

## SUPREME COURT ACT 59 OF 1959

\*

[ASSENTED TO 27 JUNE 1959]    [DATE OF COMMENCEMENT: 1 JANUARY 1960]

*(English text signed by the Governor-General)*

### as amended by

General Law Further Amendment Act 93 of 1962  
 Supreme Court Amendment Act 85 of 1963  
 General Law Amendment Act 80 of 1964  
 General Law Amendment Act 102 of 1967  
 Establishment of the Northern Cape Division of the Supreme Court of South Africa Act 15 of 1969  
 Supreme Court Amendment Act 41 of 1970  
 General Law Further Amendment Act 92 of 1970  
 General Law Amendment Act 62 of 1973  
 Second General Law Amendment Act 94 of 1974  
 Supreme Court Amendment Act 37 of 1976  
 Supreme Court Amendment Act 3 of 1977  
 Second Supreme Court Amendment Act 86 of 1977  
 Supreme Court Amendment Act 46 of 1980  
 Proclamation 222 of 1981  
 Appeals Amendment Act 105 of 1982  
 Courts of Justice Amendment Act 53 of 1983  
 Supreme Court Amendment Act 18 of 1985  
 Supreme Court Second Amendment Act 87 of 1985  
 Rules Board for Courts of Law Act 107 of 1985  
 Sheriffs Act 90 of 1986  
 Transfer of Powers and Duties of the State President Act 97 of 1986  
 Judges' Remuneration Second Amendment Act 98 of 1987  
 Supreme Court Amendment Act 100 of 1987  
 Judicial Matters Amendment Act 77 of 1989  
 Judges' Remuneration and Conditions of Service Act 88 of 1989  
 Judicial Matters Amendment Act 4 of 1991  
 General Law Third Amendment Act 129 of 1993  
 International Co-operation in Criminal Matters Act 75 of 1996  
 Judicial Matters Amendment Act 104 of 1996  
 Public Service Laws Amendment Act 47 of 1997  
 Judicial Matters Second Amendment Act 122 of 1998  
 Judicial Matters Amendment Act 62 of 2000  
 Interim Rationalisation of Jurisdiction of High Courts Act 41 of 2001  
 Prevention and Combating of Corrupt Activities Act 12 of 2004

### Regulations under this Act

CIRCUIT COURT RULES (GN R1055 of 3 July 1970)

RULES OF THE SUPREME COURT OF APPEAL (GN R1523 in GG 19507 of 27 November 1998)

RULES REGULATING THE CONDUCT OF PROCEEDINGS OF THE TRANSVAAL PROVINCIAL DIVISION AND THE WITWATERSRAND LOCAL DIVISION OF THE SUPREME COURT OF SOUTH AFRICA

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE CAPE PROVINCIAL DIVISION OF THE SUPREME COURT OF SOUTH AFRICA

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE EASTERN CAPE DIVISION OF THE SUPREME COURT OF SOUTH AFRICA

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE ORANGE FREE STATE PROVINCIAL DIVISION OF THE HIGH COURT OF SOUTH AFRICA repealed and new regulations published (GN 820 in GG 30253 of 7 September 2007)

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE NATAL PROVINCIAL DIVISION OF THE

## SUPREME COURT OF SOUTH AFRICA

RULES REGULATING THE PROCEEDINGS OF THE NORTHERN CAPE DIVISION OF THE SUPREME COURT OF SOUTH AFRICA (GN R973 of 3 May 1991) (with effect from 3 May 1991)

RULES REGULATING THE PROCEEDINGS OF THE VENDA HIGH COURT OF SOUTH AFRICA (GN R680 in GG 21333 of 7 July 2000)

UNIFORM RULES OF COURT (GN R48 of 12 January 1965)

**ACT**

**To consolidate and amend the laws relating to the Supreme Court of South Africa and to provide for matters incidental thereto.**

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows: -

## **1 Definitions**

(1) In this Act, unless the context otherwise indicates-

**'Chief Justice'** means the Chief Justice of South Africa;

**'civil summons'** means any summons whereby civil proceedings are commenced, and includes any rule *nisi*, notice of motion or petition the object of which is to require the appearance before the court out of which it is issued of any person against whom relief is sought in such proceedings or of any person who is interested in resisting the grant of such relief;

**'defendant'** includes any respondent or other party against whom relief is sought in civil proceedings;

**'division'** means a division of the Supreme Court;

**'full court'**, except for the purposes of section 13 (1), means a court of a provincial or local division consisting of three judges;

[Definition of 'full court' substituted by s. 3 of Act 105 of 1982.]

**'inferior court'** means any court (other than the court of a division) which is required to keep a record of its proceedings, and includes a magistrate or other officer holding a preparatory examination into an alleged offence;

**'Minister'** means the Minister of Justice;

**'plaintiff'** includes any petitioner or other party who seeks relief in civil proceedings;

**'provincial division'** includes the Eastern Cape division and the Northern Cape division;

[Definition of 'provincial division' substituted by s. 1 of Act 15 of 1969 and by Proclamation 222 of 6 November 1981.]

**'registrar'** includes an assistant registrar;

**'Republic'** .....

[Definition of 'Republic' substituted by Proclamation 222 of 6 November 1981 and deleted by s. 17 of Act 129 of 1993.]

**'Supreme Court'** means the Supreme Court of South Africa.

(2) Any reference in any law to the Eastern Districts Local Division of the Supreme Court of South Africa shall be construed as a reference to the Eastern Cape Division.

## **2 Constitution of Supreme Court of South Africa**

There shall be a Supreme Court of South Africa which shall consist of the several divisions mentioned in the First Schedule.

## **3 Constitution of divisions**

(1) The appellate division shall consist of the Chief Justice of South Africa and so many judges of appeal as the State President may from time to time determine.

(2) A provincial division shall consist of a judge president and, if the State President so determines, one or more deputy judges president, each with specified headquarters within the area of jurisdiction of that division, and so many judges as the State President may from time to time determine.

[Sub-s. (2) substituted by s. 1 of Act 3 of 1977 and by s. 1 of Act 87 of 1985.]

(3) .....

[Sub-s. (3) deleted by s. 2 of Act 15 of 1969.]

(4) Any court of the Durban and Coast or the Witwatersrand or the South-Eastern Cape local division shall be presided over by a judge of the provincial division which in terms of section 6 (2) has concurrent jurisdiction in the area of the local division concerned.

[Sub-s. (4) substituted by s. 18 (1) of Act 62 of 1973.]

(5) A judge of a provincial or local division may upon the request of the Minister act as a judge of any other such division in the place of any judge of that division or in addition to the judges of that division.

## **4 Seats of divisions**

(1) The seats of the several divisions shall be in the places specified in respect of those divisions in the second column of the First Schedule.

(2) Whenever on application made to the appellate division at Bloemfontein by a party to any appeal which is pending in that division, it appears to the said division that by reason of the existence of exceptional circumstances it is expedient to hold its sitting for the hearing of that appeal at a place elsewhere than in Bloemfontein, the said division may hold such sitting at that place accordingly.

## **5 Scope and execution of process of appellate division**

The process of the appellate division shall run throughout the Republic, and its judgements and orders shall have force and effect in the area of jurisdiction of every other division and shall be executed in any such area in like manner as if they were original judgements or orders of that division.

## **6 Areas of jurisdiction of provincial and local divisions**

(1) .....

[Sub-s. (1) repealed by s. 4 of Act 41 of 2001.]

(2) The provincial divisions of the Transvaal and Natal and the Eastern Cape division shall exercise concurrent jurisdiction in the areas of jurisdiction of the Witwatersrand, the Durban and Coast and the South-Eastern Cape local divisions respectively.

[Sub-s. (2) substituted by s. 3 of Act 15 of 1969 and by s. 19 (1) (a) of Act 62 of 1973.]

(3) A plaintiff residing in the area of jurisdiction of the Eastern Cape division may at all times institute an action in the court of the Cape of Good Hope provincial division against a defendant residing in that area, on any cause of action arising in that area, but no action shall be so instituted unless either the leave of the court of the Eastern Cape division or, if the South-Eastern Cape local division has jurisdiction, of the court of that local division has been obtained or the parties to the action have in writing agreed that it be instituted in the Cape of Good Hope provincial division.

[Sub-s. (3) substituted by s. 19 (1) (b) of Act 62 of 1973.]

(4) .....

[Sub-s. (4) substituted by s. 19 (1) (c) of Act 62 of 1973, amended by ss. 46 and 47 of Act 97 of 1986 and repealed by s. 4 of Act 41 of 2001.]

## 7 Circuit local divisions

(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.

[Sub-s. (1) substituted by s. 4 (a) of Act 15 of 1969.]

(2) In each such district there shall be held at least twice in every year and at such times and places as may be determined by the judge president concerned, a court which shall be presided over by a judge of the division in which that district is situated.

(3) Any such court shall be known as the circuit local division for the district in question and shall for all purposes be deemed to be a local division.

(4) .....

[Sub-s. (4) deleted by s. 4 (b) of Act 15 of 1969.]

## 8 Disposal of records and execution of judgments of circuit courts

(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.

(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.

[S. 8 substituted by s. 5 of Act 15 of 1969.]

