

Superior Courts Bill (Draft)
REPUBLIC OF SOUTH AFRICA
SUPERIOR COURTS BILL

(Draft)

(MINISTER OF JUSTICE)
[B - 99]

REPUBLIEK VAN SUID-AFRIKA
WETSONTWERP OP Hoër HOWE

(Konsep)

(MINISTER VAN JUSTISIE)
[W - 99]
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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.

BILL

To consolidate and amend the laws relating to the Superior Courts of South Africa and to provide for matters incidental thereto.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1

Definitions and objects of Act

Definitions

1. In this Act, unless the context otherwise indicates—

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"High Court" includes any local division of a High Court;

"Judicial Service Commission" means the Judicial Service Commission referred to in section 178 of the Constitution;

"lower court" means any court (other than a Superior Court) 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;¹

"Minister" means the Minister of Justice;

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

"registrar" means the registrar of the Constitutional Court, the Supreme Court of Appeal or a High Court, as the case may be, and includes an assistant registrar;

"Superior Court" means the Constitutional Court, the Supreme Court of Appeal or any High Court.

Objects and interpretation of Act

2. The objects of this Act are to bring the structure of the Republic's Superior Courts into line with the provisions of Chapter 8 of the Constitution and to consolidate and rationalise the laws pertaining to these Courts. This Act must be read with Chapter 8 of the Constitution, which contains the founding provisions for the structure of the Superior Courts, the jurisdiction of these courts and for the appointment of judicial officers. The provisions of this Act complement Chapter 8 of the Constitution, and are subject to the provisions of the Constitution as the supreme law of the Republic.

CHAPTER 2

Constitution, structure and seats of Superior Courts

Constitution of Superior Courts

3. (1) For the purposes of this Act, the Superior Courts comprise the Constitutional Court, the Supreme Court of Appeal and the High Courts.

(2) The Constitutional Court consists of the President of the Constitutional Court, a Deputy President and nine

other judges, and the seat of the Court is in Johannesburg.

(3) The Supreme Court of Appeal consists of the Chief Justice of the Republic of South Africa, a Deputy Chief Justice and so many other judges as the President may determine, and the seat of the Court is in Bloemfontein.

(4) A High Court consists of a Judge President and, if the President so determines, one or more deputy judges president, each with specified headquarters within the area of jurisdiction of that Court, and so many other judges as the President may from time to time determine.

(5) Whenever it appears to the Constitutional Court or to the Supreme Court of Appeal, by reason of the existence of exceptional circumstances, that it is expedient to hold its sitting for the hearing of any matter at a place elsewhere than at the seat of the Court, it may hold such sitting at that place.

Structure of High Courts

4. (1) The High Courts of the Republic are—

- (a) the Eastern Cape High Court, seated in Grahamstown;
- (b) the Free State High Court, seated in Bloemfontein;
- (c) the Kwazulu-Natal High Court, seated in Pietermaritzburg;
- (d) the Mpumalanga High Court, seated in Middelburg;
- (e) the Northern Cape High Court, seated in Kimberley;
- (f) the Northern Gauteng High Court, seated in Pretoria;
- (g) the Northern Province High Court, seated in Pietersburg;
- (h) the North West High Court, seated in Mmabatho;
- (i) the Southern Gauteng High Court, seated in Johannesburg; and
- (j) the Western Cape High Court, seated in Cape Town.

(2) The area of jurisdiction of a High Court is the province in which the Court is seated. The areas of jurisdiction of the Northern Gauteng High Court and the Southern Gauteng High Court are as specified in Schedule 1.

(3) (a) One or more local divisions may be established in respect of any High Court. The establishment, area of jurisdiction and seat of each local division must be specified in Schedule 1. [Upon the commencement of this section, there shall be local divisions in respect of the High Courts as specified in Schedule 1.]COMMENT1

(b) The Minister may from time to time, on the recommendation of the Judicial Service Commission, amend Schedule 1 by proclamation in the Gazette, in order to—

- (i) establish a new local division;
- (ii) abolish a local division;
- (iii) amend the area of jurisdiction of a local division; or
- (iv) change the seat of a local division.

