



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1254. 7 October 1998

No. 1254. 7 Oktober 1998

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

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

No. 74 of 1998: Sheriffs Amendment Act, 1998.

No. 74 van 1998: Wysigingswet op Balju's, 1998.

**GENERAL EXPLANATORY NOTE:**

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

*(English text signed by the President.)*  
*(Assented to 30 September 1998.)*

## ACT

To amend the Sheriffs Act, 1986, in order to provide for the rationalisation of certain laws relating to sheriffs and messengers of the court which were in force in various areas of the national territory of the Republic by virtue of the Constitution; to amend certain definitions; to empower the Minister to appoint more than one sheriff for a particular area to perform the duties and functions assigned to a sheriff; to restructure the composition of the Board for Sheriffs in order to make it more representative; to provide for a disciplinary inquiry by an independent and impartial person who must be suitably qualified in law; to provide that sheriffs be allowed, before they pay over the interest accrued on their trust accounts to the Fidelity Fund for Sheriffs, to deduct therefrom their expenses in respect of their trust accounts; to further regulate the issuing of fidelity fund certificates to acting sheriffs; to compel a sheriff to obtain professional indemnity insurance; to provide for admission of guilt fines; to provide for additional actions against a sheriff who is found guilty of improper conduct; to create certain offences; to extend the application of the Act to the entire national territory of the Republic; and to provide for transitional provisions; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

### Amendment of section 1 of Act 90 of 1986

1. Section 1 of the Sheriffs Act, 1986 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “auditor” of the following definition: “ ‘auditor’ means a person registered as an accountant and auditor in terms of the Public Accountants’ and Auditors’ Act, [1951 (Act No. 51 of 1951)] 1991 (Act No. 80 of 1991);”;

(b) by the substitution for the definition of “banking institution” of the following definition: “ ‘banking institution’ means an institution [registered as a bank in terms] as referred to in section 93 of the Banks Act, [1965 (Act No. 23 of 1965)] 1990 (Act No. 94 of 1990);”;



- (c) by the substitution for the definition of “building society” of the following definition:  
 “ ‘building society’ means a permanent building society as [defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965),] referred to in section 94 of the Mutual Banks Act, 1993 (Act No. 124 of 1993), or a building society as [defined in section 1 of the Building Societies Act, 1986] referred to in section 93 of the Banks Act, 1990 (Act No. 94 of 1990);”;
- (d) by the insertion after the definition of “Fund” of the following definition:  
 “ ‘legal practitioner’ means any person duly admitted and enrolled as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or any person duly admitted and enrolled as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979);”;
- (e) by the substitution for the definition of “lower court” of the following definition:  
 “ ‘lower court’ means a court established under the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), and a divorce court established under section 10 of the [Black Administration Act, 1927,] Administration Amendment Act, 1929 (Act No. 9 of 1929)[, but does not include a court of which the area of jurisdiction is situated within an area for which a legislative assembly has been established under the National States Constitution Act, 1971 (Act No. 21 of 1971)];”;
- (f) by the substitution for the definition of “sheriff” of the following definition:  
 “ ‘sheriff’ means a sheriff appointed under section 2(1), and includes, for the purposes of Chapter II, III, IV or V, an acting sheriff and for the purposes of Chapter IV a deputy sheriff appointed under section 6(1);”.

#### Amendment of section 3 of Act 90 of 1986

2. Section 3 of the principal Act is hereby amended by the addition to subsection (2) of the following paragraph, the existing subsection becoming paragraph (a):

- “(b) The Minister may, after consultation with the Board, appoint more than one sheriff for that particular area to perform the duties and functions assigned to a sheriff.”.

#### Amendment of section 4 of Act 90 of 1986

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) A sheriff shall vacate his or her office—  
 (a) if he or she is removed from office under subsection (3) or section 49(2)(5);  
 or  
 (b) if he or she is deemed to be removed from office in terms of section 51.”.

#### Amendment of section 9 of Act 90 of 1986

4. Section 9 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:  
 “(2) Subject to the provisions of section 10, the Minister shall appoint the following persons as members of the Board, namely—  
 (a) not fewer than six and not more than nine sheriffs, each from a different province of the Republic, chosen by the Minister from among at least twelve sheriffs, whose names have been submitted for that purpose by [an association which in the opinion of the Minister represents sheriffs] the South African Institute for Sheriffs;  
 (b) [three] not fewer than three and not more than six other persons, one of whom must be nominated by the attorneys’ profession, who are fit and proper and broadly representative of the South African

- (c) deur die omskrywing van "bouvereniging" deur die volgende omskrywing te vervang:  
 " 'bouvereniging' 'n permanente [vereniging] bouvereniging soos in [artikel 1 van die Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965),] artikel 94 van die Wet op Onderlinge Banke, 1993 (Wet No. 124 van 1993), bedoel [omskryf] of 'n bouvereniging soos in [artikel 1 van die Wet op Bouverenigings, 1986, omskryf] artikel 93 van die Bankwet, 1990 (Wet No. 24 van 1990), bedoel;"
- (d) deur die omskrywing van "laer hof" deur die volgende omskrywing te vervang:  
 " 'laer hof' 'n hof kragtens die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), ingestel, en 'n egskeidingshof kragtens artikel 10 van die [Swart Administrasiewet, 1927,] Administrasie Wysigingswet, 1929 (Wet No. 9 van 1929)[, ingestel, maar nie ook 'n hof nie waarvan die regsgebied geleë is binne 'n gebied waarvoor 'n wetgewende vergadering kragtens die Grondwet van die Nasionale State, 1971 (Wet No. 21 van 1971), ingestel is];"
- (e) deur die omskrywing van "ouditeur" deur die volgende omskrywing te vervang:  
 " 'ouditeur' iemand wat ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, [1951 (Wet No. 51 van 1951)] 1991 (Wet No. 80 van 1991), as rekenmeester en ouditeur geregistreer is;" en
- (f) deur na die omskrywing van "Raad" die volgende omskrywing in te voeg:  
 " 'regspraktisyn' iemand wat behoorlik toegelaat en ingeskryf is as 'n advokaat ingevolge die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), of iemand wat behoorlik toegelaat en ingeskryf is as 'n prokureur ingevolge die Wet op Prokureurs, 1979 (Wet No. 53 van 1979);".

#### Wysiging van artikel 3 van Wet 90 van 1986

- 30 2. Artikel 3 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (2) te voeg, terwyl die bestaande subartikel paragraaf (a) word:  
 "(b) Die Minister kan na oorleg met die Raad meer as een balju vir daardie spesifieke gebied aanstel om die pligte en werksaamhede te verrig wat aan 'n balju opgedra is."

#### 35 Wysiging van artikel 4 van Wet 90 van 1986

3. Artikel 4 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:  
 "(2) 'n Balju ontruim sy of haar amp—  
 (a) indien hy of sy kragtens subartikel (3) of artikel 49[(2)](5) van sy of haar amp onthef word; of  
 (b) indien hy of sy ingevolge artikel 51 geag word van sy of haar amp onthef te wees."

#### Wysiging van artikel 9 van Wet 90 van 1986

4. Artikel 9 van die Hoofwet word hierby gewysig—  
 45 (a) deur subartikel (2) deur die volgende subartikel te vervang:  
 "(2) Behoudens die bepalings van artikel 10 stel die Minister die volgende persone as lede van die Raad aan, naamlik—  
 (a) minstens ses en hoogstens nege balju's, elk van 'n ander provinsie van die Republiek, deur die Minister gekies uit minstens twaalf balju's, wie se name vir dié doel voorgelê is deur [ 'n vereniging wat na die oordeel van die Minister balju's verteenwoordig] die Suid-Afrikaanse Instituut vir Balju's;  
 50  
 (b) [drie] minstens drie en hoogstens ses ander persone, waarvan een deur die prokureursprofessie aangewys word, wat gepaste en geskikte persone is, wat algemeen verteenwoordigend is van die Suid-Afrikaanse gemeenskap en wat na die oordeel  
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- community and who in the opinion of the Minister are able to assist the Board in achieving its objects.”;
- (b) by the insertion of the following subsection after subsection (2):  
 “(2A) In constituting the Board the Minister shall have due regard to the need for the Board to be representative in respect of race, gender and geographical composition.”;
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) (a) Whenever necessary the Director-General: Justice shall in writing request the **[association]** South African Institute for Sheriffs referred to in subsection (2)(a) to submit to him or her the names as contemplated in that subsection within the period specified in the request.  
 (b) If **[such association]** the South African Institute for Sheriffs—  
 (i) fails to submit the relevant names within the period referred to in paragraph (a); or  
 (ii) submits names which do not represent an adequate number of sheriffs who in the opinion of the Minister are suitable for appointment contemplated in subsection (2)(a),  
 the Minister shall appoint the required number of sheriffs considered by him or her as suitable.”; and
- (d) by the substitution for subsection (4) of the following subsection:  
 “(4) (a) The Minister shall designate one of the members of the Board as the chairperson of the Board.  
 (b) The Board shall elect a deputy chairperson from among its members and the deputy chairperson shall hold office for such period as the Board may determine at the time of his or her election.”;
- (e) by the substitution for subsection (5) of the following subsection:  
 “(5) The **[vice-chairman]** deputy chairperson may, if the **[chairman]** chairperson is absent or for any reason unable to act as **[chairman]** chairperson, perform the functions of the **[chairman]** chairperson.”.

**Amendment of section 17 of Act 90 of 1986**

5. Section 17 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:  
 “(b) to consider an appeal in terms of section 18[(4)](3)(b).”.

**Substitution of section 18 of Act 90 of 1986**

6. The following section is hereby substituted for section 18 of the principal Act:

**“Disciplinary authority**

**18. (1) (a)** The Board may establish one or more disciplinary committees, each consisting of at least three members of the Board.

(b) One of the members of a disciplinary committee shall be designated by the Board as chairperson of the disciplinary committee.

(c) A disciplinary committee shall be invested and charged with the functions relating to a charge of improper conduct assigned to the Board by or under Chapter IV.

(2) (a) Notwithstanding the provisions of subsection (1), the Board may appoint an independent and impartial person as and when necessary who shall be vested and charged with the functions relating to a charge of improper conduct assigned to the Board by or under Chapter IV.

