal Act is hereby amended by the substitution in sub-paragraphs (i), (ii) and (iii) of paragraph (c) of sub-section (2) for the words "two hundred pounds" of the words "one thousand rand".

Amendment of section 50 of Act 32 of 1944.

6. Section *fifty* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "one hundred pounds" wherever they occur of the words "two hundred rand".

Amendment of section 51 of Act 32 of 1944.

7. Section *fifty-one* of the principal Act is hereby amended by the substitution in paragraph (a) of sub-section (2) for the words "twenty-five pounds" of the words "fifty rand" and for the words "one month" of the words "three months".

Amendment of section 55 of Act 32 of 1944.

8. Section *fifty-five* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "ten pounds" of the words "twenty rand".

Amendment of section 59 of Act 32 of 1944.

9. Section *fifty-nine* of the principal Act is hereby amended—
 (a) by the substitution in paragraph (b) of sub-section (1) for the words "two shillings" of the words "twenty cents"; and
 (b) by the substitution in paragraph (c) of the said sub-section for the words "ten shillings" of the words "one rand".

Amendment of section 65 of Act 32 of 1944, as substituted by section 15 of Act 40 of 1952 and amended by section 1 of Act 14 of 1954 and section 20 of Act 50 of 1956.

10. Section *sixty-five* of the principal Act is hereby amended by the substitution in sub-section (10) for the words "twenty-five pounds" of the words "fifty rand".

Amendment of section 72 of Act 32 of 1944, as substituted by section 17 of Act 40 of 1952 and amended by section 26 of Act 93 of 1962.

11. (1) Section *seventy-two* of the principal Act is hereby amended—
 (a) by the substitution in the Afrikaans version of sub-section (1) for the word "vonnisskuldenaar" where it occurs for the second time in paragraph (a) and for the third time in paragraph (b) of the word "vonnisskuldeiser"; and
 (b) by the substitution in the Afrikaans version of sub-section (3) for the word "vonnisskuldenaar" where it occurs for the first time of the word "vonnisskuldeiser".
 (2) Sub-section (1) shall be deemed to have come into operation on the fourth day of July, 1962.

Amendment of section 74 of Act 32 of 1944, as amended by section 19 of Act 40 of 1952, section 2 of Act 14 of 1954 and section 27 of Act 93 of 1962.

12. Section *seventy-four* of the principal Act is hereby amended—
 (a) by the substitution in sub-section (1) for the words "two hundred pounds" of the words "one thousand rand" and for the words "one thousand pounds" of the words "two thousand rand"; and
 (b) by the substitution in sub-section (16) for the words "twenty-five pounds" of the words "fifty rand".

Amendment of section 79 of Act 32 of 1944.

13. Section *seventy-nine* of the principal Act is hereby amended by the substitution for the words "twenty-five pounds" wherever they occur of the words "fifty rand".

Amendment of section 92 of Act 32 of 1944, as substituted by section 1 of Act 16 of 1959.

14. Section *ninety-two* of the principal Act is hereby amended by the substitution in paragraph (b) for the words "one hundred pounds" of the words "two hundred rand" and for the words "three hundred pounds" of the words "six hundred rand".

Amendment of section 95 of Act 32 of 1944, as amended by section 24 of Act 40 of 1952.

15. Section *ninety-five* of the principal Act is hereby amended by the substitution in paragraph (a) for the words "two hundred pounds" of the words "four hundred rand".

Amendment of section 96 of Act 32 of 1944, as amended by section 25 of Act 40 of 1952, section 25 of Act 62 of 1955 and section 4 of Act 16 of 1959.

16. Section *ninety-six* of the principal Act is hereby amended by the substitution in sub-sections (1) and (2) for the words "fifty pounds" of the words "one hundred rand".

Amendment of the heading to Chapter XIV of Act 32 of 1944.

17. The heading to *Chapter XIV* of the principal Act is hereby amended by the deletion of the words "as of Course".

Amendment of section 98 of Act 32 of 1944, as amended by section 40 of Act 68 of 1957 and section 28 of Act 93 of 1962.

18. Section *ninety-eight* of the principal Act is hereby amended—

- (a) by the substitution in paragraph (a) of sub-section (2) for the words “lay them before the court of appeal for its consideration” of the words “obtain from the judicial officer who presided at the trial a statement setting forth his reasons for convicting the accused and for the sentence imposed and shall thereupon lay the proceedings and the said statement before the court of appeal for its consideration”; and
- (b) by the deletion of paragraph (b) of the said sub-section.

Insertion of section 98bis in Act 32 of 1944.

19. The following section is hereby inserted after section *ninety-eight* of the principal Act:

“Review subject to certificate of a judge.

98bis. Notwithstanding anything to the contrary in any law contained, no person who has been convicted by a magistrate’s court of an offence and is undergoing imprisonment for that or any other offence shall be entitled to prosecute in person any proceedings for the review of the proceedings relating to such conviction unless a judge of the court of appeal has certified that there are reasonable grounds for review.”.

Amendment of section 101 of Act 32 of 1944, as amended by section 6 of Act 16 of 1959.

20. Section *one hundred and one* of the principal Act is hereby amended by the addition of the following proviso:

“Provided that the magistrate of the district where the person sentenced is in custody may, notwithstanding anything to the contrary in any law contained, *mero motu* release him on bail as aforesaid if it appears that the judge before whom the record aforesaid has been placed has not endorsed his certificate thereon in terms of sub-section (1) of section *ninety-eight*.”.

Amendment of section 106 of Act 32 of 1944, as amended by section 27 of Act 40 of 1952.

21. Section *one hundred and six* of the principal Act is hereby amended by the substitution for the words “fifty pounds” of the words “one hundred rand”.

Amendment of section 107 of Act 32 of 1944.

22. Section *one hundred and seven* of the principal Act is hereby amended by the substitution for the words “fifty pounds” of the words “one hundred rand”.

Amendment of section 108 of Act 32 of 1944.

23. Section *one hundred and eight* of the principal Act is hereby amended by the substitution in sub-section (1) for the words “fifty pounds” of the words “one hundred rand”.

Amendment of section 109 of Act 32 of 1944, as substituted by section 28 of Act 40 of 1952.

24. Section *one hundred and nine* of the principal Act is hereby amended by the substitution for the words “twenty-five pounds” of the words “fifty rand”.

Short title.

25. This Act shall be called the Magistrates’ Courts Amendment Act, 1963.