



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprijs
(GST excluded/AVB uitgesluit)

Local **60c** Plaaslik
Other countries 95c Buitelands
Post free • Posvry

Vol. 288

CAPE TOWN, 9 JUNE 1989

KAAPSTAD, 9 JUNIE 1989

No. 11931

STATE PRESIDENT'S OFFICE

No. 1192.

9 June 1989

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

No. 77 of 1989: Judicial Matters Amendment Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1192.

9 Junie 1989

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

No. 77 van 1989: Wysigingswet op Geregte Aangeleenthede, 1989.

Act No. 77, 1989

JUDICIAL MATTERS AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

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

ACT

To amend the Rules Board for Courts of Law Act, 1985, so as to extend the power of the Rules Board for Courts of Law to make rules regulating the administration of justice in provincial and local divisions of the Supreme Court by including therein the power to make such rules also in respect of the Appellate Division; to further regulate the constitution of the Rules Board for Courts of Law; and to provide for the establishment of an executive committee of that board; to amend the Supreme Court Act, 1959, by deleting section 43 (1), which confers upon the Chief Justice and the judges of appeal the power to make rules regulating the conduct of proceedings of the Appellate Division; to amend the Criminal Procedure Act, 1977, by renumbering section 297A inserted by the Criminal Procedure Amendment Act, 1989; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 1 June 1989.)

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

Amendment of section 1 of Act 107 of 1985

1. Section 1 of the Rules Board for Courts of Law Act, 1985 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definition of "Appellate Division";
- (b) by the substitution for the definition of "Supreme Court" of the following definition:

"Supreme Court' means **[a provincial or local division of]** the Supreme Court of South Africa established by the Supreme Court Act, 1959 (Act No. 59 of 1959);".

Amendment of section 3 of Act 107 of 1985

2. Section 3 of the principal Act is hereby amended—

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

"(b) a judge or retired judge of the Supreme Court, whom the Minister designates as the vice-chairman;"; and

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

"(1A) The Minister may in respect of a member referred to in paragraph

- (d) or (e) of subsection (1) appoint a practising advocate or practising attorney, as the case may be, as an alternate member after consultation as

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

 Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op die Reëlsraad vir Geregshowe, 1985, ten einde die bevoegdheid van die Reëlsraad vir Geregshowe om reëls te maak vir die reëling van die regspleging in provinsiale en plaaslike afdelings van die Hooggeregshof uit te brei deur daarby in te sluit die bevoegdheid om sodanige reëls ook ten opsigte van die Appèlafdeling te maak; die samestelling van die Reëlsraad vir Geregshowe verder te reël; en voorsiening te maak vir die instelling van 'n uitvoerende komitee van daardie raad; tot wysiging van die Wet op die Hooggeregshof, 1959, deur artikel 43 (1), wat aan die Hoofregter en die appèlregters die bevoegdheid verleen om reëls vir die reëling van verrigtings van die Appèlafdeling te maak, te skrap; om die Strafproseswet, 1977, te wysig deur artikel 297A ingevoeg deur die Strafproseswysigingswetsontwerp, 1989, te hernommer; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Junie 1989.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 107 van 1985

1. Artikel 1 van die Wet op die Reëlsraad vir Geregshowe, 1985 (hieronder die 5 Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van “Appèlafdeling” te skrap;

(b) deur die omskrywing van “Hooggeregshof” deur die volgende omskrywing te vervang:

10 “‘Hooggeregshof’ **[’n provinsiale of plaaslike afdeling van]** die Hooggeregs-
hof van Suid-Afrika ingestel deur die Wet op die Hooggeregshof, 1959
(Wet No. 59 van 1959);”.

Wysiging van artikel 3 van Wet 107 van 1985

2. Artikel 3 van die Hoofwet word hierby gewysig—

15 (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) ’n regter of afgetrede regter van die Hooggeregshof, wat die Minister as die ondervoorsitter aanwys;” en

(b) deur na subartikel (1) die volgende subartikel in te voeg:

20 “(1A) Die Minister kan ten opsigte van ’n in paragraaf (d) of (e) van subartikel (1) vermelde lid, ’n praktiserende advokaat of praktiserende prokureur, na gelang van die geval, nadat oorleg soos vereis deur die betrokke paragraaf, plaasgevind het, as plaasvervangende lid aanstel, om

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required by the paragraph in question has taken place, to act during the absence from any meeting of the Board of the member in respect of whom he is so appointed, in the place of that member.”.

Insertion of section 5A in Act 107 of 1985

3. The following section is hereby inserted in the principal Act after section 5: 5

“Executive committee

5A. (1) The Board may appoint an executive committee of the Board consisting of the chairman, the vice-chairman and such other members of the Board as may be determined by the Board.