(b) A person appointed in terms of paragraph (a) shall be a person who is suitably qualified in law.

(c) A person appointed in terms of paragraph (a) may, subject to the approval of the Board, summon to his or her assistance one or two persons of skill and experience in the matter to which the action relates who are willing to sit and act as assessors in an advisory capacity.



- van die Minister in staat is om die Raad met die verwesenliking van sy oogmerke te help.”;
- (b) deur die invoeging van die volgende subartikel na subartikel (2):
- 5 “(2A) In die samestelling van die Raad neem die Minister deeglik die behoefte in ag dat die Raad verteenwoordigend moet wees ten opsigte van ras, geslag en geografiese samestelling.”;
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
- 10 “(3) (a) Wanneer dit nodig is, moet die Direkteur-Generaal: Justisie die [vereniging] Suid-Afrikaanse Instituut vir Balju's in subartikel (2)(a) bedoel skriftelik versoek om binne die tydperk in die versoek vermeld die name soos beoog in daardie subartikel aan hom of haar voor te lê.
- (b) Indien [sodanige vereniging] die Suid-Afrikaanse Instituut vir Balju's—
- 15 (i) in gebreke bly om die betrokke name binne die tydperk bedoel in paragraaf (a) voor te lê; of
- (ii) name voorlê wat nie 'n voldoende getal balju's verteenwoordig nie wat na die oordeel van die Minister geskik is vir aanstelling in subartikel (2)(a) beoog,
- 20 moet die Minister die nodige getal balju's wat hy of sy geskik ag, aanstel.”; en
- (d) deur subartikel (4) deur die volgende subartikel te vervang:
- 25 “(4) (a) Die Minister wys 'n lid van die Raad aan as die voorsitter van die Raad.
- (b) Die Raad kies uit sy lede 'n ondervoorsitter en die ondervoorsitter beklee sy of haar amp vir die tydperk wat die Raad ten tyde van sy of haar verkiesing bepaal.”; en
- (e) deur subartikel (5) van die Engelse teks deur die volgende subartikel te vervang:
- 30 “(5) The [vice-chairman] deputy chairperson may, if the [chairman] chairperson is absent or for any reason unable to act as [chairman] chairperson, perform the functions of the [chairman] chairperson.”.

#### Wysiging van artikel 17 van Wet 90 van 1986

5. Artikel 17 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel 35 (3) deur die volgende paragraaf te vervang:
- “(b) om 'n appèl ingevolge artikel 18[(4)](3)(b) te oorweeg.”.

#### Vervanging van artikel 18 van Wet 90 van 1986

6. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

##### “Dissiplinêre gesag

- 40 18. (1) (a) Die Raad kan een of meer tugkomitees instel wat elkeen uit minstens drie lede van die Raad bestaan.
- (b) Een van die lede van 'n tugkomitee word deur die Raad as voorsitter van die tugkomitee aangewys.
- 45 (c) 'n Tugkomitee is beklee en belas met die werksaamhede met betrekking tot 'n aanklag van onbehoorlike gedrag by of kragtens Hoofstuk IV aan die Raad opgedra.
- (2) (a) Ondanks die bepalinge van subartikel (1) kan die Raad 'n onafhanklike en onpartydige persoon aanstel soos en wanneer nodig wat beklee en belas sal wees met die werksaamhede met betrekking tot 'n
- 50 aanklag van onbehoorlike gedrag by of kragtens Hoofstuk IV aan die Raad opgedra.
- (b) 'n Persoon ingevolge paragraaf (a) aangestel, is iemand wat gepas in die regte gekwalifiseer is.
- 55 (c) 'n Persoon ingevolge paragraaf (a) aangestel, kan, onderworpe aan die goedkeuring van die Raad, tot sy of haar bystand die hulp inroep van een of twee persone wat in die saak waarop die aksie betrekking het, kundig en ervare is en bereid is om as assessore in 'n raadgevende hoedanigheid sitting te neem en te dien.

(d) A person or persons appointed in terms of paragraphs (a) and (c), respectively, shall be entitled to the remuneration and allowances out of the funds of the Board which the Board, in consultation with such person, may determine.

(3) (a) Any sheriff aggrieved by a finding made, or penalty imposed, in accordance with Chapter IV by a disciplinary committee or a person appointed in terms of subsection (2)(a), may, in the prescribed manner and within the prescribed period after such disciplinary committee or person has made the finding or imposed the penalty, appeal to the Board against the finding or penalty.

(b) The Board shall consider in the prescribed manner an appeal lodged with it in accordance with paragraph (a), and may—

- (i) set aside the finding or penalty appealed against or substitute therefor any other finding or penalty which the disciplinary committee or person appointed in terms of subsection (2)(a) could have made or imposed; or
- (ii) confirm the finding or penalty appealed against.”

#### Amendment of section 22 of Act 90 of 1986

7. Section 22 of the principal Act is hereby amended by the substitution of subsection (4) of the following subsection:

“(4) Interest on money in an account mentioned in subsection (1) or (2) shall, unless the person on whose behalf the sheriff is holding or has received those moneys, in writing indicates otherwise, be paid in the prescribed manner to the Fund by the sheriff concerned: Provided that, before a sheriff pays the interest to the Fund, he or she may deduct his or her expenses incurred in respect of his or her trust account, from the interest accrued on the trust account in accordance with a tariff and procedure prescribed by the Board.”

#### Amendment of section 26 of Act 90 of 1986

8. Section 26 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following subsection:

“(b) the prescribed contribution referred to in section 30[(b)](1)(c)(ii) or 31(2);”.

#### Substitution of section 30 of Act 90 of 1986

9. The following section is hereby substituted for section 30 of the principal Act:

#### “Prohibition of performance of functions of sheriff in certain circumstances

30. (1) A sheriff or his or her deputy shall not perform any functions assigned to a sheriff by or under any law unless—

- (a) the sheriff is the holder of a fidelity fund certificate; and
- (b) the sheriff obtains professional indemnity insurance to the satisfaction of the Board to cover any liability which he or she may incur in the course of the performance of his or her functions in terms of this Act; or
- (c) in the case of an acting sheriff—
  - (i) the acting sheriff is the holder of a fidelity fund certificate; or
  - (ii) the acting sheriff has paid the prescribed contribution to the Board.

(2) The Board may prescribe, in connection with indemnity insurance referred to in subsection (1)(b), the minimum cover requirements to be complied with, the contingencies to be covered by such insurance and the circumstances under which a person who would otherwise be required to obtain such insurance, shall be exempted therefrom.

(3) The Board may, on such conditions as it may determine, exempt a sheriff appointed under section 5(1A) from the provisions of subsection (1)(b) or (c) of this section.”



(d) 'n Persoon of persone wat onderskeidelik ingevolge paragrawe (a) of (c) aangestel is, is geregtig op die besoldiging en toelaes uit die fondse van die Raad wat die Raad, in oorleg met sodanige persoon, bepaal.

(3) (a) 'n Balju wat veronreg voel deur 'n bevinding gedoen, of straf opgelê, ooreenkomstig Hoofstuk IV deur 'n tugkomitee of 'n persoon ingevolge subartikel (2)(a) aangestel, kan, op die voorgeskrewe wyse en binne die voorgeskrewe tydperk nadat die tugkomitee of persoon die bevinding gedoen of straf opgelê het, teen die bevinding of straf na die Raad appelleer.

(b) Die Raad moet 'n appèl wat ooreenkomstig paragraaf (a) by hom aangeteken word op die voorgeskrewe wyse oorweeg, en kan—

(i) die bevinding of straf waarteen geappelleer word, tersyde stel of vervang deur 'n ander bevinding of straf wat die tugkomitee of persoon ingevolge subartikel (2)(a) aangestel, kon gedoen of opgelê het; of

(ii) die bevinding of straf waarteen geappelleer word, bekragtig.”

#### Wysiging van artikel 22 van Wet 90 van 1986

7. Artikel 22 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Rente op geld in 'n rekening in subartikel (1) of (2) genoem, word, tensy die persoon namens wie die balju daardie geld hou of ontvang het skriftelik anders aandui, op die voorgeskrewe wyse deur die betrokke balju aan die Fonds betaal: Met dien verstande dat voor 'n balju die rente aan die Fonds betaal, hy of sy die uitgawes aangegaan in verband met sy of haar trustrekening van die rente opgeloopt op die trustrekening kan aftrek ooreenkomstig 'n tarief en prosedure deur die Raad voorgeskryf.”

#### Wysiging van artikel 26 van Wet 90 van 1986

8. Artikel 26 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) die voorgeskrewe bydrae in artikel 30[(b)](1)(c)(ii) of 31(2) bedoel;”.

#### Vervanging van artikel 30 van Wet 90 van 1986

9. Artikel 30 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Verbod op verrigting van werksaamhede van balju onder sekere omstandighede**

30. (1) 'n Balju of sy of haar adjunk-balju mag nie 'n werksaamheid verrig wat by of kragtens wet aan 'n balju opgedra word nie tensy—

(a) die balju die houër van 'n getrouheidsfondssertifikaat is; en

(b) die balju professionele skadeloosstellingversekering tot die bevrediging van die Raad bekom om enige aanspreeklikheid wat hy of sy mag opdoen in die loop van die verrigting van sy of haar werksaamhede ingevolge die Wet, te dek; of

(c) in die geval van 'n waarnemende balju—

(i) die waarnemende balju die houër van 'n getrouheidsfondssertifikaat is; of

(ii) die waarnemende balju die voorgeskrewe bydrae aan die Raad betaal het.

(2) Die Raad kan in verband met skadeloosstellingversekering bedoel in subartikel (1)(b) die minimum dekkingsvereistes waaraan voldoen moet word, die gebeurlikhede wat deur sodanige versekering gedek moet word en die omstandighede waaronder 'n persoon wat andersins verplig sou wees om sodanige versekering te verkry, daarvan vrygestel is, voorskryf.

(3) Die Raad kan op die voorwaardes wat hy bepaal, 'n balju wat kragtens artikel 5(1A) aangestel is, van die bepalings van subartikel (1)(b) of (c) van hierdie artikel vrystel.”