(4) A High Court shall exercise concurrent jurisdiction in the area of jurisdiction of a local division established in respect of such Court.

Circuit local divisions

5. (1) The Judge President of a High Court may by notice in the Gazette divide the area under the jurisdiction of that Court into circuit districts, and may from time to time by like notice alter the boundaries of any such district.

(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 High Court 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 of the High Court concerned.

CHAPTER 3

Appointment of judges and officers, and finances of Superior Courts

Appointment of judges and acting judges, and remuneration and tenure of office

6. (1) Judges and acting judges of the Superior Courts are appointed in accordance with the provisions of the Constitution. This section complements the provisions of sections 174, 175, 176 and 177 of the Constitution.

(2) The Deputy President of the Constitutional Court shall—

- (a) in the absence of the President of the Constitutional Court, or if the office of President of the Constitutional Court is vacant, perform the functions of the President of the Constitutional Court; and
- (b) perform such other functions of the President of the Constitutional Court as he or she may assign to him or her.

(3) The Deputy Chief Justice shall—

- (a) in the absence of the Chief Justice, or if the office of Chief Justice of South Africa is vacant, perform the functions of the Chief Justice; and
- (b) perform such other functions of the Chief Justice as he or she may assign to him or her.

(4) (a) A deputy Judge President of a High Court may be appointed by the President indefinitely or for such period

as he or she may determine.

(b) A deputy Judge President of a High Court, designated by the President, shall act as the Judge President of that Court during the Judge President's absence, and a deputy Judge President shall perform such functions of a Judge President as the Judge President may assign to him or her.

(5) (a) Any person who has been appointed as an acting judge of a Superior Court, shall be deemed to have been so appointed 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 or she has participated as such a judge and which have not yet been disposed of at the expiry of the period for which he or she was appointed.

(b) If a person holding office in an acting capacity as a judge of a Superior Court is appointed as a judge of such a Court, such appointment may be made with retrospective effect from the commencement of the period during which he or she so held office, or, where he or she 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.

(6) Judges of the Superior Courts, including acting judges, receive such remuneration as may be prescribed by or under the Judges' Remuneration and Conditions of Employment Act, 1989 (Act No. 88 of 1989).

(7) No judge of a Superior Court may 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 or her salary and any allowances which may be payable to him or her in his or her capacity as such a judge.

(8) All other conditions of employment of judges of the Superior Courts shall be as may be prescribed by or under the Judges' Remuneration and Conditions of Employment Act, 1989.

Appointment of officers and staff of Superior Courts

7. (1) The Minister must, subject to the laws governing the public service, on the request of and in consultation with—

(a) the President of the Constitutional Court;

(b) the Chief Justice; or

(c) the Judge President of a High Court concerned,

as the case may be, appoint for each Superior Court a registrar, assistant registrars and other officers and staff whenever they may be required for the administration of justice or the execution of the powers and authorities of the Court concerned.

(2) (a) The President of the Constitutional Court and the Chief Justice may, in consultation with the Minister, from time to time appoint for the Constitutional Court or the Supreme Court of Appeal, as the case may be, one or more persons to undertake such research or perform such other duties as the President of the Constitutional Court or the Chief Justice may determine.

(b) The remuneration and other terms and conditions of employment of a person appointed in terms of paragraph (a) shall be as determined, either generally or in any specific case, by the President of the Constitutional Court or the Chief Justice in consultation with the accounting officer referred to in section 8(3).

(3) Whenever by reason of absence or incapacity any registrar or assistant registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the Minister may after consultation with the President of the Constitutional Court, Chief Justice or Judge President concerned, as the case may be, authorise 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.

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

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

Finances and accountability

8. (1) Expenditure in connection with the administration and functioning of the Superior Courts shall be defrayed from moneys appropriated by Parliament.

(2) The Minister must address requests for the funds needed for the administration and functioning of each Superior Court, as determined by the President of the Constitutional Court, the Chief Justice or the Judge President of a High Court, as the case may be, to Parliament in the manner prescribed for the budgetary processes of departments of state.