(2) The chairman of the Board shall be the chairman of the executive committee. 10

(3) The executive committee may with regard to any matter referred to in paragraphs (a) to (t), inclusive, of subsection (1) of section 6, read with subsections (7) and (8) of that section, or any other matter entrusted to the Board, formulate and adopt a draft resolution, which shall become a decision of the Board when a document setting out that draft resolution has been submitted to all members of the Board and has been approved by the majority of such members. 15

(4) The Minister may in his discretion determine any matter which shall not be dealt with under this section.”. 20

Amendment of section 6 of Act 107 of 1985

4. Section 6 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) the practice and procedure in connection with litigation, including the time within which and the manner in which appeal [to a court of law other than the Appellate Division] shall be noted;”. 25

Amendment of section 43 of Act 59 of 1959, as amended by section 39 of Act 93 of 1962, section 11 of Act 85 of 1963, section 42 of Act 80 of 1964, section 10 of Act 15 of 1969, section 1 of Act 37 of 1976, Proclamation No. 222 of 6 November 1981, section 11 of Act 107 of 1985 and section 46 of Act 97 of 1986 30

5. (1) Section 43 of the Supreme Court Act, 1959, is hereby amended by the deletion of subsection (1).

(2) Any rule made under subsection (1) of section 43 of the Supreme Court Act, 1959 (Act No. 59 of 1959), and in force at the commencement of this Act, shall, notwithstanding the deletion of the said subsection (1) by this Act, remain in force until it is amended or repealed under section 6 of the principal Act. 35

Amendment of section 297A of Act 51 of 1977, as inserted by section 1 of Act 8 of 1989

6. Section 297A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as inserted by section 1 of the Criminal Procedure Amendment Act, 1989 (Act No. 8 of 1989), is hereby amended by the substitution for the expression “297A” of the expression “297B”. 40

Short title and commencement

7. (1) This Act shall be called the Judicial Matters Amendment Act, 1989, and shall, subject to subsections (2) and (3), come into operation on a date fixed by the State President by proclamation in the *Gazette*. 45

(2) Section 1 shall be deemed to have come into operation on 20 February 1987.

(3) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.

WYSIGINGSWET OP GEREGETELIKE AANGELEENTHEDE, 1989

Wet No. 77, 1989

gedurende die afwesigheid van 'n vergadering van die Raad van die lid ten opsigte van wie hy aldus aangestel word, in die plek van daardie lid op te tree.”.

Invoeging van artikel 5A in Wet 107 van 1985

- 5 3. Die volgende artikel word hierby in die Hoofwet na artikel 5 ingevoeg:

“Uitvoerende komitee

5A.-(1) Die Raad kan 'n uitvoerende komitee van die Raad aanstel bestaande uit die voorsitter, die ondervoorsitter en sodanige ander lede van die Raad as wat deur die Raad bepaal word.

10 (2) Die voorsitter van die Raad is die voorsitter van die uitvoerende komitee.

15 (3) Die uitvoerende komitee kan met betrekking tot enige aangeleentheid vermeld in paragrafe (a) tot en met (t) van subartikel (1) van artikel 6, saamgelees met subartikels (7) en (8) van daardie artikel, of enige ander aangeleentheid wat aan die Raad toevertrou is, 'n konsepbesluit formuleer en aanneem, wat 'n beslissing van die Raad word wanneer 'n stuk wat daardie konsep-besluit uiteensit aan alle lede van die Raad gestuur is en deur die meerderheid van sodanige lede goedgekeur is.

20 (4) Die Minister kan na goëddunke enige aangeleentheid bepaal waarmee nie kragtens hierdie artikel gehandel mag word nie.”.

Wysiging van artikel 6 van Wet 107 van 1985

4. Artikel 6 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

25 “(a) die praktyk en prosedure in verband met gedingvoering, met inbegrip van die tyd waarbinne en die wyse waarop appèl [na 'n ander hof as die Appèlafdeling] aangeteken moet word;”.

30 Wysiging van artikel 43 van Wet 59 van 1959, soos gewysig deur artikel 39 van Wet 93 van 1962, artikel 11 van Wet 85 van 1963, artikel 42 van Wet 80 van 1964, artikel 10 van Wet 15 van 1969, artikel 1 van Wet 37 van 1976, Proklamasie No. 222 van 6 November 1981, artikel 11 van Wet 107 van 1985 en artikel 46 van Wet 97 van 1986

5. (1) Artikel 43 van die Wet op die Hooggeregshof, 1959, word hierby gewysig deur subartikel (1) te skrap.

35 (2) 'n Reël uitgevaardig kragtens subartikel (1) van artikel 43 van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), en wat by die inwerkingtreding van hierdie Wet van krag is, bly, ondanks dié skraping van gemelde subartikel (1) deur hierdie Wet, van krag totdat dit gewysig of herroep word kragtens artikel 6 van die Hoofwet.

40 Wysiging van artikel 297A van Wet 51 van 1977, soos ingevoeg deur artikel 1 van Wet 8 van 1989

6. Artikel 297A van die Strafproseswet, 1977 (Wet No. 51 van 1977), soos ingevoeg deur artikel 1 van die Strafproseswysigingswet, 1989 (Wet No. 8 van 1989), word hierby gewysig deur die uitdrukking “297A” deur die uitdrukking “297B” te vervang.

45 Kort titel en inwerkingtreding

7. (1) Hierdie Wet heet die Wysigingswet op Geregetelike Aangeleenthede, 1989, en tree behoudens subartikels (2) en (3) in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

50 (2) Artikel 1 word geag op 20 Februarie 1987 in werking te getree het.

(3) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalinge van hierdie Wet bepaal word.