**Amendment of section 32 of Act 90 of 1986**

10. Section 32 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Notwithstanding the provisions of subsection (2), the Board may at any time issue to an acting sheriff a fidelity fund certificate having a period of validity of not less than one month and not more than **[six months] one year.**” 5

**Amendment of section 33 of Act 90 of 1986**

11. Section 33 is hereby amended by the insertion after paragraph (l) of subsection (1) of the following paragraph:

“(m) has not obtained professional indemnity insurance to the satisfaction of the Board to cover any liability which he or she may incur in the course of the performance of his or her functions in terms of this Act.” 10

**Amendment of section 43 of Act 90 of 1986**

12. Section 43 of the principal Act is hereby amended—

(a) by the substitution for paragraph (g) of subsection (1) of the following paragraph: 15

“(g) he or she commits an offence in terms of this Act, or any other offence in respect of which violence, dishonesty, extortion or intimidation is an element;” and

(b) by the addition to subsection (1) of the following paragraphs: 20

“(h) he or she makes use of fraudulent or misleading representations, including—

- (i) the simulation of legal procedures;
- (ii) the use of simulated official or legal documents;
- (iii) representation as a police officer; or 25
- (iv) the making of unjustified threats to enforce rights; or

(i) he or she fails to comply with any regulation pertaining to the service of process.”

**Substitution of section 45 of Act 90 of 1986**

13. The following section is hereby substituted for section 45 of the principal Act: 30

**“Charge of improper conduct**

**45. (1) [When a sheriff is accused of improper conduct the Board may charge him in writing with that improper conduct.]** The Board may, on its own initiative or upon the lodging of a complaint, accusation or allegation referred to in section 44(1), charge a sheriff by a notice in writing with improper conduct. 35

(2)(a) A [charge of improper conduct] notice referred to in subsection (1) shall be served upon a sheriff in the prescribed manner, and [the charge] shall contain or be accompanied by a request that the sheriff furnishes the Board with a written admission or denial of the charge and, if the sheriff so prefers, a written explanation in connection with the charge within 14 days of the [serving] service thereof. 40

(b) The Board may, if it believes that on conviction of the sheriff a fine not exceeding the prescribed amount will be imposed upon him or her, afford the sheriff an opportunity to admit his or her guilt in respect of the charge and to pay the fine determined by the Board in the said notice on or before the date specified in the notice without appearing before the Board. 45

(c) Any sheriff who wishes to pay an admission of guilt fine referred to in paragraph (b), must— 50

- (i) pay the fine in the prescribed manner before the date specified in the notice; and

**Wysiging van artikel 32 van Wet 90 van 1986**

10. Artikel 32 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- 5           “(3) Ondanks die bepalings van subartikel (2) kan die Raad te eniger tyd ’n getrouheidsfondssertifikaat met ’n geldigheidsduur van minstens een maand en hoogstens [ses maande] een jaar aan ’n waarnemende balju uitreik.”.

**Wysiging van artikel 33 van Wet 90 van 1986**

11. Artikel 33 van die Hoofwet word hierby gewysig deur na paragraaf (l) van subartikel (1) die volgende paragraaf in te voeg:

“(m) nie professionele skadeloosstellingversekering tot bevrediging van die Raad bekom het om enige aanspreeklikheid wat hy of sy mag opdoen in die loop van die verrigting van sy of haar werksaamhede ingevolge hierdie Wet, te dek nie.”.

**15 Wysiging van artikel 43 van Wet 90 van 1986**

12. Artikel 43 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang:  
 20           “(g) hy of sy ’n misdryf ingevolge hierdie Wet, of ’n ander misdryf ten opsigte waarvan geweld, oneerlikheid, afdreiging of intimidasie ’n element is, pleeg;” en
- (b) deur die byvoeging van die volgende paragrawe by subartikel (1):  
 25           “(h) hy of sy bedrieglike of misleidende voorstellings gebruik, met met inbegrip van—  
           (i) die naboots van regsprosesse;  
           (ii) die gebruikmaking van nagebootste amptelike of regsdokumente;  
           (iii) voordoening as ’n polisiebeampte; of  
           (i) hy of sy versuim om te voldoen aan ’n regulasie betreffende die betekening van prosesstukke.”.

**Vervanging van artikel 45 van Wet 90 van 1986**

30 13. Artikel 45 van die Hoofwet word hierby deur die volgende artikel vervang:

**“Aanklag van onbehoorlike gedrag**

35           **45. (1) [Wanneer ’n balju van onbehoorlike gedrag beskuldig word, kan die Raad hom skriftelik van daardie onbehoorlike gedrag aankla.]**  
 Die Raad kan uit eie beweging, of by die indiening van ’n klagte, beskuldiging of bewering bedoel in artikel 44(1), ’n balju by skriftelike kennisgewing van onbehoorlike gedrag aankla.

40           (2)(a) ’n [Aanklag van onbehoorlike gedrag] Kennisgewing in subartikel (1) bedoel word op die voorgeskrewe wyse aan ’n balju bestel, en [die aanklag] bevat of gaan vergesel van ’n versoek dat die balju ’n skriftelike erkenning of ontkenning van die aanklag en, indien die balju dit verkies, ’n skriftelike verduideliking in verband met die aanklag binne 14 dae na die bestelling daarvan aan die Raad verstrek.

45           (b) Die Raad kan, indien hy van mening is dat, by skuldigebevinning van die balju, ’n boete wat nie die voorgeskrewe bedrag oorskry nie aan hom of haar opgelê sal word, aan die balju ’n geleentheid bied om sy of haar skuld ten opsigte van die aanklag te erken en om die boete deur die Raad in die bedoelde kennisgewing bepaal voor of op die datum in die kennisgewing aangedui te betaal, sonder om voor die Raad te verskyn.

50           (c) ’n Balju wat ’n skulderkenningsboete in paragraaf (b) bedoel, wil betaal, moet—

- (i) die boete op die voorgeskrewe wyse betaal voor die datum in die kennisgewing aangedui; en

(ii) surrender the notice at the time and place of payment of the fine.  
 (d) The Board shall keep a register in the prescribed form of all fines paid in terms of this subsection, and a copy of the register shall be included in the reports referred to in section 59.

(3) The Minister may at any time withdraw a charge of improper conduct.” 5

**Substitution of section 46 of Act 90 of 1986**

14. The following section is hereby substituted for section 46 of the principal Act:

**“Inquiry into improper conduct**

46. The Board shall, unless an admission of guilt fine has been determined and paid in terms of section 45(2), inquire into a charge of improper conduct at such time and place as the Board may determine and shall in the prescribed manner give the sheriff charged at least 14 days’ notice in writing of the time and place so determined.” 10

**Substitution of section 49 of Act 90 of 1986**

15

15. The following section is hereby substituted for section 49 of the principal Act:

**“Action against sheriff who is found guilty of improper conduct**

49. (1) When the Board finds a sheriff guilty of improper conduct, the Board may—

- (a) caution or reprimand the sheriff; 20
- (b) impose upon the sheriff a fine not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*, which fine shall be payable to the Board in accordance with the regulations referred to in section 62;
- (c) cancel the fidelity fund certificate of the sheriff; or 25
- (d) recommend to the Minister that the sheriff be removed from his or her office, or called upon to resign as sheriff, with effect from a date determined by the Minister.

(2) Where the Board finds a sheriff guilty of improper conduct, it may—

- (a) on the conditions determined by it, postpone the taking of any steps in respect of him or her or the imposition of any penalty upon him or her for a particular period determined by the Board; 30
- (b) impose a fine referred to in subsection (1), but suspend the payment of such fine, or any part thereof on the conditions it may deem fit; or
- (c) make any other order it may deem just, reasonable and equitable in the circumstances. 35

(3) (a) If the taking of any steps or the imposition of any penalty has been postponed for a particular period in terms of subsection (2)(a), and if at the end of that period the Board is satisfied that the sheriff concerned has substantially observed all the relevant conditions, the Board shall inform that sheriff that no steps will be taken in respect of him or her or that no penalty will be imposed upon him or her. 40

(b) If the payment of a fine or any part thereof has been suspended by the Board for a particular period in terms of subsection (2)(b), and if at the end of such period the Board is satisfied that the sheriff concerned has substantially observed all the relevant conditions, the Board shall inform such sheriff that the payment of that fine or that part thereof will not be enforced. 45

(c) If a sheriff fails to comply with any conditions determined in terms of subsection (2), the Board shall impose a penalty upon him or her or execute the penalty imposed upon him or her, unless he or she satisfies the Board that the non-compliance with such conditions was due to circumstances beyond his or her control. 50

(ii) die kennisgewing op die tyd en plek van betaling afgee.

(d) Die Raad moet 'n register in die voorgeskrewe vorm hou van alle boetes wat ingevolge hierdie subartikel betaal is, en 'n afskrif van die register word ingesluit in die verslae in artikel 59 bedoel.

5 (3) Die Minister kan te eniger tyd 'n aanklag van onbehoorlike gedrag terugtrek.”

#### Vervanging van artikel 46 van Wet 90 van 1986

14. Artikel 46 van die Hoofwet word hierby deur die volgende artikel vervang:

##### “Ondersoek na onbehoorlike gedrag

10 46. Die Raad stel, tensy 'n skulderkenningsboete ingevolge artikel 45(2) vasgestel en betaal is, ondersoek in na 'n aanklag van onbehoorlike gedrag op die tyd en plek wat die Raad bepaal en gee op die voorgeskrewe wyse aan die aangeklaagde balju minstens 14 dae skriftelike kennis van die tyd en plek aldus bepaal.”

#### 15 Vervanging van artikel 49 van Wet 90 van 1986

15. Artikel 49 van die Hoofwet word hierby deur die volgende artikel vervang:

##### “Optrede teen balju wat aan onbehoorlike gedrag skuldig bevind is

20 49. (1) Wanneer die Raad 'n balju aan onbehoorlike gedrag skuldig bevind, kan die Raad—

- (a) die balju waarsku of berispe;
- (b) die balju 'n boete oplê van hoogstens die bedrag wat die Minister van tyd tot tyd in die *Staatskoerant* bepaal, welke boete aan die Raad betaalbaar is ooreenkomstig die regulasies bedoel in artikel 62;
- 25 (c) die getrouheidsfondssertifikaat van die balju intrek; of
- (d) by die Minister aanbeveel dat die balju van sy of haar amp onthef word, of aangesê word om as balju te bedank, met ingang van 'n datum wat die Minister bepaal.