## 9 Removal of proceedings from one division to another

(1) If any civil cause, proceeding or matter has been instituted in any provincial or local division, and it is made to appear to the court concerned that the same may be more conveniently or more fitly heard or determined in another division, that court may, upon application by any party thereto and after hearing all other parties thereto, order such cause, proceeding or matter to be removed to that other division.

(2) An order for removal under subsection (1) shall be transmitted to the registrar of the division to which the removal is ordered, and upon the receipt of such order that division may hear and determine the cause, proceeding or matter in question and shall in that event apply the practice governing the division in which it was instituted and the law according to which that division would but for the removal have heard and determined such cause, proceeding or matter.

## 10 Appointment, remuneration and tenure of office of judges

(1) (a) The Chief Justice, the judges of appeal, the judges president, the deputy judges president and all other judges of the Supreme Court shall be fit and proper persons appointed by the State President under his hand and the Seal of the Republic of South Africa, and shall receive such remuneration as may be prescribed by or under the Judges' Remuneration and Conditions of Employment Act, 1989, and their remuneration shall, subject to the provisions of section 7 (4) of the said Act, not be reduced during their continuance in office: Provided that the rejection by all three Houses of Parliament of a proclamation under section 2 (3) (b) of the said Act shall for the purposes of this section be deemed not to be a reduction of such remuneration.

[Para. (a) amended by s. 1 of Act 85 of 1963 and substituted by s. 2 (a) of Act 3 of 1977 and by s. 3 of Act 98 of 1987.]

(b) An appointment under this subsection may in the case of a person holding office in an acting capacity by virtue of any appointment under subsection (3) or (4), be made with retrospective effect from the commencement of the period during which he so held office, or, where he has so held office for two or more periods which together constitute a single uninterrupted period, from the commencement of the first of such periods.

[Para. (b) added [sic] by s. 4 of Act 4 of 1991.]

(c) (i) A deputy judge president of a provincial division may be appointed by the State President indefinitely or for such period as he may determine.

(ii) A deputy judge president of a provincial division, designated by the State President, shall act as the judge president of that division during the latter's absence, and the deputy judges president shall perform such other functions of that judge president as the judge president may assign to them.

[Para. (c) deleted by s. 1 (a) of Act 41 of 1970, added by s. 2 (b) of Act 3 of 1977, amended by s 2 of Act 87 of 1985 and added [sic] by s. 4 of Act 4 of 1991.]

[Sub-s. (1) substituted by s. 16 of Act 88 of 1989.]

(2) (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 and sincerely affirm

(full name)

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.'

[Para. (a) substituted by s. 1 (b) of Act 41 of 1970 and amended by s. 18 of Act 129 of 1993.]

(b) Any such oath or affirmation shall be taken or made before the senior available judge of the division concerned who shall at the foot thereof endorse a statement of the fact that it was taken or made before him and of the date on which it was so taken or made and append his signature thereto.

(3) Whenever it is for any reason expedient that a person be appointed to act as a judge in the place of any judge of that division or in addition to the judges of that division or in any vacancy in that division, the State President may appoint some fit and proper person so to act for such period as the State President may determine.

(4) The Minister may in the circumstances mentioned in subsection (3) appoint some fit and proper person to act as provided in that subsection for any period not exceeding one month.

(5) No person other than a judge or former judge to the Supreme Court shall be appointed to act as the Chief Justice or as a judge of appeal.

(6) Any appointment made under this section shall be deemed to have been made also in respect of any period during which the person appointed is necessarily engaged in connection with the disposal of any proceedings in which he has taken part as a judge and which have not been disposed of at the termination of the period for which he was appointed or, having been disposed of before or after such termination, are re-opened.

(7) The Chief Justice, a judge of appeal or any other judge of the Supreme Court shall not be removed from office except by the State President upon an address from each of the respective Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

[Sub-s. (7) substituted by s. 1 of Act 18 of 1985.]

(8) The provisions of subsections (2) and (7) shall apply also in respect of a person appointed under subsection (3) or (4), and the provisions of paragraph (a) of subsection (1) relating to the remuneration of any judge referred to in that paragraph shall apply also in respect of a person so appointed to act in the capacity of such a judge.

## 11 Judge not to hold any other office of profit

No judge of the Supreme Court shall without the consent of the Minister accept, hold or perform any other office of profit or receive in respect of any service any fees, emoluments or other remuneration apart from his salary and any allowances which may be payable to him in his capacity as such a judge.

[S. 11 amended by s. 46 of Act 97 of 1986.]

## 12 Constitution of court of appellate division

(1) The quorum of the appellate division shall, subject to the provisions of subsection (2), be five judges in all criminal and civil matters: Provided that-

- (a) an application under subsection (2) of section *four* shall be heard and determined by the Chief Justice and two judges of appeal;
- (b) \* on the hearing of an appeal, whether criminal or civil, in which the validity of an Act of Parliament (which includes any instrument which purports to be and has been assented to by the State President as such an Act) is in question, eleven judges of the appellate division shall form a quorum;
- (b A ) the Chief Justice or, in his or her absence, the senior available judge of the appellate division may direct that an appeal in a criminal or civil matter be heard before a court consisting of three judges;

[Para. (b A ) inserted by s. 4 (b) of Act 105 of 1982 and substituted by s. 5 of Act 62 of 2000.]

- (c) whenever it appears to the Chief Justice, or in his absence, the senior available judge of the appellate division that any matter, not being an appeal referred to in paragraph (b) , should in view of its importance be heard before a court consisting of a larger number of judges, he may direct that the matter be heard, or if the matter is already being heard, that the hearing be discontinued and commenced anew before a court consisting of so many judges as he may determine.

[Sub-s. (1) substituted by s. 1 of Act 46 of 1980 and amended by s. 4 (a) of Act 105 of

1982.]

(2) The judgment of the majority of the judges of any court of the appellate division shall be the judgement of the court and where there is no judgment to which a majority of such judges agree, the hearing shall be adjourned and commenced *de novo* before a new court constituted in such manner as the Chief Justice or, in his absence, the senior available judge of the appellate division may determine.

(3) If at any stage during the hearing of an appeal one or more of the judges die or retire or become otherwise incapable of acting or are absent, the hearing shall, where the remaining judges constitute a majority of the judges before whom the hearing was commenced, proceed before such remaining judges, and the judgments of a majority of such remaining judges which are in agreement shall, if that majority is also a majority of the judges before whom the hearing was commenced, be the judgment of the court, and in any other case the appeal shall be heard *de novo* .

(4) No judge shall sit at the hearing of an appeal against a judgment or order given in a case which was heard before him.

(5) During any period which may be fixed by rule of court as a vacation of the appellate division, one judge thereof shall have power and jurisdiction to hear and determine applications for leave to proceed *in forma pauperis* or for any interlocutory order.

[Sub-s. (5) substituted by s. 4 (c) of Act 105 of 1982.]

### 13 Constitution of courts of provincial or local divisions

(1) (a) Save as provided in this Act or any other law, the court of a provincial or local division shall, when sitting as a court of first instance for the hearing of any civil matter, be constituted before a single judge of the division concerned: Provided that the judge president or, in the absence of both the judge president and the deputy judge president, the senior available judge of any division may at any time direct that any matter be heard by a full court consisting of so many judges as he may determine.

[Para. (a) amended by s. 3 of Act 3 of 1977.]

(b) A single judge of a division may at any time discontinue the hearing of any matter which is being heard before him and refer it for hearing to the full court of that division, constituted in accordance with the proviso to paragraph (a) .

[Para. (b) substituted by s. 5 (a) of Act 105 of 1982.]

(2) (a) The court of a provincial or local division shall, except where it is in terms of any law required or permitted to be otherwise constituted-

- (i) for the hearing of any appeal against a judgment or order of an inferior court, be constituted before not less than two judges; and
- (ii) for the hearing of any appeal against a judgment or order of a court of a provincial or local division constituted before a single judge of such provincial or local division, be constituted before three judges.

[Para. (a) amended by Proclamation 222 of 6 November 1981 and substituted by s. 5 (b) of Act 105 of 1982.]

(b) No judge shall sit at the hearing of an appeal against a judgment or order given in a case which was heard before him.

(3) Whenever it appears to the judge president or, in his absence, the senior available judge of any division that any matter which is being heard before a court of that division should in view of its importance be heard before a court consisting of a larger number of

judges, he may direct that the hearing be discontinued and commenced anew before a court consisting of so many judges as he may determine.

(4) For the hearing of any criminal case as a court of first instance, the court of a provincial or local division shall be constituted in the manner prescribed in the applicable law relating to procedure in criminal matters.

(5) During any period which may by rule of court be fixed as vacation of any division, one judge thereof shall, notwithstanding anything contained in this Act or any other law, but subject to the provisions of subsection (2) (a) (ii), be competent to exercise all the powers, jurisdiction and authority of a court of such division.

[Sub-s. (5) substituted by s. 5 (c) of Act 105 of 1982.]

#### **14 More than one court of a division may sit at the same time**

A division may at any time sit in so many courts constituted in the manner provided in this Act as the available judges may allow.

#### **15 Nature of courts and seals**

(1) Any court of a division shall be a court of record.

(2) Every division shall have for use as occasion may require, a seal of such design as may in the case of each division be prescribed by the State President by proclamation in the *Gazette* .

(3) Any such seal shall be kept in the custody of the registrar of the division concerned.

#### **16 Proceedings to be carried on in open court**

Save as is otherwise provided in any law, all proceedings in any court of a division shall, except in so far as any such court may in special cases otherwise direct, be carried on in open court.

