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## The Presidency

No. 1107 22 October 2020

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

**Act No. 12 of 2020: Judicial Matters Amendment Act, 2020**

## Die Presidensie

No. 1107 22 Oktober 2020

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

**Wet No. 12 van 2020: Wysigingswet op Geregtelike Aangeleenthede, 2020**

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**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

\_\_\_\_\_  
*(English text signed by the President)*  
*(Assented to 20 October 2020)*  
\_\_\_\_\_

**ACT****To amend—**

- **the Divorce Act, 1979, so as to further regulate the division of assets and maintenance of parties in divorce proceedings in accordance with a judgment of the Constitutional Court; and**
  - **the National Prosecuting Authority Act, 1998, so as to deal with aspects pertaining to the term of office of the National Director of Public Prosecutions and the Deputy National Directors of Public Prosecutions in accordance with a judgment of the Constitutional Court;**
- and to provide for matters connected therewith.**

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

**Amendment of section 7 of Act 70 of 1979, as amended by section 36 of Act 88 of 1984, section 2 of Act 3 of 1988, section 2 of Act 7 of 1989, section 1 of Act 44 of 1992 and section 11 of Act 55 of 2003** 5

**1.** Section 7 of the Divorce Act, 1979, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A court granting a decree of divorce in respect of a marriage out of community of property—

(a) entered into before the commencement of the Matrimonial Property Act, 1984, in terms of an antenuptial contract by which community of property, community of profit and loss and accrual sharing in any form are excluded; 10  
**[or]**

(b) entered into before the commencement of the Marriage and Matrimonial Property Law Amendment Act, 1988, in terms of section 22(6) of the Black Administration Act, 1927 (Act No. 38 of 1927), as it existed immediately prior to its repeal by the said Marriage and Matrimonial Property Law Amendment Act, 1988[.]; or 15

(c) entered into in terms of any law applicable in a former homeland, without entering into an antenuptial contract or agreement in terms of such law, 20  
may, subject to the provisions of subsections (4), (5) and (6), on application by one of the parties to that marriage, in the absence of any agreement between them regarding the division of their assets, order that such assets, or such part of the assets, of the other party as the court may deem just, be transferred to the first-mentioned party.”. 25

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ]                      Woorde in vet druk in vierkantige hakies, dui skappings uit bestaande verordeninge aan.
- \_\_\_\_\_                Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

\_\_\_\_\_  
 (Engelse teks deur die President geteken)  
 (Goedgekeur op 20 October 2020)

**WET**

Tot wysiging van—

- die Wet op Egskeiding, 1979, ten einde die verdeling van bates en onderhoud van partye in egskeidingsverrigtinge ooreenkomstig 'n uitspraak van die Konstitusionele Hof verder te reël; en
- die Wet op die Nasionale Vervolgingsgesag, 1998, ten einde aspekte te hanteer wat verband hou met die ampstermyn van die Nasionale Direkteur van Openbare Vervolgings en die Adjunk Nasionale Direkteure van Openbare Vervolgings ooreenkomstig 'n uitspraak van die Konstitusionele Hof;

en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**IE PARLEMENT van die Republiek van Suid-Afrika bepaal, soos volg:—

**Wysiging van artikel 7 van Wet 70 van 1979, soos gewysig deur artikel 36 van Wet 88 van 1984, artikel 2 van Wet 3 van 1988, artikel 2 van Wet 7 van 1989, artikel 1 van Wet 44 van 1992 en artikel 11 van Wet 55 van 2003** 5

1. Artikel 7 van die Wet op Egskeiding, 1979, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) 'n Hof wat 'n egskeidingsbevel verleen ten opsigte van 'n huwelik buite gemeenskap van goed—

- (a) wat voor die inwerkingtreding van die Wet op Huweliksgoedere, 1984, gesluit is ingevolge huweliksvoorwaardes waardeur gemeenskap van goed, gemeenskap van wins en verlies en aanwasdeling in enige vorm uitgesluit is; **[of]** 10
- (b) wat voor die inwerkingtreding van die Wysigingswet op Huweliks- en Huweliksgoederereg, 1988, gesluit is ingevolge artikel 22(6) van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), soos dit bestaan het onmiddellik voor die herroeping daarvan deur genoemde Wysigingswet op Huweliks- en Huweliksgoederereg, 1988[.]; of 15
- (c) wat ingevolge enige wetsbepaling van toepassing in 'n voormalige tuisland gesluit is, sonder 'n voorhuwelikse kontrak of ooreenkoms ingevolge daardie wetsbepaling. 20

kan, behoudens die bepalings van subartikels (4), (5) en (6), op aansoek van een van die partye by die huwelik, by ontstentenis van 'n ooreenkoms tussen hulle betreffende die verdeling van hul bates, beveel dat dié bates, of dié gedeelte van die bates, van die ander party wat die hof billik ag aan eersgenoemde party oorgedra word.”. 25

**Amendment of section 12 of Act 32 of 1998**

2. Section 12 of the National Prosecuting Authority Act, 1998, is hereby amended—

(a) by the deletion of subsection (4);

(b) by the insertion in subsection (6) after paragraph (a) of the following paragraph: 5

“(aA) The period from the time the President suspends the *National Director* or a *Deputy National Director* to the time he or she decides whether or not to remove the *National Director* or *Deputy National Director* may not exceed 12 months.”; and 10

(c) by the substitution in subsection (6) for paragraph (e) of the following paragraph: 10

“(e) The *National Director* or a *Deputy National Director* provisionally suspended from office shall receive, for the duration of such suspension, **[no salary or such salary as may be determined by the President]** his or her full salary.”. 15

**Short title**

3. This Act is called the Judicial Matters Amendment Act, 2020.

**Wysiging van artikel 12 van Wet 32 van 1998**

2. Artikel 12 van die Wet op die Nasionale Vervolgingsgesag, 1998, word hierby gewysig—

- (a) deur subartikel (4) te skrap;
- (b) deur in subartikel (6) die volgende paragraaf na paragraaf (a) in te voeg: 5  
“(aA) Die tydperk wat verloop van die tyd wanneer die President die Nasionale Direkteur of ’n Adjunk Nasionale Direkteur skors, totdat hy of sy besluit om die Nasionale Direkteur of Adjunk Nasionale Direkteur te verwyder, mag nie meer as 12 maande wees nie.”; en
- (c) deur in subartikel (6) paragraaf (e) deur die volgende paragraaf te vervang: 10  
“(e) Die Nasionale Direkteur of ’n Adjunk Nasionale Direkteur wat voorlopig in sy of haar amp geskors is, ontvang vir die duur van sodanige skorsing, **[geen salaris nie of die salaris wat die President bepaal]** sy of haar volle salaris.”.

**Kort titel** 15

3. Hierdie Wet heet die Wysigingswet op Geregtelike Aangeleenthede, 2020.