(2) Indien die Raad 'n balju skuldig bevind aan onbehoorlike gedrag kan die Raad—

- 30 (a) op die voorwaardes wat dit bepaal die doen van enige stappe ten opsigte van hom of haar of die oplegging van 'n straf aan hom of haar vir 'n bepaalde tydperk deur die Raad bepaal, uitstel;
- (b) 'n boete vermeld in subartikel (1) oplê, maar die betaling van daardie boete, of 'n gedeelte daarvan, op die voorwaardes wat dit goedvind, uitstel; of
- 35 (c) enige ander bevel maak wat dit onder die omstandighede regverdig, redelik en billik ag.

(3) (a) Indien die doen van stappe of die oplegging van 'n straf vir 'n bepaalde tydperk ingevolge subartikel (2)(a) uitgestel is, en indien die Raad by afloop van daardie tydperk oortuig is dat die betrokke balju alle toepaslike voorwaardes wesentlik nagekom het, deel die Raad daardie balju mee dat geen stappe ten opsigte van hom of haar gedoen sal word nie of dat geen straf hom of haar opgelê gaan word nie.

45 (b) Indien die betaling van 'n boete of 'n gedeelte daarvan deur die Raad vir 'n bepaalde tydperk ingevolge subartikel (2)(b) uitgestel is, en indien die Raad by afloop van daardie tydperk oortuig is dat die betrokke balju alle toepaslike voorwaardes wesentlik nagekom het, deel die Raad bedoelde balju mee dat die betaling van daardie boete of daardie gedeelte daarvan nie afgedwing gaan word nie.

50 (c) Indien 'n balju versuim om aan die voorwaardes te voldoen wat ingevolge subartikel (2) bepaal is, moet die Raad hom of haar 'n straf oplê of die straf wat hom of haar opgelê is, ten uitvoer lê, tensy hy of sy die Raad oortuig dat die nie-nakoming van sodanige voorwaardes aan omstandighede buite sy of haar beheer te wyte was.



(4) Any court with civil jurisdiction may on the application of the Board grant an order for the recovery from the sheriff concerned of any amount he or she failed to pay in accordance with the fine imposed under subsection (1)(b), together with any interest thereon, whereupon the order so granted shall have the effect of a civil judgment of that court and shall be executed in the prescribed manner.

(5) If the Board makes a recommendation under subsection (1)(d), the Board shall send to the Minister the documents relating to the inquiry and, where applicable, to an appeal under section 18(3)(a) or 61(1), and the Minister may act according to that recommendation or impose upon the sheriff concerned such other penalty as the Board could have imposed upon him or her."

#### Amendment of section 50 of Act 90 of 1986

16. Section 50 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (2) of the following paragraph:

"(c) if he or she appeals under section 18[(4)](3)(a) or 61(1) against his or her conviction on the charge in question and the appeal is upheld; or"

#### Amendment of section 51 of Act 90 of 1986

17. Section 51 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

"(b) fails to resign with effect from the date on which he or she has been called upon to resign under section 49[(2)](5)."

#### Amendment of section 60 of Act 90 of 1986

18. Section 60 of the principal Act is hereby amended—

(a) by the insertion after paragraph (g) of subsection (1) of the following paragraph:

"(gA) has not been appointed as a sheriff, acting sheriff or deputy sheriff in terms of this Act and who practises or performs any functions assigned by or under any law to a sheriff or any other specified functionary or holds himself or herself out as a sheriff, acting sheriff or deputy sheriff or pretend to be, or make use of any name, title or addition or description creating the impression that he or she is a sheriff, acting sheriff or deputy sheriff or is recognized by law as such;"

(b) by the insertion after subsection (1) of the following subsection:

"(1A) Any sheriff or deputy sheriff who—

(a) makes a false return in respect of the service or execution of any process;

(b) embezzles, or fraudulently conceals or destroys any process; or

(c) in respect of the property offered for sale at a sale in execution in terms of any rules of court, makes an arrangement with any person to buy such property, or to buy and dispose of such property—

(i) on behalf of the sheriff; or

(ii) in a manner which results in an improper personal gain for the sheriff; or

(iii) in a manner which will restrict or is likely to restrict the proceeds of such sale,

shall be guilty of an offence."; and

(c) by the substitution for subsection (2) of the following subsection:

"(2) Any person who is convicted of an offence under this Act shall be liable—

(a) in the case of an offence referred to in paragraph (a), (c), (d), (h) or (i) of subsection (1), to a fine [not exceeding R2 000,] or to imprisonment for a period not exceeding one year, or to both such fine and such imprisonment; [and]

(4) 'n Hof met siviele regsbevoegdheid kan op aansoek van die Raad 'n bevel toestaan dat enige bedrag wat die betrokke balju versuim het om te betaal ooreenkomstig die boete opgelê kragtens subartikel (1)(b) tesame met enige rente daarop, op hom of haar verhaal word, en daarna het die aldus toegestane bevel die uitwerking van 'n siviele vonnis van daardie hof en word dit op die voorgeskrewe wyse ten uitvoer gelê.

(5) Indien die Raad 'n aanbeveling kragtens subartikel (1)(d) doen, moet die Raad die stukke wat op die ondersoek en, waar toepaslik, op 'n appèl kragtens artikel 18(3)(a) of 61(1) betrekking het, aan die Minister stuur, en die Minister kan volgens daardie aanbeveling handel of die betrokke balju die ander straf oplê wat die Raad hom of haar kon oplê."

#### Wysiging van artikel 50 van Wet 90 van 1986

16. Artikel 50 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang:

- 15 "(c) indien hy of sy kragtens artikel 18[(4)](3)(a) of 61(1) teen sy of haar skuldigbevinding aan die betrokke aanklag appelleer en die appèl gehandhaaf word; of".

#### Wysiging van artikel 51 van Wet 90 van 1986

17. Artikel 51 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

- 20 "(b) versuim om te bedank met ingang van die datum waarop hy of sy kragtens artikel 49[(2)](5) aangesê is om te bedank,".

#### Wysiging van artikel 60 van Wet 90 van 1986

18. Artikel 60 van die Hoofwet word hierby gewysig—

- 25 (a) deur in subartikel (1) na paragraaf (g) die volgende paragraaf in te voeg:
- "(gA) nie as 'n balju, waarnemende balju of adjunk-balju ingevolge hierdie Wet aangestel is nie en wat enige werksaamhede wat by wet aan 'n balju of 'n ander bepaalde funksionaris opgedra is, praktiseer of verrig, of homself of haarself as 'n balju, waarnemende balju of adjunk-balju voordoet of voorgee, of gebruik maak van 'n naam, titel of toevoeging of beskrywing wat die indruk skep dat hy of sy 'n balju, waarnemende balju of adjunk-balju is of regtens as sodanig erken word;"
- 30 (b) deur die volgende subartikel in te voeg na subartikel (1):
- 35 (1A) 'n Balju of adjunk-balju wat—
- (a) 'n valse relaas ten opsigte van die betekening of tenuitvoerlegging van 'n prosesstuk maak;
- (b) 'n prosesstuk verduister, of op 'n bedrieglike wyse verberg of vernietig; of
- 40 (c) ten opsigte van eiendom wat aangebied word vir verkoping by 'n verkoping in eksekusie ingevolge enige hofreëls, 'n reëling tref met enige persoon om daardie eiendom te koop, of om dit te koop en daarvan afstand te doen—
- (i) ten behoeve van die balju; of
- 45 (ii) op 'n wyse wat 'n onbehoorlike persoonlike wins vir die balju meebring; of
- (iii) op 'n wyse wat die opbrengs van die verkoping sal beperk of waarskynlik sal beperk, is aan 'n misdryf skuldig;" en
- 50 (c) deur subartikel (2) deur die volgende subartikel te vervang:
- "(2) Iemand wat aan 'n misdryf ingevolge hierdie Wet skuldig bevind word, is strafbaar—
- (a) in die geval van 'n misdryf in paragraaf (a), (c), (d), (h) of (i) van subartikel (1) bedoel, met 'n boete [van hoogstens R2 000,] of met gevangenisstraf vir 'n tydperk van hoogstens een jaar, of met sowel daardie boete as daardie gevangenisstraf; [en]
- 55

(b) in the case of an offence referred to in paragraph (b), (e), (f) or (g) of subsection (1), to a fine [not exceeding R1 000,] or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment; and

(c) in the case of an offence referred to in paragraph (gA) of subsection (1), or in subsection (1A), to a fine or to imprisonment for a period not exceeding three years, or to both such fine and such imprisonment.”. 5

#### Amendment of section 61 of Act 90 of 1986

19. Section 61 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph: 10

“(c) the exercise of a power by the Board in considering an appeal in terms of section 18[(4)](3)(b).”.

#### Amendment of section 62 of Act 90 of 1986

20. Section 62 of the principal Act is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraphs: 15

“(dA) the procedure to be followed in terms of section 3(2)(b), including measures aimed at co-ordinating the functions performed by such sheriffs; (dB) the procedure to be followed in connection with the recovery of a fine imposed in terms of section 49(1)(b); (dC) the payment and control of admission of guilt fines in terms of this Act;”.

#### Substitution of expressions in Act 90 of 1986

21. The principal Act is hereby amended by the substitution, in the English text, for the expressions “chairman” and “vice-chairman”, wherever they occur, of the expressions “chairperson” and “deputy chairperson” respectively.

