

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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[No. 2796.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1429. 2 September 1970.

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

No. 41 van 1970: Wysigingswet op die Hooggeregshof, 1970.

DEPARTMENT OF THE PRIME MINISTER.

No. 1429. 2nd September, 1970.

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

No. 41 of 1970: Supreme Court Amendment Act, 1970.

SUPREME COURT AMENDMENT ACT, 1970.

Act No. 41, 1970

ACT

To amend the Supreme Court Act, 1959, to provide for the deletion of the provision that a judge of the South-West Africa Division shall be appointed only after consultation with the Administrator of the territory of South-West Africa; to delete the reference to a judge of the South-West Africa Division in the oath of office of judges; to extend the jurisdiction of provincial and local divisions in respect of persons; to regulate further the issuing of process against judges; to increase the penal provisions for offences relating to execution; to delete the provision that expenditure incurred in connection with the South-West Africa Division shall be paid out of the revenue fund of the territory of South-West Africa; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 20th August, 1970.)*

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

1. Section 10 of the Supreme Court Act, 1959 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the deletion of paragraph (c) of subsection (1); and
(b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

Amendment of section 10 of Act 59 of 1959, as amended by section 1 of Act 85 of 1963.

“(a) Any person appointed under subsection (1) shall before commencing to exercise the functions of his office take an oath or make an affirmation, which shall be subscribed by him, in the form set out below, namely—

‘I do hereby swear/solemnly
(full name)

and sincerely affirm and declare that I will in my capacity as a judge of the Supreme Court of South Africa administer justice to all persons alike without fear, favour or prejudice, and, as the circumstances of any particular case may require, in accordance with the law and customs of the Republic of South Africa or of the territory of South-West Africa’.”

2. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 19 of Act 59 of 1959, as amended by section 6 of Act 15 of 1969

“(1) (a) A provincial or local division shall have jurisdiction over all persons residing or being in and in relation to all causes arising and all offences triable within its area of jurisdiction and all other matters of which it may according to law take cognizance, and

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shall, subject to the provisions of subsection (2), in addition to any powers or jurisdiction which may be vested in it by law, have power—

- (i) to hear and determine appeals from all inferior courts within its area of jurisdiction;
- (ii) to review the proceedings of all such courts;
- (iii) in its discretion, and at the instance of any interested person, to enquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.

- (b) A provincial or local division shall also have jurisdiction over any person residing or being outside its area of jurisdiction who is joined as a party to any cause in relation to which such provincial or local division has jurisdiction or who in terms of a third party notice becomes a party to such a cause, if the said person resides or is within the area of jurisdiction of any other provincial or local division.”.

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

“No process to be issued against judge except with consent of court.

25. (1) Notwithstanding anything to the contrary in any law contained, no summons or subpoena against the Chief Justice, a judge of appeal or any other judge of the Supreme Court shall in any civil action be issued out of any court except with the consent of that court: Provided that no such summons or subpoena shall be issued out of an inferior court unless the provincial division which has jurisdiction to hear and determine an appeal in a civil action from such inferior court, has consented to the issuing thereof.

Substitution of section 25 of Act 59 of 1959, as substituted by section 4 of Act 85 of 1963.

(2) Where the issuing of a summons or subpoena against a judge to appear in a civil action has been consented to, the date upon which such judge must attend court shall, in the case of a summons or subpoena against a judge of the appellate division, be determined in consultation with the Chief Justice or, in his absence, the next senior judge of that division, and in the case of a summons or subpoena against a judge of a provincial or local division, in consultation with the Judge President or, in his absence, the next senior judge of the division concerned.”.

4. The following section is hereby substituted for section 40 of the principal Act:

“Offences relating to execution.

40. Any person who—

- (a) obstructs a sheriff or deputy-sheriff or his assistant in the execution of his duty;
- (b) being aware that goods are under arrest, interdict or attachment by the court makes away with or disposes of those goods in a manner not authorized by law, or knowingly permits those goods, if in his possession or under his control, to be made away with or disposed of in such a manner;
- (c) being a judgment debtor and being required by a sheriff or deputy-sheriff or his assistant to

Substitution of section 40 of Act 59 of 1959.

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point out property to satisfy a warrant issued in execution of judgment against such person—

- (i) falsely declares to that sheriff or deputy-sheriff or his assistant that he possesses no property or insufficient property to satisfy the warrant; or
- (ii) although knowing of such property neglects or refuses to point out such property or to deliver it to the sheriff or deputy-sheriff or his assistant when requested to do so; or
- (d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff or his assistant in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.”.

5. Section 45 of the principal Act is hereby amended by the deletion of subsection (3). Amendment of section 45 of Act 59 of 1959.

6. This Act shall be called the Supreme Court Amendment Short title Act, 1970.