#### **17 Manner of arriving at decisions in courts of provincial or local divisions**

(1) Save as otherwise provided in this Act or any other law, the judgment of the majority of the judges of the full court of a provincial or local division shall be the judgment of the court, and where the judgments of a majority of the judges of any such court are not in agreement, the hearing shall be adjourned and commenced *de novo* before a new court constituted in such manner as the judge president or, in the absence of both the judge president and the deputy judge president, the senior available judge of the division concerned may determine.

[Sub-s. (1) substituted by s. 4 of Act 3 of 1977.]

(2) If at any stage during the hearing of any matter by a full court, any judge of such court dies or retires or is otherwise incapable of acting or is absent, the hearing shall, if the remaining judges constitute a majority of the judges before whom it was commenced, proceed before such remaining judges, and if such remaining judges do not constitute such a majority, or if only one judge remains, the hearing shall be commenced *de novo* , unless all the parties to the proceedings agree unconditionally in writing to accept the decision of the majority of such remaining judges or of such one remaining judge as the decision of the court.

(3) The provisions of subsection (1) shall *mutatis mutandis* apply whenever in the circumstances set out in subsection (2) a hearing proceeds before two or more judges.

#### **18 Certified copies of court records admissible as evidence**

Whenever a judgment, decree, order or other record of the court of a division is

required to be proved or inspected or referred to in any manner, a copy of such judgment, decree, order or other record duly certified as such by the registrar of that division under its seal shall be *prima facie* evidence thereof without proof of the authenticity of such registrar's signature.

## **19 Persons over whom and matters in relation to which provincial and local divisions have jurisdiction**

(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 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.

(c) Subject to the provisions of section 28 and the powers granted under section 4 of the Admiralty Jurisdiction Regulation Act, 1983 ( Act 105 of 1983 ), any High Court may-

- (i) issue an order for attachment of property or arrest of a person to confirm jurisdiction or order the arrest *suspectus de fuga* also where the property or person concerned is outside its area of jurisdiction but within the Republic: Provided that the cause of action arose within its area of jurisdiction; and
- (ii) where the plaintiff is resident or domiciled within its area of jurisdiction, but the cause of action arose outside its area of jurisdiction and the property or person concerned is outside its area of jurisdiction, issue an order for attachment of property or arrest of a person to found jurisdiction regardless of where in the Republic the property or person is situated.

[Para. (c) added by s. 6 of Act 122 of 1998.]

(2) (a) Subject to the provisions of paragraph (b) , no appeal jurisdiction or review jurisdiction under subsection (1) shall be exercised by a local division.

(b) The Witwatersrand local division shall have power to hear and determine appeals from all inferior courts in such districts within its area of jurisdiction as the judge president of the Transvaal provincial division may from time to time determine by notice in the *Gazette* , and to review the proceedings of all such courts.

(c) Any such notice may at any time be amended or withdrawn by the judge president by similar notice.

[Sub-s. (2) substituted by s. 6 of Act 15 of 1969 and by s. 6 of Act 105 of 1982.]

(3) The provisions of this section shall not be constructed as in any way limiting the

powers of a provincial or local division as existing at the commencement of this Act, or as depriving any such division of any jurisdiction which could lawfully be exercised by it at such commencement.

### **19 bis Reference of particular matters for investigation by referee**

(1) In any civil proceedings any court of a provincial or local division may, with the consent of the parties, refer-

- (a) any matter which requires extensive examination of documents or scientific, technical or local investigation which in the opinion of the court cannot be conveniently conducted by it; or
- (b) any matter which relates wholly or in part to accounts; or
- (c) any other matter arising in such proceedings,

for enquiry and report to a referee, and the court may adopt the report of any such referee, either wholly or in part, and either with or without modifications, or may remit such report for further enquiry or report or consideration by such referee, or make such other order in regard thereto as may be necessary or desirable.

(2) Any such report or any part thereof which is adopted by the court, whether with or without modifications, shall have effect as if it were a finding by the court in the civil proceedings in question.

(3) Any such referee shall for the purpose of such enquiry have such powers and shall conduct the enquiry in such manner as may be prescribed by a special order of court or by rules of court.

(4) For the purpose of procuring the attendance of any witness (including any witness detained in custody under any law) and the production of any document or thing before a referee, an enquiry under this section shall be deemed to be civil proceedings.

(5) (a) Any person summoned to appear and give evidence or produce any document or thing before a referee, and who, without sufficient cause, fails to attend at the time and place specified or to remain in attendance until the conclusion of the enquiry or until he is excused by the referee from further attendance, or refuses to be sworn or to make affirmation as a witness, or having been sworn or having made affirmation, fails to answer fully and satisfactorily any question put to him, or fails to produce any document or thing in his possession or custody or under his control which he was summoned to produce, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months.

[Para. (a) substituted by s. 2 of Act 18 of 1985 and amended by s. 19 of Act 129 of 1993.]

(b) Any person who after having been sworn or having made affirmation, gives false evidence before a referee at an enquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(6) Any referee shall be entitled to such remuneration as may be prescribed by the rules of court or, if no such remuneration has been so prescribed, as the court may determine, and to any reasonable expenditure incurred by him for the purposes of the enquiry, and any such remuneration and expenditure shall be taxed by the taxing master of the court and shall be costs in the cause.

[S. 19 bis inserted by s. 40 of Act 80 of 1964.]

### **20 Appeals to Supreme Court in general**

(1) An appeal from a judgment or order of the court of a provincial or local division in

any civil proceedings or against any judgment or order of such a court given on appeal shall be heard by the appellate division or a full court, as the case may be.

[Sub-s. (1) substituted by s. 20 (a) of Act 129 of 1993.]

(2) (a) If leave is granted under subsection (4) (b) to appeal against a judgment or order, in any civil proceedings, of a court constituted before a single judge, the court against whose judgment or order the appeal is to be made or the appellate division, according to whether leave is granted by that court or the appellate division, shall direct that the appeal be heard by a full court, unless it is satisfied that the questions of law and of fact and the other considerations involved in the appeal are of such a nature that the appeal requires the attention of the appellate division, in which case it shall be directed that the appeal be heard by the appellate division.

[Para. (a) substituted by s. 20 (b) of Act 129 of 1993.]

(b) Any direction in terms of paragraph (a) , by the court of a provincial or local division, may be set aside by the appellate division on application made to it by any interested party within 21 days, or such longer period as may on good cause be allowed, after the direction was given, and may be replaced by another direction in terms of paragraph (a) .

[Para. (b) substituted by s. 20 (b) of Act 129 of 1993.]

(c) Any application to the appellate division under paragraph (b) shall be submitted by petition addressed to the Chief Justice, and the provisions of section 21 (3) (b) , (c) and (d) shall *mutatis mutandis* apply in respect thereof.

(3) An appeal which is to be heard by a full court in terms of a direction under subsection (2), shall be heard-

- (a) in the case of an appeal against a judgment or order of a provincial division, by the full court of the provincial division concerned;
- (b) in the case of an appeal against a judgment or order of a local division other than the Witwatersrand local division, by the full court of the provincial division which exercises concurrent jurisdiction in the area of jurisdiction of the local division concerned;
- (c) in the case of an appeal against a judgment or order of the Witwatersrand local division-
  - (i) by the full court of the Transvaal provincial division, unless a direction by the judge president of that provincial division under subparagraph (ii) applies to it; or
  - (ii) by the full court of the said local division, if the said judge president has so directed in the particular instance.

[Sub-s. (3) amended by s. 20 (c) of Act 129 of 1993.]

(4) No appeal shall lie against a judgment or order of the court of a provincial or local division in any civil proceedings or against any judgment or order of that court given on appeal to it except-

- (a) in the case of a judgment or order given in any civil proceedings by the full court of such a division on appeal to it in terms of subsection (3), with the special leave of the appellate division;
- (b) in any other case, with the leave of the court against whose judgment or order the appeal is to be made or, where such leave has been refused, with the leave of the appellate division.

(5) (a) Any leave required in terms of subsection (4) for an appeal against a judgment or order of a court given on appeal to it, may be granted subject to such conditions as the court concerned or the appellate division, according to whether leave is granted by that court or the appellate division, may determine, and such conditions may include a condition that the applicant shall pay the costs of the appeal.

(b) If such leave to appeal is granted in any civil proceedings, the court granting the leave may order the applicant to find the security for the costs of the appeal in such an amount as the registrar may determine, and may fix the time within which the security is to be found.

(c) If the leave to appeal required in terms of subsection (4) (b) has been refused by the court of a provincial or local division but is granted by the appellate division, the appellate division may vary any order as to costs made by the court concerned in refusing leave.

(6) The power to grant leave to appeal as contemplated in this section-

- (a) shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in the suit or by reason only of the fact that the matter in dispute is incapable of being valued in money; and
- (b) shall be subject to the provisions of any other law which specifically limits it or specifically grants, limits or excludes any right of appeal.

(7) Notwithstanding anything to the contrary in any law contained, no appeal shall lie from a judgment or order of the court of a provincial or local division in proceedings in connection with an application-

- (a) by one spouse against the other for maintenance *pendente lite* ;
- (b) for contribution towards the costs of a pending matrimonial action;
- (c) for the interim custody of a child when a matrimonial action between its parents is pending or is about to be instituted; or
- (d) by one parent against the other for interim access to a child when a matrimonial action between the parents is pending or is about to be instituted.