#### Extension of Act 90 of 1986

22. The application of the principal Act is hereby extended to the entire national territory of the Republic.

#### Repeal of laws

23. The laws mentioned in the first column of the Schedule are hereby repealed or amended to the extent indicated in the third column thereof. 30

#### Savings

24. (1) Any person who immediately prior to the date of commencement of this Act—

(a) held office as messenger or acting messenger of any lower court, or was appointed as a deputy messenger, shall as from the said date be deemed to have been duly appointed in terms of the provisions of the principal Act as a sheriff or acting sheriff of that lower court, or as a deputy sheriff, respectively; 35

(b) held office as deputy sheriff or acting deputy sheriff of any superior court, or was appointed as an assistant of a deputy sheriff or acting deputy sheriff, shall as from that date be deemed to have been duly appointed in terms of the provisions of the principal Act as a sheriff or acting sheriff of that superior court, or as a deputy sheriff, respectively. 40

(2) Any sheriff or acting sheriff referred to in paragraph (a) or (b) of subsection (1) shall hold office subject to the provisions of the principal Act: Provided that—

(a) the provisions of section 30 of the principal Act shall not apply in respect of any such sheriff or acting sheriff for a period of twelve months after the date of commencement of this Act, within which period such sheriff or acting sheriff shall apply to the Board for a fidelity fund certificate as contemplated in section 31 of the principal Act; 45

(b) in die geval van 'n misdryf in paragraaf (b), (e), (f) of (g) van subartikel (1) bedoel, met 'n boete [van hoogstens R1 000,] of met gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met sowel daardie boete as daardie gevangenisstraf; en

- 5 (c) in die geval van 'n misdryf in paragraaf (gA) van subartikel (1) of in subartikel (1A) bedoel, met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar, of met sowel daardie boete as daardie gevangenisstraf."

#### Wysiging van artikel 61 van Wet 90 van 1986

- 10 19. Artikel 61 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:  
“(c) die uitoefening van 'n bevoegdheid deur die Raad by die oorweging van 'n appèl ingevolge artikel 18[(4)](3)(b),”.

#### Wysiging van artikel 62 van Wet 90 van 1986

- 15 20. Artikel 62 van die Hoofwet word hierby gewysig deur na paragraaf (d) van subartikel (1) die volgende paragrawe in te voeg:  
“(dA) die prosedure wat ingevolge artikel 3(2)(b) gevolg moet word, met inbegrip van maatreëls wat daarop gemik is om die werksaamhede van sodanige balju's te koördineer;  
20 (dB) die prosedure wat in verband met die verhalings van 'n boete opgelê ingevolge artikel 49(1)(b) gevolg moet word;  
(dC) die betaling en beheer van skulderkenningsboetes ingevolge hierdie Wet;”.

#### Vervanging van uitdrukkings in Wet 90 van 1986

- 25 21. Die Hoofwet word hierby gewysig deur in die Engelse teks die uitdrukkings “chairman” en “vice-chairman”, waar dit ook al mag voorkom, deur onderskeidelik die uitdrukkings “chairperson” en “deputy chairperson” te vervang.

#### Uitbreiding van Wet 90 van 1986

- 30 22. Die toepassing van die Hoofwet word hierby tot die hele nasionale gebied van die Republiek uitgebrei.

#### Herroeping van wette

23. Die wette vermeld in die eerste kolom van die Bylae word hierby herroep of gewysig in die mate in die derde kolom daarvan aangedui.

#### Voorbehoudsbepalings

- 35 24. (1) 'n Persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet—  
(a) die amp van geregsbode of waarnemende geregsbode van enige laer hof beklee het, of wat as 'n adjunk-geregsbode aangestel is, word vanaf vermelde datum behoorlik geag aangestel te wees as onderskeidelik 'n balju of waarnemende balju van daardie laer hof, of as 'n adjunk-balju, ingevolge die  
40 bepalinge van die Hoofwet; of  
(b) die amp beklee het as adjunk-balju of waarnemende balju van enige hoër hof, of wat aangestel is as 'n assistent van 'n adjunk-balju, word geag vanaf vermelde datum behoorlik aangestel te wees as onderskeidelik 'n balju of waarnemende balju van daardie hoër hof, of as 'n adjunk-balju, ingevolge die  
45 bepalinge van die Hoofwet.  
(2) 'n Balju of waarnemende balju bedoel in paragraaf (a) of (b) van subartikel (1) beklee die amp onderhewig aan die bepalinge van die Hoofwet: Met dien verstande dat—  
50 (a) die bepalinge van artikel 30 van die Hoofwet vir 'n tydperk van twaalf maande na die inwerkingtreding van hierdie Wet nie ten opsigte van so 'n balju of waarnemende balju as onderskeidelik 'n balju of waarnemende balju van daardie hoër hof, of as 'n adjunk-balju, van toepassing is nie, waarbinne sodanige balju of waarnemende balju by die Raad om 'n getrouheidsfonds-sertifikaat beoog in artikel 31 van die Hoofwet moet aansoek doen;

- (b) any security furnished by any such sheriff or acting sheriff in connection with his or her appointment shall, notwithstanding the repeal of any provision governing the furnishing of such security, be maintained until the day upon which he or she becomes the holder of a fidelity fund certificate;
- (c) notwithstanding the provisions of section 35 of the principal Act, the Fund shall not incur liability in respect of any such sheriff or acting sheriff for an act, referred to in section 35 of the principal Act, committed by such sheriff or acting sheriff before the date of commencement of this Act; 5
- (d) the provisions of section 51(a)(ii) or 53 of the principal Act shall not apply to remunerative work which any such sheriff or acting sheriff performs outside his or her office after the date of commencement of this Act if he or she— 10
- (i) had performed such work immediately prior to the said date; and
  - (ii) notifies the Minister in writing of such remunerative work within 30 days after the said date; and
- (e) any such sheriff shall hold office as contemplated in section 4(1) of the principal Act until the date on which he or she attains the age of 70 years. 15
- (3) (a) Any investigation or procedure in terms of a law repealed by section 2 in respect of a messenger or deputy sheriff who is alleged— 20
- (i) to have been negligent or dilatory in the service or execution of process; or
  - (ii) to have wilfully demanded payment of more than his or her proper fees or expenses; or
  - (iii) to have made a false return; or
  - (iv) to have misconducted himself or herself in any other manner in connection with his or her duties, 25

which has not been finalised by the commencement of this Act, shall be referred to the Board for Sheriffs, which shall treat the matter as it deems appropriate.

(b) The Board for Sheriffs may in respect of any matter referred to it in terms of paragraph (a) —

- (i) exercise the powers and the jurisdiction conferred upon it by the principal Act and the regulations made thereunder; and 30
- (ii) have such regard to the existing record of any proceedings in such matter as it deems appropriate.

(4) Anything done under a provision of a law repealed by section 2 which may be done under a corresponding provision of the principal Act, shall be deemed to have been done under that corresponding provision. 35

(5) Notwithstanding section 11 of the principal Act, the terms of office of the members of the Board as it existed immediately prior to the commencement of this Act, shall expire upon the commencement of this Act, and the Minister may at any time after the passing of this Act, appoint the members of the Board in terms of section 9 of the principal Act, as amended by section 4 of this Act. 40

#### **Construction of references to messenger in existing laws and process of court**

25. A reference in any law in force immediately prior to the date of commencement of this Act, in any area or in any process of court of such area, to a messenger or a messenger of any lower court shall, subject to the provisions of item 2(2) of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), be construed as a reference to a sheriff of that lower court appointed under the principal Act. 45

#### **Short title and commencement**

26. This Act shall be called the Sheriffs Amendment Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 50



- (b) enige sekuriteit wat deur so 'n balju of waarnemende balju in verband met sy of haar aanstelling verskaf is, ondanks die herroeping van enige bepaling wat die verskaffing van sodanige sekuriteit reël, gehandhaaf word tot die dag waarop hy of sy die houër van 'n getrouheidsfondssertifikaat word;
- 5 (c) ondanks die bepalings van artikel 35 van die Hoofwet, die Fonds nie aanspreeklikheid opdoen ten opsigte van so 'n balju of waarnemende balju vir 'n handeling, bedoel in artikel 35 van die Hoofwet, deur so 'n balju of waarnemende balju begaan voor die inwerkingtreding van hierdie Wet nie;
- 10 (d) die bepalings van artikel 51(a)(ii) of 53 van die Hoofwet nie van toepassing is op besoldigde werk wat so 'n balju of waarnemende balju buite sy of haar amp na die datum van inwerkingtreding van hierdie Wet verrig nie indien hy of sy—
- (i) sodanige werk verrig het onmiddellik voor die vermelde datum; en
- (ii) binne 30 dae na vermelde datum die Minister skriftelik in kennis stel
- 15 van sodanige besoldigde werk; en
- (e) so 'n balju die amp soos beoog in artikel 4(1) van die Hoofwet beklee tot die datum waarop hy of sy die ouderdom van 70 jaar bereik.
- (3) (a) 'n Ondersoek of prosedure ingevolge 'n wet wat by artikel 2 herroep word ten opsigte van 'n geregsbode of adjunk-balju wat daarvan beskuldig word dat hy of sy—
- 20 (i) nalatig of traag was in verband met die diening of tenuitvoerlegging van prosesstukke; of
- (ii) willens en wetens betaling geëis het van meer lone of uitgawes as wat hom of haar toekom; of
- (iii) 'n valse relaas gemaak het; of
- 25 (iv) op enige ander wyse in verband met sy of haar werksaamhede hom of haar wangedra het,
- wat nie afgehandel is by die inwerkingtreding van hierdie Wet nie, word na die Raad vir Balju's verwys, wat die aangeleentheid soos hy gepas vind, sal hanteer.
- (b) Die Raad vir Balju's kan ten opsigte van 'n aangeleentheid wat ingevolge
- 30 paragraaf (a) na hom verwys is—
- (i) die bevoegdhede en jurisdiksie wat by die Hoofwet en die regulasies daarkragtens uitgevaardig aan hom verleen is, uitoefen; en
- (ii) die waarde heg aan die bestaande notule van enige verrigtinge met betrekking tot die aangeleentheid wat hy gepas vind.
- 35 (4) Enigiets wat kragtens 'n bepaling van 'n wet wat by artikel 2 herroep word, gedoen is, en wat kragtens die ooreenstemmende bepaling van die Hoofwet gedoen kan word, word geag gedoen te gewees het kragtens die ooreenstemmende bepaling.
- (5) Nieteenstaande artikel 11 van die Hoofwet, verstryk die ampstermyne van die lede van die Raad soos wat dit onmiddellik voor die inwerkingtreding van hierdie Wet
- 40 bestaan het, by die inwerkingtreding van hierdie Wet, en die Minister kan te eniger tyd na die aanname van hierdie Wet die lede van die Raad aanstel ingevolge artikel 9 van die Hoofwet, soos gewysig deur hierdie Wet.

