



# STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

*As 'n Nuusblad by die Poskantoor Geregistreer*

*Registered at the Post Office as a Newspaper*

PRYS 40c PRICE  
Plus AVB/GST  
BUITELANDS 50c ABROAD  
POSVRY · POST FREE

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Vol. 230

KAAPSTAD, 15 AUGUSTUS 1984

No. 9359

CAPE TOWN, 15 AUGUST 1984

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1687.

15 Augustus 1984

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

No. 1687.

15 August 1984

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

—No. 109 van 1984: Wysigingswet op Strafprosesaangeleenthede, 1984.

No. 109 of 1984: Criminal Procedure Matters Amendment Act, 1984.

## CRIMINAL PROCEDURE MATTERS AMENDMENT ACT, 1984

Act No. 109, 1984

## GENERAL EXPLANATORY NOTE:

[                    ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

# ACT

To amend the Magistrates' Courts Act, 1944, so as to increase the punitive jurisdiction relating to fines of magistrates' courts and the courts of regional divisions; and to amend the Criminal Procedure Act, 1977, so as to further regulate the issue of written notices to secure the attendance of an accused in a magistrate's court; to increase the admission of guilt fine which may be paid in terms of a summons or a written notice; to increase the fine which may be imposed upon an accused after a conviction pursuant to a plea of guilty only; to regulate more clearly the duty of an accused and a witness to appear at proceedings which have been adjourned; to increase the compensation which may be awarded by a lower court to any person who has suffered damage as a result of an offence tried by that court; and to further regulate the review of certain sentences; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)  
(Assented to 12 July 1984.)

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

1. Section 92 of the Magistrates' Courts Act, 1944, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 

5 of the following paragraph:

“(b) by fine, may impose a fine not exceeding [one thousand rand] R2 000, where the court is not the court of a regional division, or not exceeding [ten thousand rand] R20 000, where the court is the court of a regional division;”.

10

Amendment of section 92 of Act 32 of 1944, as substituted by section 30 of Act 94 of 1974 and amended by section 9 of Act 91 of 1977.
2. Section 56 of the Criminal Procedure Act, 1977 (hereinafter referred to as the principal Act), is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 

15 “If an accused is alleged to have committed an offence and a peace officer on reasonable grounds believes that a magistrate's court, on convicting such accused of that offence, will not impose a fine exceeding [one hundred rand] R300, such peace officer may, whether or not the accused is in custody, hand to the accused a written notice which shall —”.

20

Amendment of section 56 of Act 51 of 1977.
3. Section 57 of the principal Act is hereby amended—
 

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

25 “(a) a summons is issued against an accused under section 54 (in this section referred to as the summons) and the public prosecutor or the clerk of the court

Amendment of section 57 of Act 51 of 1977.

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concerned on reasonable grounds believes that a magistrate's court, on convicting the accused of the offence in question, will not impose a fine exceeding [one hundred rand] R300, and such public prosecutor or clerk of the court endorses the summons to the effect that the accused may admit his guilt in respect of the offence in question and that he may pay a fine stipulated on the summons in respect of such offence without appearing in court; or"; and

(b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

"(b) An admission of guilt fine determined under paragraph (a) shall not exceed the maximum of the fine prescribed in respect of the offence in question or the amount of [one hundred rand] R300, whichever is the lesser."

4. Section 112 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) the presiding judge may, if he is of the opinion that the offence does not merit the sentence of death, or the presiding judge, regional magistrate or magistrate may, if he is of the opinion that the offence does not merit punishment of imprisonment or any other form of detention without the option of a fine or of a whipping or of a fine exceeding [one hundred rand] R300, convict the accused in respect of the offence to which he has pleaded guilty on his plea of guilty only and—

(i) impose any competent sentence, other than the sentence of death or imprisonment or any other form of detention without the option of a fine or a whipping or a fine exceeding [one hundred rand] R300; or

(ii) deal with the accused otherwise in accordance with law;"; and

(b) by the substitution in paragraph (b) of subsection (1) for the words preceding the proviso of the following words:

"the presiding judge shall, if he is of the opinion that the offence merits the sentence of death, or the presiding judge, regional magistrate or magistrate shall, if he is of the opinion that the offence merits punishment of imprisonment or any other form of detention without the option of a fine or of a whipping or of a fine exceeding [one hundred rand] R300, or if requested thereto by the prosecutor, question the accused with reference to the alleged facts of the case in order to ascertain whether he admits the allegations in the charge to which he has pleaded guilty, and may, if satisfied that the accused is guilty of the offence to which he has pleaded guilty, convict the accused on his plea of guilty of that offence and impose any competent sentence:"

5. The following section is hereby substituted for section 170 of the principal Act:

"Failure of accused to appear after adjournment or to remain in attendance.

170. (1) An accused at criminal proceedings who is not in custody and who has not been released on bail, and who fails to appear at the place and on the date and at the time to which such proceedings may be adjourned or who fails to remain in attendance at such proceedings as so adjourned, shall be guilty of

Amendment of section 112 of Act 51 of 1977.

Substitution of section 170 of Act 51 of 1977, as amended by section 11 of Act 56 of 1979.

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an offence and liable to the punishment prescribed under subsection (2).

5 (2) The court may, if satisfied that an accused referred to in subsection (1) has failed to appear at the place and on the date and at the time to which the proceedings in question were adjourned or has failed  
10 to remain in attendance at such proceedings as so adjourned, issue a warrant for his arrest and, when he is brought before the court, in a summary manner enquire into his failure so to appear or so to remain  
15 in attendance and, unless the accused satisfies the court that his failure was not due to fault on his part, convict him of the offence referred to in subsection (1) and sentence him to a fine not exceeding R100 or to imprisonment for a period not exceeding three months.”.

6. Section 188 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 188 of Act 51 of 1977.

20 “(1) Any person who is subpoenaed to attend criminal proceedings and who fails to attend or to remain in attendance at such proceedings, and any person who is warned by the court to remain in attendance at criminal proceedings and who fails to remain in attendance at such proceedings,  
25 and any person so subpoenaed or so warned who fails to appear at the place and on the date and at the time to which the proceedings in question may be adjourned or who fails to remain in attendance at such proceedings as so adjourned, shall be guilty of an offence and liable to the punishment contemplated in subsection (2).”.

30 7. Section 300 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph: Amendment of section 300 of Act 51 of 1977, as amended by section 16 of Act 56 of 1979.

35 “(a) a regional court or a magistrate’s court shall not make any such award if the compensation applied for exceeds **[ten thousand rand] R20 000** or **[one thousand five hundred rand] R5 000**, respectively;”.

8. Section 302 of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (a) of subsection (1) of the following subparagraph: Amendment of section 302 of Act 51 of 1977, as amended by section 11 of Act 105 of 1982 and section 22 of Act 59 of 1983.

40 “(ii) which, in the case of a fine, exceeds the amount of **[two hundred and fifty rand] R500**, if imposed by a judicial officer who has not held the substantive rank of magistrate or higher for a period of seven years, or which exceeds the amount of **[five hundred rand] R1 000**, if imposed by a judicial officer who has held the substantive  
45 rank of magistrate or higher for a period of seven years or longer;”.

9. This Act shall be called the Criminal Procedure Matters Amendment Act, 1984, and shall come into operation on a date Short title and commencement.  
50 fixed by the State President by proclamation in the *Gazette*.