[S. 20 amended by s. 2 of Act 85 of 1963, by s. 41 of Act 80 of 1964, by s. 7 of Act 15 of 1969 and by Proclamation 222 of 6 November 1981 and substituted by s. 7 of Act 105 of 1982.]

## 21 Appeals to appellate division

(1) In addition to any jurisdiction conferred upon it by this Act or any other law, the appellate division shall, subject to the provisions of this section and other law, have jurisdiction to hear and determine an appeal from any decision of the court of a provincial or local division.

(1A) The appellate division shall have the same jurisdiction to hear and determine an appeal from any decision of a supreme court or a high court of a state to which independence has been granted by law, as it has in respect of any decision of the court of a provincial or local division, and any provision of this Act or any other law or rule of court applicable in connection with any appeal from a decision of any court of any provincial or local division shall *mutatis mutandis* apply with reference to any appeal from a decision of a supreme court or a high court of such a state.

[Sub-s. (1A) inserted by s. 1 of Act 86 of 1977, amended by Proclamation 222 of 6 November 1981 and substituted by s. 21 of Act 129 of 1993.]

(2) The leave of the appellate division to appeal referred to in subsection (4) of section 20 may be granted by it on application made to it within 21 days, or such longer period as may on good cause be allowed, after the judgment or order referred to in paragraph (a) of that subsection against which appeal is to be made, was given or after the court referred to in paragraph (b) of that subsection refused leave to appeal, as the case may be.

[Sub-s. (2) amended by Proclamation 222 of 6 November 1981 and substituted by s. 8 (a) of Act 105 of 1982.]

(3) (a) An application to the appellate division under subsection (2) shall be submitted by petition addressed to the Chief Justice.

(b) The petition shall be considered by two judges of the appellate division designated by the Chief Justice, and in the case of a difference of opinion, also by the Chief Justice or any other such judge so designated.

[Para. (b) substituted by s. 1 of Act 100 of 1987.]

(c) The judges considering the petition may order that the application be argued before them at a time and place appointed, and may, whether or not they have so ordered-

- (i) grant or refuse the application; or
- (ii) refer the application to the appellate division for consideration, whether upon argument or otherwise,

and where an application has been so referred to the appellate division, that division may thereupon grant or refuse the application.

(d) The decision of the majority of the judges considering the application, or the decision of the appellate division, as the case may be, to grant or refuse the application shall be final.

(e) Notice of the date fixed for the hearing or any application under this subsection, and of the place appointed for such a hearing under paragraph (c), shall be given to the applicant and the respondent by the registrar of the appellate division.

[Sub-s. (3) substituted by s. 8 (b) of Act 105 of 1982.]

(4) .....

[Sub-s. (4) deleted by s. 8 (c) of Act 105 of 1982.]

## **21A Powers of court of appeal in certain civil proceedings**

(1) When at the hearing of any civil appeal to the Appellate Division or any Provincial or Local Division of the Supreme Court the issues are of such a nature that the judgment or order sought will have no practical effect or result, the appeal may be dismissed on this ground alone.

(2) (a) If at any time prior to the hearing of an appeal the Chief Justice or the Judge President, as the case may be, is *prima facie* of the view that it would be appropriate to dismiss the appeal on the grounds set out in subsection (1), he or she shall call for written representations from the respective parties as to why the appeal should not be so dismissed.

(b) Upon receipt of the written representations or, failing which, at the expiry of the time determined for their lodging, the matter shall be referred by the Chief Justice or by the Judge President, as the case may be, to three judges of the Division concerned for their consideration.

(c) The judges considering the matter may order that the question whether the appeal should be dismissed on the grounds set out in subsection (1) be argued before them at a place and time appointed, and may, whether or not they have so ordered-

- (i) order that the appeal be dismissed, with or without an order as to the costs incurred in any of the courts below or in respect of the costs of appeal, including the costs in respect of the preparation and lodging of the written representations; or
- (ii) order that the appeal proceed in the ordinary course.

(3) Save under exceptional circumstances, the question whether the judgment or order would have no practical effect or result, is to be determined without reference to consideration of costs.

(4) The provisions of subsections (2) and (3) shall apply with the necessary changes if a petition referred to in section 21 (3) is considered.

[S. 21A inserted by s. 22 of Act 129 of 1993 and substituted by s. 7 of Act 104 of 1996.]

## **22 Powers of court on hearing of appeals**

The appellate division or a provincial division, or a local division having appeal jurisdiction, shall have power-

- (a) on the hearing of an appeal to receive further evidence, either orally or by deposition before a person appointed by such division, or to remit the case to the court of first instance, or the court whose judgment is the subject of the appeal, for further hearing, with such instructions as regards the taking of further evidence or otherwise as to the division concerned seems necessary; and
- (b) to confirm, amend or set aside the judgment or order which is the subject of the appeal and to give any judgment or make any order which the circumstances may require.

[S. 22 amended by s. 8 of Act 15 of 1969 and by s. 9 of Act 105 of 1982.]

## **23 Settlement of conflicting decisions in civil cases**

Whenever a decision in civil proceedings on a question of law is given by a provincial or local division which is in conflict with a decision in civil proceedings on a question of law given by any other such division, the Minister may, after consultation with the South African Law Commission, submit such conflicting decisions to the appellate division and cause the matter to be argued before that division, in order that it may determine the said question of law for the future guidance of all courts.

[S. 23 repealed by s. 3 of Act 85 of 1963 and inserted by s. 36 of Act 94 of 1974.]

## **24 Grounds of review of proceedings of inferior courts**

(1) The grounds upon which the proceedings of any inferior court may be brought under review before a provincial division, or before a local division having review jurisdiction, are-

- (a) absence of jurisdiction on the part of the court;
- (b) interest in the cause, bias, malice or the commission of an offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, on the part of the presiding judicial officer;

[Para. (b) substituted by s. 36 (1) of Act 12 of 2004.]

- (c) gross irregularity in the proceedings; and
- (d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.

[Sub-s. (1) amended by s. 9 of Act 15 of 1969 and by s. 10 of Act 105 of 1982.]

(2) Nothing in this section shall affect the provisions of any other law relating to the review of proceedings in inferior courts.

## **25 No process to be issued against judge except with consent of court**

(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.

(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.

[S. 25 substituted by s. 4 of Act 85 of 1963 and by s. 3 of Act 41 of 1970.]

## **26 Scope and execution of process of provincial and local divisions**

(1) The civil process of a provincial or local division shall run throughout the Republic and may be served or executed within the jurisdiction of any division.

[Sub-s. (1) amended by Proclamation 222 of 6 November 1981 and by s. 23 of Act 129 of 1993.]

(2) Any warrant or other process for the execution of a judgment given or order issued against any association of persons corporate or unincorporate, partnership or firm may be executed by attachment of the property or assets of such association, partnership or firm.

[S. 26 substituted by s. 5 of Act 85 of 1963.]

## **27 Time allowed for appearance**

The time allowed for entering an appearance to a civil summons served outside the area of jurisdiction of the court in which it was issued shall be not less than-

- (a) twenty-one days if the summons is to be served at a place more than one hundred miles from the court out of which it was issued; and
- (b) fourteen days in any other case.

[S. 27 amended by s. 6 of Act 85 of 1963.]

## **27A Judgment by default**

A judgment by default may be granted and entered by the registrar in the manner and in the circumstances prescribed in the Rules made in terms of the Rules Board for Courts of Law Act, 1985 ( Act 107 of 1985 ), and a judgment so entered shall be deemed to be a judgment of the court.

[S. 27A inserted by s. 5 of Act 4 of 1991.]

[Date of commencement in all Provincial Divisions except that of the Orange Free State: 21 January 1994; and in the Orange Free State Provincial Division: 1 September 1995.]

## **28 Prohibition on attachment to found jurisdiction or arrest where defendant resides within the Republic**

(1) No attachment of person or property to found jurisdiction shall be ordered by a court of any division against a person who is resident in the Republic.

(2) No writ shall be issued out of any such court in or in connection with civil proceedings instituted or to be instituted for the arrest of a person residing within the Republic to secure his appearance as a defendant in those proceedings, by reason only that such person has departed or is about to depart to a place outside the jurisdiction of that court but within the Republic.

## **29 Circumstances in which security for costs shall not be required**

When a person residing within the Republic is a plaintiff in civil proceedings in the court of any division, the area of jurisdiction whereof does not extend to the place where he resides, he shall not by reason only of that fact be required to give security for costs in those proceedings.

## **30 Manner of securing attendance of witnesses or the production of any document or thing in civil proceedings and penalties for failure**

(1) A party to civil proceedings before the court of any division in which the attendance of witnesses or the production of any document or thing is required may procure the attendance of any witness or the production of any document or thing in the manner provided for in the rules of court.

(2) Whenever any person subpoenaed to attend any civil proceedings as a witness or to produce any document or thing fails without reasonable excuse to obey the subpoena and it appears from the return of the proper officer or from evidence given under oath that the subpoena was served upon the person to whom it is directed and that his reasonable expenses calculated in accordance with the tariff framed under section 42 (1) have been paid or offered to him, or that he is evading service, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the court in which the said proceedings are conducted, may issue a warrant directing that he be arrested and brought before the court at a time and place stated in the warrant or as soon thereafter as possible.