#### **Uitleg van verwysings na geregsbode in bestaande wette en prosesstukke van hof**

25. 'n Verwysing in 'n wet wat onmiddellik voor die inwerkingtreding van hierdie
- 45 Wet in enige gebied van krag is, of in 'n prosesstuk van 'n hof van sodanige gebied, na 'n bode of geregsbode van 'n laer hof, word onderhewig aan die bepalings van item 2(2) van Bylae 6 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No.108 van 1996), uitgelê as 'n verwysing na 'n balju van daardie laer hof wat kragtens die Hoofwet aangestel is.

#### **50 Kort titel en inwerkingtreding**

26. Hierdie Wet heet die Wysigingswet op Balju's, 1998, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

## SCHEDULE

## LAWS REPEALED OR AMENDED BY SECTION 23

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
Act No. 32 of 1944	Magistrates' Courts Act, 1944	1. The repeal of sections 14, 15, 18, 18A and 107.	The territories of the former Republics of Transkei, Venda and Ciskei and the former self-governing territories of Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa.
Act No. 59 of 1959	Supreme Court Act, 1959	1. The amendment of section 34— (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) The Minister may, subject to the laws governing the public service, appoint for the Supreme Court registrars, assistant registrars [ <b>sheriffs, additional sheriffs, deputy-sheriffs</b> ] 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[: <b>Provided that if the duties to be performed by any deputy-sheriff are in the opinion of the Public Service Commission insufficient to keep at least one person fully occupied throughout the year, and no officer in the public service is in the opinion of the said Commission able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Minister the duties of such deputy-sheriff can be performed satisfactorily and at less cost to the State by a person who is not an officer in the public service, the Minister may appoint any person as such deputy-sheriff at such remuneration and on such conditions as the Minister may determine.</b> ”;	The territory of the former Republic of Venda.

BYLAE

WETTE BY ARTIKEL 23 HERROEP OF GEWYSIG

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
Wet No. 32 van 1944	Wet op Landdroshowe, 1944	1. Die herroeping van artikels 14, 15, 18, 18A en 107.	Die grondgebiede van die voormalige Republieke van Transkei, Venda en Ciskei en die voormalige selfregerende gebiede van Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa en Qwaqwa.
Wet No. 59 van 1959	Wet op die Hooggeregshof, 1959	<p>1. Die wysiging van artikel 34—                      (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) Die Minister kan met inagneming van die wetsbepalings op die Staatsdiens, vir die Hooggeregshof griffiers, assistent-griffiers [, balju's ad-disionele balju's, adjunk-balju's] en ander beamptes aanstel wanneer hulle vir die regspleging of die uitoefening van die bevoegdhede en gesag van daardie hof nodig is[: Met dien verstande dat indien die pligte wat deur 'n adjunk-balju verrig moet word, volgens die oordeel van die Staatsdienskommissie nie voldoende is om minstens een persoon die hele jaar besig te hou nie, en geen beampte in die diens van die Staatsdiens volgens die oordeel van bedoelde Kommissie in staat is om die pligte van daardie adjunk-balju benewens sy ander pligte uit te voer nie, of indien volgens die Minister se oordeel die pligte van bedoelde adjunk-balju op bevredigende wyse en teen minder koste vir die Staat verrig kan word deur iemand wat nie 'n beampte in die Staatsdiens is nie, die Minister enigiemand as so 'n adjunk-balju kan aanstel teen die besoldiging en op die voorwaardes wat die Minister bepaal].”;</p>	Die grondgebied van die voormalige Republiek van Venda.

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:  “(b) Whenever by reason of absence or incapacity a registrar or assistant registrar [or <b>sheriff</b>] is unable to carry out the functions of his or her office, or his or her 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: Provided 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.”; and</p> <p>(c) by the deletion of paragraph (c) of subsection (1) and subsections (3), (4), (5) and (6).</p> <p>2. The repeal of section 35.  3. The amendment of section 36—</p> <p>(a) by the substitution for subsection (1) of the following subsection:  “(1) The sheriff or the deputy-sheriff concerned [or <b>his assistant</b>] shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued.”; and</p> <p>(b) by the substitution for subsection (2) of the following subsection:  “(2) The return of the sheriff or a deputy-sheriff [or <b>his assistant</b>] of what has been done upon any process of the court, shall be <i>prima facie</i> evidence of the matters therein stated.”.</p>	

## WYSIGINGSWET OP BALJU'S, 1998

Wet No. 74, 1998

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>(b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(b) Wanneer ’n griffier of assistent-griffier [of balju] weens afwesigheid of onbekwaamheid nie sy of haar ampspligte kan uitvoer nie of sy of haar amp vakant word, kan die Minister ’n ander bevoegde beampte in die Staatsdiens magtig om in die plek van die afwesige of onbekwame beampte op te tree solank hy of sy aldus afwesig of onbekwaam is of om in die vakante betrekking waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so ’n vakature vir ’n ononderbroke tydperk van meer as ses maande nie gevul is nie, die geval aan die Staatsdienskommissie gerapporteer moet word.”; en</p> <p>(c) deur paragraaf (c) van subartikel (1) en subartikels (3), (4), (5) en (6) te skrap.</p> <p>2. Die herroeping van artikel 35.</p> <p>3. Die wysiging van artikel 36—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Die balju of die betrokke adjunk-balju [of sy assistent] moet alle vonnisse, bevele, uitsprake, bevelskrifte, dagvaardings, orders, lasbriewe, lasgewings en prosesstukke van die hof wat aan die balju gerig is, ten uitvoer lê, en ’n relaas van die wyse waarop dit ten uitvoer gelê is, verstrekk aan die hof en aan die party wat dit uitgeneem het.”; en</p> <p>(b) deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>“(2) Die relaas van die balju of ’n adjunk-balju [of sy assistent] van die stappe wat in verband met ’n prosesstuk van die hof gedoen is, is <i>prima facie</i>-getuienis van die aangeleentheid daarin vermeld.”.</p>	



## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>4. The repeal of sections 37 and 38.</p> <p>5. The amendment of section 40—</p> <p>(a) by the substitution for paragraph (a) of the following paragraph: “(a) obstructs a sheriff or deputy-sheriff [or his assistant] in the execution of his or her duty;”;</p> <p>(b) by the substitution for paragraph (c) of the following paragraph: “(c) being a judgment debtor and being required by a sheriff or deputy-sheriff [or his assistant] to point out property to satisfy a warrant issued in execution of judgment against such person—</p> <p>(i) falsely declares to that sheriff or deputy-sheriff [or his assistant] that he or she possesses no property or insufficient property to satisfy the warrant; or</p> <p>(ii) although knowing of such property neglects or refuses to point out such property or to deliver it to the sheriff or deputy-sheriff [or his assistant] when requested to do so; or”;</p> <p>(c) by the substitution for paragraph (d) of the following paragraph: “(d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff [or his assistant] 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.”.</p>	

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>4. Die herroeping van artikels 37 en 38.</p> <p>5. Die wysiging van artikel 40—</p> <p>(a) deur paragraaf (a) deur die volgende paragraaf te vervang:</p> <p>“(a) ’n Balju of adjunk-balju [of sy assistent] by die uitvoering van sy of haar pligte dwarsboom;”</p> <p>(b) deur paragraaf (c) deur die volgende paragraaf te vervang:</p> <p>“(c) in die geval van ’n vonnisskuldenaar, op versoek van ’n balju of adjunk-balju [of sy assistent] om eiendom ter voldoening aan ’n lasbrief tot eksekusie van ’n vonnis teen so iemand uitgereik, aan te wys—</p> <p>(i) valslik aan daardie balju of adjunk-balju [of sy assistent] verklaar dat hy of sy geen eiendom of nie voldoende eiendom om aan die lasbrief te voldoen, besit nie; of</p> <p>(ii) hoewel hy of sy van sodanige eiendom weet, versuim of weier om daardie eiendom aan te wys of dit aan die balju of adjunk-balju [of sy assistent] te lewer wanneer hy of sy daartoe versoek word; of”; en</p> <p>(c) deur paragraaf (d) deur die volgende paragraaf te vervang:</p> <p>“(d) in die geval van ’n vonnisskuldenaar, weier of versuim om te voldoen aan ’n vereiste van ’n balju of adjunk-balju [of sy assistent] in verband met die lewering van dokumente in sy of haar besit of onder sy of haar beheer met betrekking tot die eiendomsreg op die onroerende goed onder eksekusie.”</p>	

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
Act No. 32 of 1982	Supreme Court of Bophuthatswana Act, 1982	<p>1. The amendment of section 18—</p> <p>(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) The Minister may, subject to the laws governing the Public Service, appoint for the Supreme Court registrars, deputy-registrars, assistant registrars [, <b>sheriffs, additional sheriffs, deputy-sheriffs</b>] 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 [: <b>Provided that, if the duties to be performed by any deputy-sheriff are in the opinion of the Public Service Commission insufficient to keep at least one person fully occupied throughout the year, and no officer in the Public Service is in the opinion of the said Commission able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Minister the duties of such deputy-sheriff can be performed satisfactorily and at less cost to the State by a person who is not an officer in the Public Service, the Minister may appoint any person as such deputy-sheriff at such remuneration and on such conditions as the Minister may determine.</b>”;</p> <p>(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p>“(b) Whenever by reason of absence or incapacity a registrar, deputy-registrar or assistant registrar [<b>or sheriff</b>] is unable to carry out the functions of his or her office, or his or her office becomes vacant, the Minister may authorise any other competent officer of the Public Service to act in the place of the absent or</p>	The territory of the former Republic of Bophuthatswana

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
Wet No. 32 van 1982	Wet op die Hooggeregshof van Bophuthatswana, 1982	<p>1. Die wysiging van artikel 18—</p> <p>(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) Die Minister kan, met inagneming van die wette wat die Regeringsdiens reguleer, vir die Hooggeregshof griffiers, adjunk-griffiers, assistent-griffiers [, balju's, <b>addisionele balju's, adjunk-balju's</b>] en ander beamptes aanstel wanneer hulle vir die regspleging of die uitoefening van die bevoegdheid en gesag van daardie Hof nodig is [<b>: Met dien verstande dat, indien die pligte wat deur 'n adjunk-balju vervul moet word na die oordeel van die Regeringsdienskommissie nie voldoende is om minstens een persoon voltyds gedurende die jaar besig te hou nie, en geen beampte in die Regeringsdiens na die oordeel van bedoelde Kommissie in staat is om die pligte van sodanige adjunk-balju benewens sy ander pligte uit te voer nie, of indien na die oordeel van die Minister die pligte van bedoelde adjunk-balju op bevredigende wyse en teen minder koste vir die Staat verrig kan word deur iemand wat nie 'n beampte in die Regeringsdiens is nie, die Minister enigiemand as so 'n adjunk-balju kan aanstel teen die vergoeding en op die voorwaardes wat die Minister bepaal.</b>”;</p> <p>(b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(b) Wanneer 'n griffier, adjunk-griffier of assistent-griffier [<b>of balju</b>] weens afwesigheid of onbekwaamheid nie in staat is om sy of haar amppligte te vervul nie of sy of haar amp vakant word, kan die Minister enige ander bevoegde beampte van die Regeringsdiens magtig om in die plek van die afwesige of onbekwame</p>	Die grondgebied van die voormalige Republiek van Bophuthatswana.