(3) The Director-General: Justice or an officer of the Department of Justice designated by him or her for such purpose shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—

(a) be charged with the responsibility of accounting for money received or paid out for or on account of the administration and functioning of each Superior Court; and

(b) cause the necessary accounting and other related records to be kept, which records shall be audited by the Auditor-General.

CHAPTER 4

Manner of arriving at decisions in Superior Courts

Decisions by Constitutional Court

9. (1) In accordance with the Constitution, any matter before the Constitutional Court must be heard by at least eight judges.

(2) If, at any stage of a hearing, a judge of the Constitutional Court is absent or unable to perform his or her functions, or if a vacancy among the members of the Court arises—

(a) and the remaining members of the Court are not less than eight in number—

(i) such hearing shall continue before the remaining judges of the Court; and

(ii) the decision of the majority of the remaining judges of the Court shall, if that majority is also a majority of the judges of the Court before whom the hearing commenced, be the decision of the Court; or

(b) if the remaining judges of the Court are less than eight, or if the majority of the remaining judges of the Court is not also a majority of the judges of the Court before whom the hearing commenced, the proceedings shall be stopped and commenced de novo.

Decisions by Supreme Court of Appeal

10. (1) The quorum of the Supreme Court of Appeal shall, subject to the provisions of subsection (2), be five judges in all criminal and civil matters: Provided that—

(a) an application under section 3(5) shall be heard and determined by the Chief Justice and two judges of appeal;

(b) the Chief Justice may direct that an appeal in a criminal or civil matter, except a criminal matter arising out of proceedings instituted before a special criminal court constituted under section 148 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), be heard before a court consisting of three judges;

(c) whenever it appears to the Chief Justice 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 or she 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 or she may determine.

(2) The judgment of the majority of the judges presiding at proceedings before the Supreme Court of Appeal shall be the judgment 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 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 or her.

(5) During any period which may be fixed by rule of court as a vacation of the Supreme Court of Appeal, 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.

Decisions by High Courts

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

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

(2) (a) A High Court 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 a lower 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 constituted before a single judge of such High Court, be constituted before three judges.

(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 or her.

(3) Whenever it appears to the Judge President or, in his or her absence, the senior available judge of the High

Court concerned, that any matter which is being heard before that Court should in view of its importance be heard before a court consisting of a larger number of judges, he or she may direct that the hearing be discontinued and commenced anew before a court consisting of so many judges as he or she may determine.

(4) For the hearing of any criminal case as a court of first instance, a High Court 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 a High Court, 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 High Court.

(6) 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 High Court 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 High Court concerned may determine.

(7) 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.

(8) The provisions of subsection (6) shall apply, with the changes required by the context, whenever in the circumstances set out in subsection (7) a hearing proceeds before two or more judges.

CHAPTER 5

Orders of constitutional invalidity, appeals and settlement of conflicting decisions

Referral of order of constitutional invalidity to Constitutional Court

12. (1) (a) Whenever the Supreme Court of Appeal, a High Court or a court of similar status declares an Act of Parliament, a provincial Act or conduct of the President invalid as contemplated in section 172(2)(a) of the Constitution, that court must, in accordance with the rules, refer the order of constitutional invalidity to the Constitutional Court for confirmation.

(b) Whenever any person or organ of state with a sufficient interest appeals or applies directly to the Constitutional Court to confirm or vary an order of constitutional invalidity by a court, as contemplated in section 172(2)(d) of the Constitution, the Court must deal with the matter in accordance with the rules.

(2) If requested by the President of the Constitutional Court to do so, the Minister must appoint counsel to present argument to the Court in respect of any matter referred to the Court as contemplated in subsection (1)(a).

Appeals in general

13. (1) The full court of a High Court is the primary court of appeal in respect of all appeals, civil and criminal, emanating from judgments or orders of a single judge or two judges of such High Court sitting as a court of first instance.

(2) (a) An appeal to a full court from a judgment or order of a single judge or two judges sitting as court of first instance requires leave from the court against whose judgment or order the appeal is to be brought.