(3) A person arrested under any such warrant may be detained thereunder before the court which issued it or in any gaol or lock-up or other place of detention or in the custody of the person who is in charge of him with a view to securing his presence as a witness or to produce any document or thing at the said proceedings: Provided that the court may release him on a recognizance with or without sureties for his appearance to give evidence or to produce any document or thing as required and for his appearance at the enquiry referred to in subsection (4).

(4) The court may in a summary manner enquire into such person's evasion of the service of the subpoena or failure to obey the subpoena or to remain in attendance, and may, unless it is proved that such person has a reasonable excuse for such evasion or failure, sentence him to a fine or to imprisonment for a period not exceeding three months.

[Sub-s. (4) amended by s. 24 of Act 129 of 1993.]

(5) Any sentence imposed by the court under subsection (4) shall be enforced and shall be subject to appeal as if it were a sentence imposed in a criminal case.

(6) If a person who has entered into any recognizance for his appearance to give evidence at such proceedings or to produce any document or thing or for his appearance at an enquiry referred to in subsection (4) fails so to appear, he may, apart from the

forefeiture [sic] of his recognizance, be dealt with as if he had failed to obey a subpoena to attend such proceedings or appear at such enquiry.

[S. 30 amended by s. 7 of Act 85 of 1963, by Proclamation 222 of 6 November 1981 and by s. 3 of Act 18 of 1985 and substituted by s. 6 of Act 4 of 1991.]

### **31 Manner in which witness may be dealt with on refusal to give evidence or produce documents**

(1) Whenever any person who appears either in obedience to a subpoena or by virtue of a warrant issued under section *thirty* or is present and is verbally required by the court to give evidence in any civil proceedings, refuses to be sworn or to make an affirmation, or, having been sworn or having made an affirmation, refuses to answer such questions as are put to him, or refuses or fails to produce any document or thing which he is required to produce without any just excuse for such refusal or failure, the court may adjourn the proceedings for any period not exceeding eight days and may, in the meantime, by warrant commit the person so refusing or failing to gaol unless he sooner consents to do what is required of him.

(2) If any person referred to in subsection (1) again refuses at the resumed hearing of the proceedings to do what is so required of him, the court may again adjourn the proceedings and commit him for a like period and so again from time to time until such person consents to do what is required of him.

(3) Nothing in this section contained shall prevent the court from giving judgment in any case or otherwise disposing of the proceedings according to any other sufficient evidence taken.

(4) No person shall be bound to produce any document or thing not specified or otherwise sufficiently described in the subpoena unless he actually has it in court.

(5) When a subpoena is issued to procure the attendance of a judicial officer to give evidence or to produce any book, paper or document in any civil proceedings, and it appears-

- (a) that he is unable to give any evidence or to produce any book, paper or document which would be relevant to any issue in such proceedings; or
- (b) that such book, paper or document could properly be produced by some other person; or
- (c) that the compelling of his attendance would be an abuse of the process of the court,

the court may, notwithstanding anything in this section contained, after reasonable notice by the registrar to the party who sued out of the subpoena and after hearing that party in chambers if he appears, make an order cancelling such subpoena.

### **32 Examination by interrogatories of persons whose evidence is required in civil cases**

(1) The court of a provincial or local division may in connection with any civil proceedings pending before it, order that the evidence of a person who resides or is for the time being outside the area of jurisdiction of that court be taken by means of interrogatories.

(2) Whenever an order is made under subsection (1), the registrar of the court shall certify that fact and transmit a copy of his certificate to a commissioner of the court, together with any interrogatories duly and lawfully framed which it is desired to put to the said person and the fees and the amount of the expenses payable to the said person for his appearance as hereinafter provided.

[Sub-s. (2) amended by Proclamation 222 of 6 November 1981 and by s. 25 (a) of Act 129 of 1993.]

(3) Upon receipt of the certificate aforesaid and of the interrogatories and amounts aforesaid, the commissioner shall summon the said person to appear before him, and upon his appearance shall take his evidence as if he was a witness in a civil case in the said court, and shall put to him the interrogatories aforesaid with any other questions calculated to obtain full and true answers to the said interrogatories and shall take down or cause to be taken down the evidence so obtained, and shall transmit the same, certified as correct, to the registrar of the court wherein the civil proceedings in question are pending.

[Sub-s. (3) amended by Proclamation 222 of 6 November 1981 and substituted by s. 25 (b) of Act 129 of 1993.]

(4) The commissioner shall further transmit to the said registrar a certificate showing the amount paid to the person concerned in respect of the expenses of his appearance, and the cost of the issue and service of the process for summoning such person before him.

(5) Any person summoned to appear as in this section provided who without reasonable excuse fails to appear at the time and place mentioned in the summons, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months.

[Sub-s. (5) amended by s. 8 of Act 85 of 1963, substituted by s. 4 of Act 18 of 1985 and amended by s. 25 (c) of Act 129 of 1993.]

(6) Any interrogatories taken and certified under the provisions of this section, shall, subject to all lawful exceptions, be received as evidence in the civil proceedings aforesaid.

### **33 Manner of dealing with commissions *rogatoire* , letters of request and documents for service originating from foreign countries**

(1) Whenever a commission *rogatoire* or letter of request in connection with any civil proceedings received from any State or territory or court outside the Republic, is transmitted to the registrar of a provincial or local division by the Director-General: Justice, together with a translation in English or Afrikaans if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto without requiring an application to be made to such division by the agents, if any, of the parties to the action or matter, the registrar shall submit the same to a judge in chambers in order to give effect to such commission *rogatoire* or letter of request.

[Sub-s. (1) substituted by s. 36 of Act 75 of 1996.]

(2) Whenever a request for the service on a person in the Republic of any civil process or citation received from a state, territory or court outside the Republic, is transmitted to the registrar of a provincial or local division by the Director-General: Justice, together with a translation in English or Afrikaans if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto, the registrar shall cause service of the said process or citation to be effected in accordance with the rules of court by the sheriff or a deputy-sheriff or any person specially appointed thereto by a judge of the division concerned.

(3) The registrar concerned shall, after effect has been given to any such commission *rogatoire* , letter of request, process or citation, return all relevant documents, duly verified in accordance with the rules of court, to the Director-General: Justice for transmission.

(4) Except where the Minister otherwise directs, no fees other than disbursements shall be recovered from any state, territory or court on whose behalf any service such as is referred to in this section has been performed.

### **34 Appointment of officers of the Supreme Court**

(1) (a) The Minister may, subject to the laws governing the public service, appoint for the Supreme Court registrars, assistant registrars and other officers whenever they may be required for the administration of justice or the execution of the powers and authorities of the said court.

[Para. (a) substituted by s. 64 (1) of Act 90 of 1986.]

(b) Whenever by reason of absence or incapacity a registrar or assistant registrar is unable to carry out the functions of his office, or his office becomes vacant, the Minister may authorize any other competent officer of the public service to act in the place of the absent or incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled.

[Para. (b) substituted by s. 64 (1) of Act 90 of 1986 and amended by s. 35 (1) Act 47 of 1997.]

(c) .....

[Para. (c) deleted by s. 64 (1) of Act 90 of 1986.]

(2) Any officer in the public service appointed under subsection (1) may hold simultaneously more than one of the offices mentioned in that subsection.

(3) to (6) inclusive .....

[Sub-ss. (3) to (6) inclusive deleted by s. 64 (1) of Act 90 of 1986.]

(7) The Minister may delegate to an officer in the Department of Justice any of the powers vested in him by this section.

[Sub-s. (7) substituted by s. 9 of Act 85 of 1963.]

### **34A .....**

[S. 34A inserted by s. 3 of Act 53 of 1983 and repealed by s. 64 (1) of Act 90 of 1986.]

### **35 .....**

[S. 35 repealed by s. 64 (1) of Act 90 of 1986.]

### **36 Execution of process**

(1) The sheriff or a deputy-sheriff shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and shall, subject to the rules made in terms of the Rules Board for Courts of Law Act, 1985 ( Act 107 of 1985 ), make return of the manner of execution thereof to the court and to the party at whose instance they were issued.

[Sub-s. (1) substituted by s. 64 (1) of Act 90 of 1986 and by s. 26 (a) of Act 129 of 1993.]

(2) The return of the sheriff or a deputy-sheriff of what has been done upon any process of the court, shall be *prima facie* evidence of the matters therein stated.

[Sub-s. (2) amended by Proclamation 222 of 6 November 1981 and substituted by s. 64 (1) of Act 90 of 1986.]

(3) The sheriff shall receive and cause to be detained all persons arrested by order of the court or committed to his custody by competent authority.

[Sub-s. (3) amended by Proclamation 222 of 6 November 1981 and by s. 26 (b) of Act 129 of 1993.]

(4) A refusal by the sheriff or any deputy-sheriff to do any act which he is by law empowered to do, shall be subject to review by the court on application *ex parte* or on notice as the circumstances may require.

### 37 and 38 .....

[Ss. 37 and 38 repealed by s. 64 (1) of Act 90 of 1986.]