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided 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.”; and</p> <p>(c) by the deletion of paragraph (c) of subsection (1) and subsections (3), (4), (5) and (6).</p> <p>2. The repeal of section 19.</p> <p>3. The amendment of section 20—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The sheriff or the deputy-sheriff [<b>or his assistant</b>] shall execute all sentences, decrees, judgments, writs, summonses, subpoenas, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued.”; and</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The return of the sheriff or a deputy-sheriff [<b>or his assistant</b>] of the steps taken in connection with any process of the court, shall be <i>prima facie</i> evidence of the matters therein stated.”</p> <p>4. The repeal of sections 21 and 22.</p> <p>5. The amendment of section 24—</p> <p>(a) by the substitution for paragraph (a) of the following paragraph:</p> <p>“(a) obstructs or hinders a sheriff or deputy-sheriff [<b>or his assistant</b>] in the exercise or performance of his or her powers, functions or duties under or by virtue of the provisions of this Act or any other law.”;</p>	



## WYSIGINGSWET OP BALJU'S, 1998

Wet No. 74, 1998

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>beampte op te tree gedurende sodanige afwesigheid of onbekwaamheid of om in die vakante amp waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so 'n vakature vir 'n aaneenlopende tydperk van meer as ses maande nie gevul is nie, die geval aan die Regeringsdienskommissie gerapporteer moet word.”; en</p> <p>(c) deur paragraaf (c) van subartikel (1) en subartikels (3), (4), (5) en (6) te skrap.</p> <p>2. Die herroeping van artikel 19.</p> <p>3. Die wysiging van artikel 20—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Die balju of die adjunk-balju [of sy assistent] moet alle vonnisse, bevele, uitsprake, bevelskrifte, dagvaardings, getuiedagvaardings, reëls, orders, lasbriewe, lasgewings en prosesstukke van die hof wat aan die balju gerig is, ten uitvoer lê, en 'n relaas van die wyse waarop dit ten uitvoer gelê is, verstrek aan die hof en aan die party op wie se versoek dit uitgereik is.”; en</p> <p>(b) deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>“(2) Die relaas van die balju of 'n adjunk-balju [of sy assistent] van die stappe wat in verband met 'n prosesstuk van die hof gedoen is, is <i>prima facie</i>- getuienis van die aangeleentheid daarin vermeld.”.</p> <p>4. Die herroeping van artikels 21 en 22.</p> <p>5. Die wysiging van artikel 24—</p> <p>(a) deur paragraaf (a) deur die volgende paragraaf te vervang:</p> <p>“(a) 'n balju of adjunk-balju [of sy assistent] by die uitoefening of vervulling van sy of haar bevoegdheid, werksaamheid of pligte kragtens of uit hoofde van die bepalinge van hierdie Wet of enige ander wet, dwarsboom of belemmer.”;</p>	

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>(b) by the substitution for paragraph (b) of the following paragraph:  “(b) upon having been required by a sheriff or deputy-sheriff <b>[or his assistant]</b> in the course of exercising or performing any aforesaid power, function or duty, to identify himself or herself or to furnish proof of his or her identity, refuses or fails to do so or to do so to the satisfaction of such sheriff or deputy-sheriff <b>[or assistant]</b>, or furnishes a false identity or proof of identity;”;</p> <p>(c) by the substitution for paragraph (d) of the following paragraph:  “(d) being a judgment debtor and being required by a sheriff or deputy sheriff <b>[or his assistant]</b> 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 <b>[or his assistant]</b> that he or she possesses no property or insufficient property to satisfy the warrant; or  (ii) while knowing of such property refuses or neglects to point out such property or to deliver it to the sheriff or deputy-sheriff <b>[or his assistant]</b> when requested to do so; or”; and</p> <p>(d) by the substitution for paragraph (e) of the following paragraph:</p>	

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>(b) deur paragraaf (b) deur die volgende paragraaf te vervang:</p> <p>“(b) nadat hy of sy deur ’n balju of adjunk-balju [of sy assistent] in die loop van die uitoefening of vervulling van enige voornoemde bevoegdheid, werksaamheid of plig, gelas is om hom of haar te identifiseer of om bewys van sy of haar identiteit te verstrek, weier of versuim om dit te doen of om dit tot genoë van sodanige balju of adjunk-balju [of assistent] te doen, of wat ’n valse identiteit of bewys van identiteit verstrek;”;</p> <p>(c) deur paragraaf (d) deur die volgende paragraaf te vervang:</p> <p>“(d) ’n vonnisskuldenaar is en wat na ’n versoek van ’n balju of adjunk-balju [of sy assistent] om eiendom aan te wys ter voldoening aan ’n lasbrief tot eksekusie van ’n vonnis teen so iemand uitgereik—</p> <p>(i) valslik aan daardie balju of adjunk-balju [of sy assistent] verklaar dat hy of sy geen eiendom besit nie of onvoldoende eiendom besit om aan die lasbrief te voldoen; of</p> <p>(ii) hoewel hy of sy van sodanige eiendom weet, weier of in gebreke bly om sodanige eiendom aan te wys of dit aan die balju of adjunk-balju [of sy assistent] te lewer wanneer hy of sy daartoe versoek word; of”; en</p> <p>(d) deur paragraaf (e) deur die volgende paragraaf te vervang:</p>	

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		“(e) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff [or his assistant] in connection with 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.”	
Act No. 5 of 1983	Supreme Court Act, 1983	<p>1. The amendment of section 13—</p> <p>(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) The Minister may, subject to the laws governing the public service, appoint for the court or for any division thereof a registrar, assistant registrar [, <b>sheriff, additional sheriffs, deputy sheriffs</b>] and other officers whenever they may be required for the administration of justice or the exercise of the powers and authority of the court: <b>Provided that if the duties to be performed by any deputy-sheriff are, in the opinion of the Public Service Commission, insufficient to keep at least one person fully occupied throughout the year and no officer in the public service is in the opinion of the said Commission, able to perform the duties of such deputy sheriff in addition to his other duties, or if, in the opinion of the Minister, the duties of such deputy sheriff can be performed satisfactorily and at less cost to the Government by a person who is not an officer in the public service, the Minister may appoint any person as such deputy sheriff at such remuneration and on such conditions as the Minister may determine.</b>”;</p> <p>(b) by the substitution for paragraph (b) of the following paragraph:</p>	The territory of the former Republic of Transkei.

## WYSIGINGSWET OP BALJU'S, 1998

Wet No. 74, 1998

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>“(e) ’n vonnisskuldenaar is en weier of in gebreke bly om te voldoen aan ’n vereiste van ’n balju of adjunk-balju [of sy assistent] in verband met die lewering van dokumente in sy of haar besit of onder sy of haar beheer met betrekking tot die eiendomsreg op die onroerende goed onder eksekusie.”.</p>	
Wet No. 5 van 1983	“Supreme Court Act, 1983“	<p>1. Die wysiging van artikel 13—</p> <p>(a) deur paragraaf (a) van sub-artikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) The Minister may, subject to the laws governing the public service, appoint for the court or for any division thereof a registrar, assistant registrar [<b>sheriff, additional sheriffs, deputy sheriffs</b>] and other officers whenever they may be required for the administration of justice or the exercise of the powers and authority of the court [<b>Provided that if the duties to be performed by any deputy-sheriff are, in the opinion of the Public Service Commission, insufficient to keep at least one person fully occupied throughout the year and no officer in the public service is in the opinion of the said Commission, able to perform the duties of such deputy sheriff in addition to his other duties, or if, in the opinion of the Minister, the duties of such deputy sheriff can be performed satisfactorily and at less cost to the Government by a person who is not an officer in the public service, the Minister may appoint any person as such deputy sheriff at such remuneration and on such conditions as the Minister may determine</b>].”;</p> <p>(b) deur paragraaf (b) deur die volgende paragraaf te vervang:</p>	Die grondgebied van die voormalige Republiek van Transkei.