(b) If such leave to appeal is granted, the Chief Justice may, on application to him or her by a party to the proceedings or on the recommendation of the judge who granted leave to appeal, direct that the appeal be heard by the Supreme Court of Appeal without engaging a full court of a High Court.

(c) If such leave to appeal is refused by the court contemplated in paragraph (a), the Chief Justice may be petitioned to grant leave to appeal and if such leave is granted the Chief Justice must determine whether the appeal must be heard by a full court of a High Court or by the Supreme Court of Appeal.

(3) An appeal to the Supreme Court of Appeal is subject to the granting of leave to appeal by the Supreme Court of Appeal.

(4) (a) Any leave required 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 Supreme Court of Appeal 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 Supreme Court of Appeal may order the applicant to find 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.

(5) 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 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.

(6) A full court must be constituted by the Judge President of the High Court concerned but, where appropriate and practicable, it may include judges of a High Court of any other province.

(7) (a) A single judge of a High Court in any province shall be bound by the judgment of a full court of any other High Court.

(b) A full court of a High Court in any province shall be bound by the prior judgment of any other full court, unless it considers such earlier judgment to be plainly wrong.

(8) Notwithstanding any other law, no appeal shall lie from a judgment or order of a High Court in proceedings in connection with an application—

(a) by one spouse against the other for maintenance pendente lite;

(b) for contribution towards 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 about to be instituted.

Appeals to the Supreme Court of Appeal

14. (1) Subject to this Act or any other law, the Supreme Court of Appeal has unfettered jurisdiction to decide what appeals should be heard by it.

(2) In addition to any jurisdiction conferred upon it by this Act or any other law, the Supreme Court of Appeal has, subject to the provisions of this section or any other law, jurisdiction to hear and determine an appeal from any decision of any High Court.

(3) The leave of the Supreme Court of Appeal required in terms of section 13(2)(c) and (3), 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 against which the appeal is to be made, was given or after the court referred to in section 13(2)

(a) refused leave to appeal, as the case may be.

(4) (a) An application to the Supreme Court of Appeal under subsection (3) must be submitted by petition addressed to the Chief Justice.

(b) The petition must be considered by two judges of the Supreme Court of Appeal designated by the Chief Justice, and in the case of difference of opinion, also by the Chief Justice or any other such judge so designated.

(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;

(ii) refer the application to the Supreme Court of Appeal for consideration, whether upon argument or otherwise, and where an application has been so referred to the Supreme Court of Appeal it may thereupon grant or refuse the application.

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

(e) Notice of the date fixed for the hearing of any application under this subsection, and of the place appointed for such hearing, must be given to the applicant and the respondent by the registrar of the Supreme Court of Appeal.

Powers of court of appeal in certain civil proceedings

15. (1) When at the hearing of any civil appeal to the Supreme Court of Appeal or any High 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 Court 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 changes required by the context if a petition

referred to in section 14(4) is considered.

Powers of Court on hearing of appeals

16. Any Superior Court 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 Court, 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 Court 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.

Settlement of conflicting decisions in civil cases

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

CHAPTER 6

Provisions applicable to High Courts only

Persons over whom and matters in relation to which High Courts have jurisdiction

18. (1) A High Court has 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 have power, subject to the direction of the Judge President concerned—

- (a) to hear and determine appeals from all lower courts within its area of jurisdiction;
 - (b) to review the proceedings of all such courts;
 - (c) 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 can not claim any relief consequential upon the determination.
- (2) A High Court 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 Court 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 High Court.
- (3) Subject to the provisions of section 25 and the powers granted under section 4 of the Admiralty Jurisdiction Regulation Act, 1983 (Act No. 105 of 1983), any High Court may—
- (a) 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
 - (b) where the plaintiff is resident or domiciled within its area of jurisdiction, but the cause of action arose outside its area of jurisdiction, issue an order for the attachment of property or arrest of a person to found jurisdiction regardless of where in the Republic the property or person is situated.