## 39 Property not liable to be seized in execution

The sheriff or a deputy-sheriff shall not seize in execution of any process-

- (a) the necessary beds and bedding and wearing apparel of the person against whom execution is levied or any member of his family;
- (b) the necessary furniture, other than beds, and household utensils in so far as they do not exceed in value the amount \*determined by the Minister from time to time by notice in the *Gazette* ;

[Para. (b) amended by s. 10 of Act 85 of 1963 and substituted by s. 5 (a) of Act 18 of 1985 and by s. 27 (a) of Act 129 of 1993.]

- (c) stock, tools and agricultural implements of a farmer in so far as they do not exceed in value the amount \*determined by the Minister from time to time by notice in the *Gazette* ;

[Para. (c) amended by s. 10 of Act 85 of 1963 and substituted by s. 5 (b) of Act 18 of 1985 and by s. 27 (a) of Act 129 of 1993.]

- (d) any food or drink sufficient to meet the needs of such person and the members of his family for one month;
- (e) tools and implements of trade in so far as they do not exceed in value the amount \*determined by the Minister from time to time by notice in the *Gazette* ;

[Para. (e) amended by s. 10 of Act 85 of 1963 and substituted by s. 5 (c) of Act 18 of 1985 and by s. 27 (b) of Act 129 of 1993.]

- (f) professional books, documents or instruments necessarily used by the debtor in his profession in so far as they do not exceed in value the amount \*determined by the Minister from time to time by notice in the *Gazette* ;

[Para. (f) amended by s. 10 of Act 85 of 1963 and substituted by s. 5 (d) of Act 18 of 1985 and by s. 27 (b) of Act 129 of 1993.]

- (g) such arms and ammunition as the debtor is in terms of any law, regulation or disciplinary order required to have in his possession as part of his equipment:

Provided that the court may in exceptional circumstances and on such conditions as it may determine, in its discretion increase the amount specified in paragraph (b) , (c) , (e) or (f) .

[S. 39 amended by s. 5 (e) of Act 18 of 1985.]

## 40 Offences relating to execution

Any person who-

- (a) obstructs a sheriff or deputy-sheriff in the execution of his duty;

[Para. (a) substituted by s. 64 (1) of Act 90 of 1986.]

- (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 to point out property to satisfy a warrant issued in execution of judgment against such person-
  - (i) falsely declares to that sheriff or deputy-sheriff 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 when requested to do so; or

[Para. (c) substituted by s. 64 (1) of Act 90 of 1986.]

- (d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution,

[Para. (d) substituted by s. 64 (1) of Act 90 of 1986.]

shall be guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

[S. 40 substituted by s. 4 of Act 41 of 1970 and amended by s. 6 of Act 18 of 1985 and by s. 28 of Act 129 of 1993.]

#### **41 Transmission of summonses, writs and other process and of notice of issue thereof by telegraph**

In any civil proceeding-

- (a) any summons, writ, warrant, rule, order, notice, document or other process of the court or communication which by any law, rule of court or agreement of parties is required or directed to be served or executed upon any person, or left at the house or place of abode or business of any person, in order that such person may be affected thereby, may be transmitted by telegraph, and a telegraphic copy served or executed upon such person, or left at his house or place of abode or business, shall be of the same force and effect as if the original had been shown to or a copy thereof served or executed upon such person, or left as aforesaid, as the case may be; and

[Para. (a) amended by Proclamation 222 of 6 November 1981.]

- (b) a telegram from any judicial or police officer, registrar, assistant registrar, sheriff, deputy-sheriff or clerk of the court stating that a warrant or writ has been issued for the apprehension or arrest of any person required to appear in or to answer any civil suit, action or proceeding, shall be a sufficient authority to any officer by law authorized to execute any such warrant or writ for the arrest and detention of such person until a sufficient time, not exceeding fourteen days, has elapsed to allow of the transmission of the warrant or writ to the place where such person has been arrested or detained, unless the discharge of such person be previously ordered by a judge of the Supreme Court: Provided that any such judge may upon cause

shown order the further detention of any such person for a period to be stated in such order, but not exceeding twenty-eight days from the date of the arrest of such person.

[Para. (b) amended by Proclamation 222 of 6 November 1981.]

[S. 41 amended by s. 29 of Act 129 of 1993.]

## 42 Witness fees

(1) The Minister may in consultation with the Minister of Finance from time to time by notice in the *Gazette* prescribe a tariff of allowances which shall be paid to a witness in civil proceedings or to any person who is to accompany any such witness on account of the youth or infirmity due to old age or any other infirmity of such witness.

(2) Such notice may differentiate between persons according to the distances which they have to travel to attend the court to which they are summoned or subpoenaed, or according to their professions, callings or occupations, or between different classes of persons, and may empower such officers in the service of the State as may be specified therein, to order payment of allowances in accordance with a higher tariff than the tariff so prescribed, in cases where payment of allowances in accordance with the last-mentioned tariff may cause undue hardship.

(3) Notwithstanding anything to the contrary in any law contained, the court may order that no allowances or only a portion of the allowances prescribed shall be paid to any witness.

[Date of commencement of sub-s. (3): 1 November 1970.]

[S. 42 substituted by s. 14 of Act 102 of 1967.]

## 43 Rules of Court

(1) .....

[Sub-s. (1) amended by s. 46 of Act 97 of 1986 and deleted by s. 5 (1) of Act 77 of 1989.]

(2) (a) .....

[Para. (a) amended by s. 46 of Act 97 of 1986 and deleted by s. 11 (a) of Act 107 of 1985.]

(b) The judge president of a provincial division may make rules for regulating the proceedings of that division or of any local division within the area of jurisdiction of which such provincial division exercises concurrent jurisdiction, with reference to-

- (i) the times for the holding of courts;
- (ii) the placing on the roll of actions for hearing; and
- (iii) the extension or reduction as local circumstances may require of any period within which any act is in terms of the rules made under paragraph (a) required to be performed.

(c) .....

[Para. (c) deleted by s. 10 of Act 15 of 1969.]

[Sub-s. (2) substituted by s. 11 (a) of Act 85 of 1963.]

(3) .....

[Sub-s. (3) amended by s. 39 of Act 93 of 1962, substituted by s. 11 (b) of Act 85 of 1963, amended by s. 42 of Act 80 of 1964, by s. 1 of Act 37 of 1976 and by Proclamation

222 of 6 November 1981 and deleted by s. 11 (b) of Act 107 of 1985.]

(4) Different rules may be made in respect of different divisions.

(5) Any rules made under any law repealed by this Act and in force at the commencement thereof, shall, subject to the provisions of this Act, and notwithstanding the repeal of that law by section *forty-six* of this Act, remain in full force and effect until amended or repealed under this section.

#### 44 Existing divisions and courts

The appellate division and the several provincial and local divisions of the Supreme Court of South Africa, as existing immediately before the commencement of this Act, shall remain in existence as the corresponding divisions referred to in the First Schedule, and any circuit local division established under any law repealed by this Act and in existence immediately before such commencement shall be deemed to have been duly established under this Act.

[S. 44 amended by Proclamation 222 of 6 November 1981.]

#### 45 .....

[S. 45 amended by s. 5 of Act 41 of 1970 and deleted by Proclamation 222 of 6 November 1981.]

#### 46 Repeal of laws

(1) Subject to the provisions of section *forty-four* and subsections (2) and (3) of this section, the laws mentioned in the Second Schedule are hereby repealed to the extent set out in the fourth column of that Schedule.

(2) Any appointment made under or declared to remain in existence by any law repealed by subsection (1) and any security given or anything done in connection with or by virtue of any such appointment shall remain of full force and effect, and any condition or provision which immediately before the commencement of this Act applied in relation to any person by virtue of any such law, shall continue to apply as if that law had not been repealed.

(3) Anything done under any provision of a law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of this Act.

#### 47 Short title and date of commencement

This Act shall be called the Supreme Court Act, 1959, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette* .

### First Schedule

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

[First Schedule amended by s. 15 of Act 102 of 1967, substituted by s. 11 of Act 15 of 1969 and amended by s. 9 of Act 92 of 1970, by s. 20 (1) of Act 62 of 1973, by Proc 100 of 1977, by Proc R203 of 1977, by Proc R183 of 1980, by Proc 222 of 1981, by Proc R126 of 1984, by GN R2840 of 1989, by GN R282 of 1994, by GN R1454 of 1994 and by GN R1475 of 1999 and repealed by s. 4 of Act 41 of 2001 \*.]

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, Joubertina, Steytlerville, Jansenville, Aberdeen, Murraysburg, Graaff-Reinet, Middelburg, Hanover and Colesburg.
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, Philipstown, Postmasburg, Prieska, Richmond, Taung, Victoria West, Vryburg and Warrenton.
Natal Provincial Division of the Supreme Court of South Africa	Pietermaritzburg	The province of KwaZulu-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 excluding the areas of Pongola and Simdlangentsha, as described in Schedule 1 to the repealed Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).
Durban and Coast Local Division of the Supreme Court of South Africa	Durban	The magisterial districts of Alfred, Port Shepstone, Umzinto, Umlazi, Ubumbulu, Durban, Pinetown, Chatsworth, Inanda, Ndwedwe, Mapumulo, Lower Tugela, Mtunzini, Eshowe, Nkandhla, Entonjaneni, Lower Umfolozi, Mahlabatini, Hlabisa, Nongoma, Ubombo and Ingwavuma including the areas of Pongola and Simdlangentsha, as described in Schedule 1 to the repealed Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).
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, Randburg, Randfontein, Roodepoort, Springs, Vanderbijlpark, Vereeniging and Westonaria.
		In criminal matters: The magisterial districts of Alberton, Boksburg, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort and Westonaria.