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>“(b) Whenever by reason of absence or incapacity the Registrar or Assistant Registrar [<b>or Sheriff</b>] is unable to carry out the functions of his or her office, or his or her office becomes vacant, the Minister may authorize any other competent person 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: Provided 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.”;</p> <p>(c) by the deletion of paragraph (c) of subsection (1) and subsections (3), (4), (5), (6) and (7); and</p> <p>(d) by the substitution for paragraphs (a) and (b) of subsection (8) of the following paragraphs, respectively:</p> <p>“(a) The Sheriff or the deputy sheriff concerned [<b>or his assistant</b>] shall execute sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued.</p> <p>(b) The return of the Sheriff or a deputy sheriff [<b>or his assistant</b>] of what has been done upon any process of the court, shall be <i>prima facie</i> evidence of the matters therein stated.”.</p> <p>2. The repeal of section 14.</p> <p>3. The amendment of section 16—</p> <p>(a) by the substitution for paragraph (a) of the following paragraph:</p> <p>“(a) obstructs the Sheriff or deputy sheriff [<b>or his assistant</b>] in the execution of his or her duty;”;</p> <p>(b) by the substitution for paragraph (c) of the following paragraph:</p>	



Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>“(b) Whenever by reason of absence or incapacity the Registrar or Assistant Registrar [or Sheriff] is unable to carry out the functions of his or her office, or his or her office becomes vacant, the Minister may authorize any other competent person 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: Provided 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.”;</p> <p>(c) deur paragraaf (c) van subartikel (1) en subartikels (3), (4), (5), (6) en (7) te skrap; en</p> <p>(d) deur paragrawe (a) en (b) van subartikel (8) deur onderskeidelik die volgende paragrawe te vervang:</p> <p>“(a) The Sheriff or the deputy sheriff concerned [or his assistant] shall execute sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued.</p> <p>(b) The return of the Sheriff or deputy sheriff [or his assistant] of what has been done upon any process of the court, shall be <i>prima facie</i> evidence of the matters therein stated.”.</p> <p>2. Die herroeping van artikel 14.</p> <p>3. Die wysiging van artikel 16—</p> <p>(a) deur paragraaf (a) deur die volgende paragraaf te vervang:</p> <p>“(a) obstructs the Sheriff or deputy sheriff [or his assistant] in the execution of his or her duty;”;</p> <p>(b) deur paragraaf (c) deur die volgende paragraaf te vervang:</p>	

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>“(c) being a judgment debtor and being required by the Sheriff or deputy sheriff <b>[or his assistant]</b> to point out property to satisfy a warrant issued in execution of a judgment against such person—</p> <p>(i) falsely declared to the Sheriff or deputy sheriff <b>[or his assistant]</b> that he or she possesses no property or insufficient property to satisfy the warrant; or</p> <p>(ii) although knowing of such property, neglects or refuses to point out such property or to deliver it to the Sheriff or a deputy sheriff <b>[or his assistant]</b> when requested to do so, or;” and</p> <p>(c) by the substitution for paragraph (d) of the following paragraph:</p> <p>“(d) being a judgment debtor, refuses or neglects to comply with any requirement of the Sheriff or deputy sheriff <b>[or his assistant]</b> 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.”</p> <p>4. Amendment of section 17 by the substitution for the words preceding paragraph (a) of the following words:</p> <p>“(a) The Sheriff or a deputy sheriff <b>[or his assistant]</b> shall not seize in execution of any process—”.</p>	
Act No. 32 of 1985	Magistrates' Courts Consolidation Act, 1985	The repeal of sections 15, 16, 19, 20 and 137.	The territory of the former Republic of Bophuthatswana

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>“(c) being a judgment debtor and being required by the Sheriff or deputy sheriff [or his assistant] to point out property to satisfy a warrant issued in execution of a judgment against such person—</p> <p>(i) falsely declared to the Sheriff or deputy sheriff [or his assistant] that he or she possesses no property or insufficient property to satisfy the warrant; or</p> <p>(ii) although knowing of such property, neglects or refuses to point out such property or to deliver it to the Sheriff or a deputy sheriff [or his assistant] when requested to do so, or;” en</p> <p>(c) deur paragraaf (d) deur die volgende paragraaf te vervang:</p> <p>“(d) being a judgment debtor, refuses or neglects to comply with any requirement of the Sheriff or deputy sheriff [or his assistant] 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.”</p> <p>4. Die wysiging van artikel 17 deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</p> <p>“(a) The Sheriff or a deputy sheriff [or his assistant] shall not seize in execution of any process—”.</p>	
Wet No. 32 van 1985	Konsolidasiewet op Magistraats-howe, 1985	Die herroeping van artikels 15, 16, 19, 20 en 137.	Die grondgebied van die voormalige Republiek van Bophuthatswana.

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
Decree No. 43 of 1990	Supreme Court Decree, 1990	<p>1. Amendment of section 22—</p> <p>(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) The Minister may, subject otherwise to the laws governing the public service, appoint for the Supreme Court or any division thereof a registrar, assistant registrar [, <b>sheriff, additional sheriff, deputy-sheriffs</b>] and other officers whenever they may be required for the administration of justice or the execution of the powers and authorities of such court or division[: <b>Provided that, if the duties to be performed by any deputy-sheriff are in the opinion of the Minister insufficient to keep at least one person fully occupied throughout the year, and no officer in the public service is in his opinion able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Minister, the duties of such deputy-sheriff can be performed satisfactorily and at less cost to the State by a person who is not an officer in the public service, he may appoint any person as such deputy-sheriff at such remuneration and on such conditions as he may determine.</b>”;</p> <p>(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p>“(b) Whenever by reason of absence or incapacity a registrar or assistant registrar [<b>or sheriff</b>] is unable to carry out the functions of his or her office or his or her office becomes vacant, the Minister may 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.”; and</p>	The territory of the former Republic of Ciskei

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
Dekreet No. 43 van 1990	"Supreme Court Decree, 1990"	<p>1. Die wysiging van artikel 22—</p> <p>(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>"(a) The Minister may, subject otherwise to the laws governing the public service, appoint for the Supreme Court or any division thereof a registrar, assistant registrar [, <b>sheriff, additional sheriff, deputy-sheriffs</b>] and other officers whenever they may be required for the administration of justice or the execution of the powers and authorities of such court or division [: <b>Provided that, if the duties to be performed by any deputy-sheriff are in the opinion of the Minister insufficient to keep at least one person fully occupied throughout the year, and no officer in the public service is in his opinion able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Minister, the duties of such deputy-sheriff can be performed satisfactorily and at less cost to the State by a person who is not an officer in the public service, he may appoint any person as such deputy-sheriff at such remuneration and on such conditions as he may determine.</b>"]";</p> <p>(b) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>"(b) Whenever by reason of absence or incapacity a registrar or assistant registrar [<b>or sheriff</b>] is unable to carry out the functions of his or her office or his or her office becomes vacant, the Minister may 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."; en</p>	Die grondgebied van die voormalige Republiek van Ciskei.

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>(c) by the deletion of paragraph (c) of subsection (1) and subsections (2), (3), (4), (5) and (6).</p> <p>2. The repeal of section 24.</p> <p>3. The amendment of section 25—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1) The sheriff or the deputy-sheriff concerned <b>[or his assistant]</b> shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the Supreme Court directed to the sheriff and make return of the manner of execution thereof to the court concerned and to the party at whose instance they were issued.”; and</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p style="padding-left: 2em;">“(2) The return of the sheriff or a deputy-sheriff <b>[or his assistant]</b> of what has been done upon any process of the court shall be <i>prima facie</i> evidence of the matters stated therein.”</p> <p>4. The amendment of section 27—</p> <p>(a) by the substitution for paragraph (a) of the following paragraph:</p> <p style="padding-left: 2em;">“(a) obstructs a sheriff or deputy-sheriff <b>[or his assistant]</b> in the execution of his or her duty;”;</p> <p>(b) by the substitution for paragraph (c) of the following paragraph:</p> <p style="padding-left: 2em;">“(c) being a judgment debtor and being required by a sheriff or deputy-sheriff <b>[or his assistant]</b> to point out property to satisfy a warrant issued in execution of a judgment against such person—</p> <p style="padding-left: 4em;">(i) falsely declares to that sheriff or deputy-sheriff <b>[or his assistant]</b> that he or she possesses no property or insufficient property to satisfy the warrant; or</p>	



Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>(c) deur paragraaf (c) van subartikel (1) en subartikels (2), (3), (4), (5) en (6) te skrap.</p> <p>2. Die herroeping van artikel 24.</p> <p>3. Die wysiging van artikel 25—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:                      “(1) The sheriff or the deputy-sheriff concerned [or his assistant] shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the Supreme Court directed to the sheriff and make return of the manner of execution thereof to the court concerned and to the party at whose instance they were issued.”; en</p> <p>(b) deur subartikel (2) deur die volgende subartikel te vervang:                      “(2) The return of the sheriff or a deputy-sheriff [or his assistant] of what has been done upon any process of the court shall be <i>prima facie</i> evidence of the matters stated therein.”</p> <p>4. Die wysiging van artikel 27—</p> <p>(a) deur paragraaf (a) deur die volgende paragraaf te vervang:                      “(a) obstructs a sheriff or deputy-sheriff [or his assistant] in the execution of his or her duty;”;</p> <p>(b) deur paragraaf (c) deur die volgende paragraaf te vervang:                      “(c) being a judgment debtor and being required by a sheriff or deputy-sheriff [or his assistant] to point out property to satisfy a warrant issued in execution of a judgment against such person—                      (i) falsely declares to that sheriff or deputy-sheriff [or his assistant] that he or she possesses no property or insufficient property to satisfy the warrant; or</p>	

## Act No. 74, 1998

## SHERIFFS AMENDMENT ACT, 1998

Number and year of law	Short title	Extent of repeal or amendment	Area of national territory in respect of which law is repealed or amended
		<p>(ii) although knowing of such property neglects or refuses to point out such property or to deliver it to the sheriff or deputy-sheriff <b>[or his assistant]</b> when requested to do so, or"; and</p> <p>(c) by the substitution for paragraph (d) of the following paragraph:  “(d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff <b>[or his assistant]</b> in regard to the delivery of documents in his <u>or her</u> possession or under his <u>or her</u> control relating to the title of any immovable property under execution.”.</p> <p>5. The repeal of sections 28 and 29.</p>	

WYSIGINGSWET OP BALJU'S, 1998

Wet No. 74, 1998

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging	Gebied van nasionale grondgebied ten opsigte waarvan wet herroep of gewysig is
		<p>(ii) although knowing of such property neglects or refuses to point out such property or to deliver it to the sheriff or deputy-sheriff [<b>or his assistant</b>] when requested to do so, or"; en</p> <p>(c) deur paragraaf (d) deur die volgende paragraaf te vervang:                      "(d) being a judgment debtor refuses or neglects to comply with any requirement of a sheriff or deputy-sheriff [<b>or his assistant</b>] in regard to the delivery of documents in his or her possession or under his or her control relating to the title of any immovable property under execution,".</p> <p>5. Die herroeping van artikels 28 en 29.</p>	