Grounds of review of proceedings of lower courts

19. (1) The grounds upon which the proceedings of any lower court may be brought under review before a High Court are—

- (a) absence of jurisdiction on the part of the court;
 - (b) interest in the cause, bias, malice or corruption on the part of the presiding judicial officer;
 - (c) gross irregularity in the proceedings; and
 - (d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.
- (2) Nothing in this section shall affect the provisions of any other law relating to the review of proceedings in lower courts.

Judgment by default

20. 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 No. 107 of 1985), and a judgment so entered shall be deemed to be a judgment of the court.

Time allowed for appearance

21. The time allowed for entering an appearance to a civil summons served outside the area of jurisdiction of the High Court in which it was issued shall be not less than—

- (a) 21 days if the summons is to be served at a place more than 150 kilometres from the court out of which it was issued; and
(b) 14 days in any other case.

Circumstances in which security for costs shall not be required

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

Disposal of records and execution of judgments of circuit courts

23. (1) Within 30 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 High Court concerned to be filed as records of that High Court.
(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 High Court concerned.

Removal of proceedings from one High Court to another

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

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

25. (1) No attachment of person or property to found jurisdiction shall be ordered by a High Court 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 or her 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.

CHAPTER 7

General provisions

Part 1

Nature of Courts and rules

Nature of Courts and seals

26. (1) Every Superior Court is a court of record.
(2) Every Superior Court shall have for use as occasion may require, a seal of such design as may be prescribed by the President by proclamation in the Gazette.
(3) The seal of a Superior Court shall be kept in the custody of the Registrar.

Proceedings to be carried on in open court

27. Save as is otherwise provided in any law, all proceedings in any Superior Court must, except in so far as any such Court may in special cases otherwise direct, be carried on in open court.

More than one court may sit at the same time

28. The Supreme Court of Appeal and any High Court may at any time sit in so many courts constituted in the manner provided in this Act as the available judges may allow.

Rules of Court

29. (1) Subject to the provisions of section 173 of the Constitution, rules for the Supreme Court of Appeal and the High Courts must be made in accordance with the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985).
(2) (a) The President of the Constitutional Court may, in consultation with the Chief Justice, by notice in the Gazette make rules relating to the manner in which the Constitutional Court may be engaged in any matter in respect of which it has jurisdiction, including the matters referred to in section 172 of the Constitution, and all

matters relating to the proceedings of and before the Court.

(b) Every rule made under paragraph (a) and every amendment or repeal thereof must be submitted to Parliament before the promulgation thereof and tabled as soon as possible.

(3) The rules of the Constitutional Court must, when it is in the interests of justice and with leave of the Court, allow a person—

(a) to bring a matter directly to the Court; or

(b) to appeal directly to the Court from any other court.

Part 2

Adducing of evidence and procedural matters

Certified copies of court records admissible as evidence

30. Whenever a judgment, decree, order or other record of any Superior Court 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 Court under its seal shall be prima facie evidence thereof without proof of the authenticity of such registrar's signature.

Manner of securing attendance of witnesses or production of any document or thing in proceedings and penalties for failure

31. (1) A party to proceedings before any Superior Court 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 that Court.

(2) Whenever any person subpoenaed to attend any 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 person who served such subpoena, or from evidence given under oath, that—

(a) the subpoena was served upon the person to whom it is directed and that his or her reasonable expenses calculated in accordance with the tariff framed under section 33(1) have been paid or offered to him or her; or

(b) he or she is evading service,

or if any person who has attended in obedience to a subpoena fails to remain in attendance, the Court concerned may issue a warrant directing that he or she 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 in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him or her, with a view to securing his or her presence as a witness or to produce any document or thing at the proceedings concerned: Provided that any judge of the Court concerned may release him or her on a recognisance with or without sureties for his or her appearance to give or to produce any document or thing as required.

(4) Any person subpoenaed in terms of subsection (1) to attend any proceedings as a witness or to produce any document or thing, who fails without reasonable excuse to obey such subpoena, shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months.

(5) If a person who has entered into any recognisance in terms of subsection (3) for his or her appearance to give evidence at such proceedings or to produce any document or thing, fails without reasonable excuse so to appear or to produce such document or thing, he or she shall, apart from the forfeiture of his or her recognisance, be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months.

