

# ACT

To amend section 7 of the Magistrates' Courts Act, 1944, in order to change the period of preservation of court records at magistrates' courts; to amend section 9 of that Act in order to make more effective provision for acting appointments of judicial officers in magistrates' courts; and to provide for matters incidental thereto.

(English text signed by the State President.)  
(Assented to 9th February, 1967.)

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

Substitution of section 7 of Act 32 of 1944, as amended by section 23 of Act 93 of 1962 and section 7 of Act 80 of 1964.

1. The following section is hereby substituted for section 7 of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act):

"Public access to records and custody thereof.

7. (1) Subject to the rules the records of the court shall be accessible to the public under supervision of the clerk of the court at convenient times and upon payment of such fees as may be prescribed by such rules, and for this purpose and for all other purposes the records of any court of magistrate or resident magistrate which has at any time existed within the Republic, shall be deemed to be the records of the court of the district in which the place where such court was held is situated, and such records shall be preserved at the seat of magistracy of that district for such periods as the Secretary for Justice may from time to time determine.

(2) The Secretary for Justice may order that after expiry of the periods referred to in subsection (1) the records so preserved be removed to a central place of custody or be destroyed or otherwise disposed of."

Substitution of section 9 of Act 32 of 1944, as amended by section 8 of Act 40 of 1952, section 17 of Act 50 of 1956, section 38 of Act 68 of 1957, section 24 of Act 93 of 1962, section 1 of Act 19 of 1963 and section 1 of Act 48 of 1965.

2. The following section is hereby substituted for section 9 of the principal Act:

"Appointment of judicial officers.

9. (1) (a) Subject to the provisions of the law governing the public service and the provisions of paragraph (b) of this subsection and of section 10, the Minister may appoint for any district or sub-district a magistrate, one or more additional magistrates or one or more assistant magistrates and for every regional division a magistrate or magistrates.

(b) No person shall be appointed as a magistrate of a regional division unless he is a magistrate who has satisfied all the requirements for the degree of *baccalaureus legum* of a university in the Republic or has passed the Public Service Senior Law Examination or an examination deemed by the Public Service Commission to be equivalent or superior to the said examination, and the board referred to in section 9*bis* has informed the Minister that he is suitable for appointment as a magistrate of a regional division.

(c) A magistrate of a regional division may also be the magistrate of a district.

(2) (a) No person holding any appointment under subsection (1) shall perform the functions of a judicial officer in any magistrate's court, unless he has taken an oath or made an affirma-

tion subscribed by him, in the form set out below, namely—

I.....  
(full name)

do hereby swear/solemnly and sincerely affirm and declare that whenever I may be called upon to perform the functions of a judicial officer in any magistrate's court, I will administer justice to all persons alike without fear, favour or prejudice and in accordance with the law and customs of the Republic.

(b) Any such oath or affirmation shall be taken or made in open court before the most senior available magistrate of the district concerned or a justice of the peace 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 by reason of absence or incapacity a magistrate, additional magistrate or assistant magistrate is unable to carry out the functions of his office or whenever such office becomes vacant, the Minister, or an officer in the Department of Justice authorized thereto in writing by the Minister, may appoint any other competent officer of the public service or any competent retired officer of the public service to act in the place of the absent or incapacitated magistrate, additional magistrate or assistant magistrate, as the case may be, during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that no person shall be appointed as an acting magistrate of a regional division unless he has satisfied all the requirements for the degree referred to in subsection (1) (b) or has passed an examination referred to in that subsection: Provided further that when any such vacancy has remained unfilled for a continuous period exceeding six months the fact shall be reported to the Public Service Commission.

(4) The Minister or an officer in the Department of Justice authorized thereto in writing by the Minister, may appoint temporarily any competent person to act either generally or in a particular matter as magistrate of a regional division in addition to any magistrate or acting magistrate of that division or as additional or assistant magistrate for any district or sub-district in addition to the magistrate or any other additional or assistant magistrate.

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

Short title.

3. This Act shall be called the Magistrates' Courts Amendment Act, 1967.