South-Eastern Cape Local Division of the Supreme Court of South Africa	Port Elizabeth	The magisterial districts of Port Elizabeth, Kirkwood, Uitenhage, Hankey, Humansdorp, Joubertina and Steytlerville.
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### Schedule \*

Column A	Column B	Column C
High Court of South Africa	District/s to be included	District/s to be excised
1. Orange Free State Provincial Division	Thaba Nchu	
2. Bophuthatswana High Court	Vryburg Lichtenburg Coligny Zeerust Groot-Marico Swartruggens Koster Rustenburg Delareyville	Thaba Nchu
3. Cape of Good Hope Provincial Division		Willowmore Namaqualand (Springbok) Williston Sutherland Calvinia Fraserburg
4. Eastern Cape Division	Willowmore	Noupoort Colesburg Hanover
5. Northern Cape Division	Namaqualand (Springbok) Williston Sutherland Calvinia Fraserburg Noupoort Colesburg Hanover	Vryburg

6. Transvaal Provincial Division		Lichtenburg Coligny Zeerust Groot-Marico Swartruggens Koster Rustenburg Delareyville
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### Schedule \*

Column A	Column B	Column C
High Court of South Africa	District/s to be included	District/s to be excised
1. Natal Provincial Division	Umzimkulu Matatiele (Maluti) - including the land mentioned in Proclamations R.141 of 30 September 1983 and 43 of 26 April 1985 and the farms Drumleary 130 and Stanford 127	
2. Durban and Coast Local Division	Umzimkulu Matatiele (Maluti) - including the land mentioned in Proclamations R.141 of 30 September 1983 and 43 of 26 April 1985 and the farms Drumleary 130 and Stanford 127	
3. Eastern Cape Division	Herschell (Sterkspruit)	Barkley East Cathcart East London Elliot Indwe King William's Town Komga Maclear Queenstown Stutterheim Ugie
4. Ciskei Division	Cathcart East London	

	King William's Town Komga Queenstown Stutterheim	
5. Transkei Division	Barkly East Elliot Indwe Maclear Ugie	Herschell (Springbok) Umzimkulu Matatiele (Maluti) - including the land mentioned in Proclamations R.141 of 30 September 1983 and 43 of 26 April 1985 and the farms Drumleary 130 and Stanford 127

### Second Schedule LAWS REPEALED

[Second Schedule amended by s. 40 (1) of Act 93 of 1962.]

Province or Republic	No and Year of law	Title or subject matter	Extent of repeal
Cape	Ordinance 37 of 1828	Ordinance for declaring and regulating the duty of the sheriff	The whole
	Ordinance 40 of 1828	Ordinance for regulating the manner of proceeding in criminal cases	The whole
	1832	Charter of Justice, 1832	The whole, except so much as relates to admission to and the right to practise before the courts
	Ordinance 3 of 1844	Ordinance for amending the law relating to the rights of execution creditors	The whole
	Act 8 of 1879	General Law Amendment Act, 1879	Section six
	Act 17 of 1886	Appeal Court and Sheriff's Duties Act, 1886	The whole
	Act 13 of 1896	Sheriff's Appointment Act, 1896	The whole
	Act 35 of 1896	To consolidate and amend the law for the better administration of justice	The whole
	Act 22 of 1898	Supreme Court Extended Appellate Jurisdiction Act, 1898	The whole

Natal	Act 35 of 1904	Better Administration of Justice Act, 1904	The whole
	Act 9 of 1905	Better Administration of Justice Amendment Act, 1905	The whole
	Ordinance 21 of 1846	Ordinance for amending the law relating to the rights of execution creditors in the district of Natal	The whole
	Ordinance 11 of 1847	Ordinance for amending the Ordinance 14 of 1845, entitled 'ordinance for erecting a district court in and for the district of Natal'	The whole
	Law 17 of 1888	To extend the advantages of the electric telegraph	The whole
	Act 35 of 1895	To increase the number of Judges of the Supreme Court	The whole
	Act 39 of 1896	The Supreme Court Act, 1896	The whole, except section <i>twenty-one</i> and so much as relates to admission to and the right to practise before the courts
	Act 37 of 1897	To provide for the annexation to the colony of Natal of the territory of Zululand	The whole
	Act 17 of 1898	Consolidation Laws (Zululand) Act, 1898	Section <i>seven</i>
	Act 46 of 1898	Supreme Court (Zululand) Act, 1898	The whole
	Act 31 of 1899	To amend the Supreme Court Act, 1896	The whole
	Act 14 of 1900	To make provision for the better and more speedy trial of persons accused of treason, and for the appointment of acting judges of the Supreme Court	The whole
	Act 34 of 1901	To amend the Supreme Court Act, 1896	The whole
Act 25 of 1904	To increase the salaries of the Chief Justice and other judges of the Supreme Court	The whole	

	Act 38 of 1904	To amend the Acts relating to the Supreme Court	The whole
	Act 21 of 1905	To amend the Supreme Court Act, 1896, in relation to the Office of Sheriff	The whole
	Act 8 of 1908	To make special provision for the trial of Blacks accused of certain crimes	The whole
	Act 12 of 1910	To amend Acts 25 and 38 of 1904, relating to the judges of the Supreme Court	The whole
Orange Free State	Ordinance 4 of 1902	Administration of Justice Ordinance, 1902	The whole, except so much as relates to admission to and the right to practise before the courts
	Ordinance 5 of 1902	General Law Amendment Ordinance, 1902	The whole except sections <i>five</i> and <i>six</i>
	Ordinance 9 of 1902	Sheriff's Ordinance, 1902	The whole
	Ordinance 43 of 1903	Judges' Pension Ordinance, 1903	The whole
	Ordinance 13 of 1904	Administration of Justice Amending Ordinance, 1904	The whole
Transvaal	Proclamation 6 of 1901	---	The whole
	Ordinance 2 of 1902	Establishment of the Supreme Court and High Court Ordinance, 1902	The whole
	Ordinance 9 of 1902	To amend Law 12 of 1899	The whole
	Proclamation 14 of 1902	Administration of Justice Proclamation, 1902	The whole, except section <i>seventeen</i> and so much as relates to admission to and the right to practise before the courts
	Proclamation 17 of 1902	Sheriff's Proclamation, 1902	The whole
	Proclamation 19 of 1902	To amend Proclamation 6 of 1901	The whole
	Ordinance 10 of 1903	Superior Courts Criminal Jurisdiction Ordinance, 1903	The whole

	Ordinance 35 of 1903	Judges' Pension Ordinance, 1903	The whole
	Ordinance 22 of 1904	Supreme Court Appellate Jurisdiction Extension (Repealing) Ordinance, 1904	The whole
	Ordinance 31 of 1904	Administration of Justice Amendment Ordinance, 1904	The whole
	Ordinance 1 of 1905	Circuit Courts Procedure Ordinance, 1905	The whole
	1906	Transvaal Constitution Letters Patent, 1906	Paragraph XLVIII
	Act 14 of 1909	Superior Courts Criminal Jurisdiction Amendment Act, 1909	The whole
South-West Africa	Proclamation 21 of 1919	Administration of Justice Proclamation, 1919	Section <i>three</i> , except subsection (6), the last sentence of subsection (9) and subsection (10) thereof, and sections <i>four</i> to <i>six</i> , inclusive, except subsection (1) of section <i>six</i>
	Proclamation 1 of 1920	Rules of Court Proclamation, 1920	Section <i>one</i>
	Proclamation 38 of 1920	Further Administration of Justice Proclamation, 1920	Sections <i>two</i> to <i>six</i> , inclusive, <i>eight</i> , <i>nine</i> and <i>twelve</i>
	Proclamation 55 of 1920	Appellate Division Jurisdiction Proclamation, 1920	The whole
	Proclamation 8 of 1938	Procedure and Evidence Proclamation, 1938	Section <i>four</i>
	Proclamation 18 of 1949	Administration of Justice Amendment Proclamation, 1949	Paragraphs (b) and (c) of section <i>one</i> and section <i>two</i>
	Ordinance 6 of 1955	Administration of Justice Proclamation Amendment Ordinance, 1955	Section <i>one</i>
Republic		South Africa Act, 1909	Part VI, except section <i>one hundred and fifteen</i>
	Act 1 of 1911	Appellate Division Further Jurisdiction Act, 1911	The whole
	Act 27 of 1912	Administration of Justice Act,	The whole except section