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

32. (1) Whenever any person who appears either in obedience to a subpoena or by virtue of a warrant issued under section 30 or who is present and is verbally required by the Superior Court concerned to give evidence in any proceedings—

(a) refuses to take an oath or to make an affirmation;

(b) having taken an oath or having made an affirmation, refuses to answer such questions as are put to him or her; or

(c) refuses or fails to produce any document or thing which he or she 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 prison unless he or she sooner consents to do what is required of him or her.

(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 or her, the Court may again adjourn the proceedings and commit him or her for a like period and so again from time to time until such person consents to do what is required of him or her.

(3) Nothing in this section contained shall prevent the Court from giving judgment in any matter 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 or she actually has it in Court.

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

(a) that he or she 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 or her attendance would be an abuse of the process of the Court, any judge of the Court concerned 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 or she appears, make an order cancelling such subpoena.

Witness fees

33. (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 any other law, a Superior Court may order that no allowances or only a portion of the allowances prescribed shall be paid to any witness.

Reference of particular matters for investigation by referee

34. (1) In any civil proceedings the Constitutional Court or any High Court 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 can not 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 appointed by the parties, 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 the Court or by rules of the 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 or she 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 her, or fails to produce any document or thing in his or her possession or custody or under his or her control which he or she 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.

(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 or her 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.

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

35. (1) The Constitutional Court or any High Court may, in connection with any civil proceedings pending before it, order that the evidence of a person be taken by means of interrogatories if—

(a) in the case of the Constitutional Court, the Court deems it in the interests of the administration of justice; or
 (b) in the case of a High Court, that person resides or is for the time being outside the area of jurisdiction of the Court.

(2) Whenever an order is made under subsection (1), the registrar of the Court shall certify that fact and transmit a copy of his or her 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 or her appearance as hereinafter provided.

(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 or her, and upon his or her appearance shall take his or her evidence as if he or she was a witness in a civil case in the said court, and shall put to him or her 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.

(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 or her appearance, and the cost of the issue and service of the process for summoning such person before him or her.

(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.

(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.

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

36. (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 High Court by the Director-General: Justice, together with a translation in English 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 Court 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.

(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 High Court by the Director-General: Justice, together with a translation in English if the original is in any other language, and in 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 Court 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.

Contempt of Court

37. (1) Any person who—

(a) during the sitting of any Superior Court, wilfully insults any member of the Court or any officer of the Court present at the sitting, or who wilfully hinders or obstructs any member of any Superior Court or any officer thereof in the exercise of his or her powers or the performance of his or her duties;

(b) wilfully interrupts the proceedings of any Superior Court or otherwise misbehaves himself or herself in the place where the sitting of the Court is held; or

(c) does anything calculated improperly to influence any Superior Court in respect of any matter being or to be considered by the Court,

may, by order of the Court, be removed and detained in custody until the rising of the Court.

(2) Removal and detention in terms of subsection (1) shall not preclude the prosecution in a court of law of the person concerned on a charge of contempt of court.

Part 3

Process of Superior Courts

Scope and execution of process

38. (1) The process of the Constitutional Court and the Supreme Court of Appeal shall run throughout the Republic, and its judgments and orders shall, subject to the rules, be executed in any area in like manner as if

they were judgments or orders of the High Court or the magistrate's court having jurisdiction in such area.

(2) The civil process of a High Court shall run throughout the Republic and may be served or executed within the jurisdiction of any High Court.

(3) 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.

Execution of process by sheriff

39. (1) The sheriff or a deputy-sheriff shall, subject to the rules referred to in section 29, execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of any Superior Court directed to the sheriff and shall make return of the manner of execution thereof to the court and to the party at whose instance they were issued.

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

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

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

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

40. In any civil proceeding—

(a) any summons, writ, warrant, rule, order, notice, document or other process of a Superior 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 or her 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

(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 14 days, has elapsed to allow for 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 a Superior 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 28 days from the date of the arrest of such person.

Property not liable to be seized in execution

41. 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 or her 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;

(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;

(d) any food or drink sufficient to meet the needs of such person and the members of his or her 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;

(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;

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

Provided that the Court concerned 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).

Offences relating to execution

42. Any person who—

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

(b) being aware that goods are under arrest, interdict or attachment by a Superior Court, makes away with or

disposes of those goods in a manner not authorized by law, or knowingly permits those goods, if in his or her possession or under his or her 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 or she 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

(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 or her possession or under his or her control relating to the title of the immovable property under execution,

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.

No process to be issued against judge except with consent of Court

43. (1) Notwithstanding any other law, no civil proceedings by way of summons or notice of motion may be instituted against any judge of a Superior Court, and no subpoena in respect of civil proceedings may be served on any judge of a Superior Court, except with the consent of—

(a) the President of the Constitutional Court, in the case of the Chief Justice or any judge of the Constitutional Court;

(b) the Chief Justice, in the case of—

(i) the President of the Constitutional Court;

(ii) any judge of the Supreme Court of Appeal; or

(iii) any Judge President of a High Court; or

(c) the Judge President concerned, in the case of any other judge of a High Court.

(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 must be determined in consultation with the judge from whom such consent has been obtained.

CHAPTER 8

Repeal of laws, transitional provisions and commencement

Repeal of laws

44. (1) The laws mentioned in Schedule 2 are hereby repealed to the extent set out in the fourth column of that Schedule.

(2) 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.

Existing High Courts

45. (1) On the date of the commencement of this Act the High Court seated—

(a) in Grahamstown becomes the Eastern Cape High Court;

(b) in Bloemfontein becomes the Free State High Court;

(c) in Pietermaritzburg becomes the Kwazulu-Natal High Court;

(d) in Kimberley becomes the Northern Cape High Court;

(e) in Pretoria becomes the Northern Gauteng High Court;

(f) in Mmabatho becomes the North West High Court;

(g) in Johannesburg becomes the Southern Gauteng High Court;

(h) in Cape Town becomes the Western Cape High Court;

(i) in Durban becomes the Durban and Coast Local Division of the Kwazulu-Natal High Court;

(j) in Bisho becomes the Bisho Local Division of the Eastern Cape High Court;

(k) in Port Elizabeth becomes the Tsitsikamma Local Division of the Eastern Cape High Court;

(l) in Umtata becomes the Transkei Local Division of the Eastern Cape High Court;

(m) in Thohoyandou becomes the Thohoyandou Local Division of the Northern Province High Court.

(2) Any circuit local division established under any law repealed by this Act and in existence immediately before the commencement of this Act, shall be deemed to have been duly established in terms of this Act as a circuit local division of the High Court of the province concerned.

(3) Notwithstanding section 4(1) and (2), the Northern Gauteng High Court shall also function as the High Court for the provinces of Mpumalanga and the Northern Province respectively until such time as a High Court is established in respect of each of the provinces concerned. The Minister must, in consultation with the Chief Justice, by notice in the Gazette determine a date in respect of each such province on which the High Court of the province must commence its functions.

Existing rules remain in force

46. The rules applicable to the Superior Courts immediately before the commencement of this Act remain in force to the extent that it is not inconsistent with this Act, until repealed or amended by a competent authority.

Pending proceedings

47. (1) Subject to section 24, proceedings pending at the commencement of this Act shall be continued and concluded as if this Act had not been passed.

(2) Proceedings shall, for the purposes of this section, be deemed to be pending if, at the commencement of this Act—

(a) a civil summons had been issued but judgment had not been passed; or

(b) an accused person had pleaded but judgment or sentence had not been passed.

(3) Subsections (1) and (2) shall also be applicable, with the changes required by the context, in respect of proceedings pending on a date contemplated in section 45(3).

References in other laws

48. Any reference in any law—

(a) to the Supreme Court Act, 1959, or a provision of the said Act, must be construed as a reference to this Act or a corresponding provision of this Act; and

(b) to a Supreme Court, a High Court, or a provincial or local division of a Supreme Court, must be construed as a reference to a High Court or a local division of a High Court referred to in this Act, as the context may require; and

(c) to the Appellate Division of a Supreme Court, must be construed as a reference to the Supreme Court of Appeal.