	1912	<i>twenty-eight</i>
Act 10 of 1917	Cape Superior Courts Further Jurisdiction Act, 1917	The whole
Act 12 of 1920	Appellate Division Act, 1920	The whole
Act 24 of 1922	South-West Africa Affairs Act, 1922	Subsection (1) of section <i>five</i> and sections <i>eight</i> and <i>nine</i>
Act 2 of 1924	Water Court Judge Act, 1924	The whole
Act 11 of 1927	Administration of Justice (Further Amendment) Act, 1927	The whole
Act 18 of 1931	Rhodesian Appeals Act, 1931	The whole
Act 21 of 1934	Orange Free State Administration of Justice Amendment Act, 1934	The whole
Act 28 of 1934	Eastern Districts Local Division Constitution Act, 1934	The whole
Act 46 of 1935	General Law Amendment Act, 1935	Sections <i>one hundred and two</i> and <i>one hundred and four</i> to <i>one hundred and nine</i> , inclusive
Act 41 of 1941	Judges Act, 1941	Sections <i>one</i> and <i>three</i>
Act 3 of 1947	Cape Supreme Court Constitution Amendment Act, 1947	The whole
Act 37 of 1948	Criminal Procedure Amendment Act, 1948	The whole
Act 54 of 1949	General Law Amendment Act, 1949	Sections <i>one</i> , <i>six</i> , <i>seven</i> and <i>eight</i>
Act 16 of 1950	Privy Council Appeals Act, 1950	The whole
Act 32 of 1952	General Law Amendment Act, 1952	Sections <i>three</i> , <i>four</i> and <i>twenty-three</i>
Act 62 of 1955	General Law Amendment Act, 1955	Sections <i>one</i> to <i>seven</i> , inclusive, and <i>twenty-seven</i>
Act 50 of 1956	General Law Amendment Act, 1956	Sections <i>seven</i> and <i>eight</i>

Act 68 of 1957	General Law Amendment Act, 1957	Sections <i>two to four</i> , inclusive, <i>nine to fourteen</i> , inclusive, and <i>forty-one</i>
Act 1 of 1959	Appellate Division Quorum Act, 1959	The whole

### SUPREME COURT AMENDMENT ACT 85 OF 1963

[ASSENTED TO 28 JUNE 1963] [DATE OF COMMENCEMENT: 4 DECEMBER 1964]

*(Afrikaans text signed by the State President)*

#### ACT

#### To amend the Supreme Court Act, 1959.

**1 and 2** Amend respectively sections 10 and 20 of the Supreme Court Act 59 of 1959 .

**3** Repeals section 23 of the Supreme Court Act 59 of 1959 .

**4 and 5** Substitute respectively sections 25 and 26 of the Supreme Court Act 59 of 1959 .

**6 to 11 inclusive** Amend respectively the following sections of the Supreme Court Act 59 of 1959 : 27, 30, 32, 34, 39, 43.

**12 Substitution of references to Governor-General and Union in Act 59 of 1959**

The principal Act is hereby amended by the substitution for the word 'Governor-General' wherever it occurs of the words 'State President' and for the word 'Union' wherever it occurs of the word 'Republic'.

**13 Repeal of section 3 of Act 24 of 1922**

Section *three* of the South-West Africa Affairs Act, 1922, is hereby repealed in so far as it relates to the attendance of witnesses in any civil action in the South-West Africa division of the Supreme Court of South Africa.

**14 Short title and commencement**

This Act shall be called the Supreme Court Amendment Act, 1963, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette* .

### SUPREME COURT AMENDMENT ACT 41 OF 1970

[ASSENTED TO 20 AUGUST 1970] [DATE OF COMMENCEMENT: 2 SEPTEMBER 1970]

*(Afrikaans text signed by the State President)*

#### 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.**

**1** Amends section 10 of the Supreme Court Act 59 of 1959 , as follows: paragraph (a) deletes subsection (1) (c) ; and paragraph (b) substitutes subsection (2) (a) .

**2** Amends section 19 of the Supreme Court Act 59 of 1959 by substituting subsection (1).

**3 and 4** Substitute respectively sections 25 and 40 of the Supreme Court Act 59 of 1959 .

**5** Amends section 45 of the Supreme Court Act 59 of 1959 by deleting subsection (3).

**6 Short title**

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

**SUPREME COURT AMENDMENT ACT 37 OF 1976**

[ASSENTED TO 19 MARCH 1976] [DATE OF COMMENCEMENT: 7 APRIL 1976]

*(English text signed by the State President)*

**ACT**

**To amend the Supreme Court Act, 1959, so as to provide for the custody and disposal of records and minutes of evidence and of the proceedings in courts of the provincial and local divisions of the Supreme Court of South Africa.**

**1** Amends section 43 (3) of the Supreme Court Act 59 of 1959 by substituting paragraph (o) .

**2 Short title**

This Act shall be called the Supreme Court Amendment Act, 1976.

**SUPREME COURT AMENDMENT ACT 3 OF 1977**

[ASSENTED TO 24 FEBRUARY 1977] [DATE OF COMMENCEMENT: 9 MARCH 1977]

*(Afrikaans text signed by the State President)*

**ACT**

**To amend the Supreme Court Act, 1959, so as to provide for the appointment of deputy judges president of provincial divisions of the Supreme Court of South Africa and for matters connected therewith.**

**1** Amends section 3 of the Supreme Court Act 59 of 1959 by substituting subsection (2).

**2** Amends section 10 (1) of the Supreme Court Act 59 of 1959 , as follows: paragraph (a) substitutes paragraph (a) ; and paragraph (b) adds paragraph (c) .

**3** Amends section 13 (1) (a) of the Supreme Court Act 59 of 1959 by substituting the proviso.

**4** Amends section 17 of the Supreme Court Act 59 of 1959 by substituting subsection (1).

**5 Short title**

This Act shall be called the Supreme Court Amendment Act, 1977.

**SECOND SUPREME COURT AMENDMENT ACT 86 OF 1977**

[ASSENTED TO 17 JUNE 1977] [DATE OF COMMENCEMENT: 29 JUNE 1977]

*(Afrikaans text signed by the State President)*

### ACT

**To amend the Supreme Court Act, 1959, so as to provide for appeals to the appellate division of the Supreme Court of South Africa from a supreme court or a high court of a state to which independence has been granted by law; and to provide for matters connected therewith.**

- 1 Amends section 21 of the Supreme Court Act 59 of 1959 by inserting subsection (1A).
- 2 Repeals the Appeals from the Supreme Court of Transkei Act 62 of 1976.
- 3 **Short title**

This Act shall be called the Second Supreme Court Amendment Act, 1977.

### SUPREME COURT AMENDMENT ACT 46 OF 1980

[ASSENTED TO 28 APRIL 1980] [DATE OF COMMENCEMENT: 9 MAY 1980]

*(English text signed by the State President)*

### ACT

**To amend the Supreme Court Act, 1959, to change the quorum of the appellate division in certain matters; and to provide for matters incidental thereto.**

- 1 Amends section 12 of the Supreme Court Act 59 of 1959 by substituting subsection (1).
- 2 **Short title**

This Act shall be called the Supreme Court Amendment Act, 1980.

### SUPREME COURT AMENDMENT ACT 18 OF 1985

[ASSENTED TO 15 MARCH 1985] [DATE OF COMMENCEMENT: 3 APRIL 1985]

*(English text signed by the State President)*

### ACT

**To amend the Supreme Court Act, 1959, so as to provide, in consequence of the provisions of the new Constitution, for the submission of a certain address to the State President by each of the respective Houses of Parliament; to increase certain fines; to increase the extent of the exemptions relating to those classes of property which are to a limited extent exempt from execution; and to substitute a certain official title; and to provide for incidental matters.**

- 1 Amends section 10 of the Supreme Court Act 59 of 1959 by substituting subsection (7).
- 2 Amends section 19 *bis* (5) of the Supreme Court Act 59 of 1959 by substituting paragraph (a) .
- 3 Amends section 30 of the Supreme Court Act 59 of 1959 by substituting subsection (4).
- 4 Amends section 32 of the Supreme Court Act 59 of 1959 by substituting subsection (5).

**5** Amends section 39 of the Supreme Court Act 59 of 1959 , as follows: paragraph (a) substitutes paragraph (b) ; paragraph (b) substitutes paragraph (c) ; paragraph (c) substitutes paragraph (e) ; paragraph (d) substitutes paragraph (f) ; and paragraph (e) substitutes the proviso.

**6** Amends section 40 of the Supreme Court Act 59 of 1959 by substituting the words following upon paragraph (d) .

**7 Substitution of certain official title in Act 59 of 1959**

The principal Act is hereby amended by the substitution for the expression 'Secretary for Justice', wherever it occurs, of the expression 'Director-General: Justice'.

**8 Short title**

This Act shall be called the Supreme Court Amendment Act, 1985.

**SUPREME COURT SECOND AMENDMENT ACT 87 OF 1985**

[ASSENTED TO 20 JUNE 1985] [DATE OF COMMENCEMENT: 3 JULY 1985]

*(Afrikaans text signed by the State President)*

**ACT**

**To amend the Supreme Court Act, 1959, so as to make provision for the appointment of more than one deputy judge president in respect of any provincial division of the Supreme Court; and to provide for matters connected therewith.**

**1** Amends section 3 of the Supreme Court Act 59 of 1959 by substituting subsection (2).

**2** Amends section 10 (1) (c) of the Supreme Court Act 59 of 1959 by substituting subparagraph (ii).

**3 Short title**

This Act shall be called the Supreme Court Second Amendment Act, 1985.

**SUPREME COURT AMENDMENT ACT 100 OF 1987**

[ASSENTED TO 14 OCTOBER 1987] [DATE OF COMMENCEMENT: 23 OCTOBER 1987]

*(Afrikaans text signed by the State President)*

**ACT**

**To amend the Supreme Court Act, 1959, so as to further regulate the consideration of an application for leave to appeal; and to provide for matters connected therewith.**

**1** Amends section 21 (3) of the Supreme Court Act 59 of 1959 by substituting paragraph (b) .

**2 Short title**

This Act shall be called the Supreme Court Amendment Act, 1987.