Short title and commencement

49. This is the Superior Courts Act, 1999, and comes into operation on a date fixed by the President by proclamation in the Gazette.

SCHEDULE 1**(Section 4)****Part 1**

1. The area of jurisdiction of the Northern Gauteng High Court comprises the following magisterial districts: **Bronkhorstspuit, Cullinan, Kempton Park, Krugersdorp, Pretoria, Randburg and Wonderboom.**

2. The area of jurisdiction of the Southern Gauteng High Court comprises the following magisterial districts: **Alberton, Benoni, Boksburg, Brakpan, Germiston, Heidelberg, Johannesburg, Nigel, Oberholzer, Randfontein, Roodepoort, Springs, Vanderbijlpark, Vereeniging and Westonarea.**

Part 2**Local Divisions of the High Courts, seats and jurisdiction**

Name of Division	Seat	Area of jurisdiction
Durban and Coast Local Division of the Kwazulu-Natal High Court	Durban	The magisterial districts of Alfred, Port Shepstone, Umzinto, Umlazi, Umbumbulu, Durban, Pinetown, Chatsworth, Inanda, Ndedwe, Mapumulo, Lower Tugela, Mtunzini, Eshowe, Nkandhla, Entonjaneni, Lower Umfolozi, Mahlabatini, Hlabisa, Nongoma, Umbombo and Ingwavuma
Bisho Local Division of the Eastern Cape High Court	Bisho	The magisterial districts of... (to be determined)

Tsitsikamma Local Division of the Eastern Cape High Court	Port Elizabeth	The magisterial districts of Port Elizabeth, Kirkwood, Uitenhage, Hankey, Humansdorp, Joubertina and Steytlerville
Transkei Local Division of the Eastern Cape High Court	Umtata	The magisterial districts of Bizana, Butterworth, Cacadu (Lady Frere), Cala, Cofimvaba, Elliotdale (Xhora), Engcobo, Flagstaff (Siphaxeni), Gatyana (Willowvale), Idutywa, Kentani, Kwabhaca (Mount Frere), Libode, Lusikisiki, Maluti (Matatiele) Maxesibeni, Mount Flether, Mqanduli, Nqamakwe, Ngeleni, Qumbu, Sterkspruit, (Herchel), Thabankulu, Tsolo, Tsomo, Umtata, Umzimkulu, Umzimvubu (Port St Johns)
Thohoyandou Local Division of the Northern Province High Court	Thohoyandou	The magisterial districts of... (to be determined)

SCHEDULE 2
(section 44)

No. and year of law	Short title	Extent of repeal
Act No. 59 of 1959	Supreme Court Act, 1959	The whole
Act No. 59 of 1959 (Venda)	Supreme Court Act, 1959	The whole
Act No. 16 of 1969	Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969	The whole
Act No. 15 of 1976 (Transkei)	Republic of Transkei Constitution Act, 1976	Sections 44 up to and including 53
Act No. 18 of 1977 (Bophuthatswana)	Republic of Bophuthatswana Constitution Act, 1977	Sections 8(2), (3) and (4); 22 (1)(b); 53(2); 59 up to and including 67; 78; 89(1), (2) and (3); 90(1) and (2); 91(1) (b), (c)(iii) and (d); and 93(1) (f).
Act No. 9 of 1979 (Venda)	Republic of Venda Constitution Act, 1979	(?)
Act No. 32 of 1982	Supreme Court of	The whole

(Bophuthatswana)	Bophuthatswana Act, 1982	
Act No. 5 of 1983 (Transkei)	Supreme Court Act, 1983	The whole
Decree No. 43 of 1990 (Ciskei)	Supreme Court Decree, 1990	The whole
Decree No. 45 of 1990 (Ciskei)	Republic of Ciskei Constitution Decree, 1990	Sections 27 and 28
Act No. 13 of 1995	Constitutional Court Complementary Act, 1995	The whole