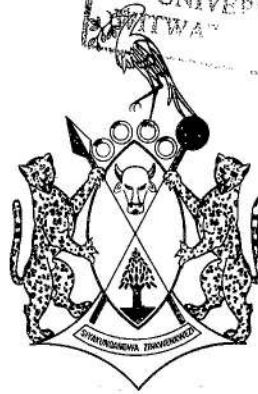


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

**IGAZETHI
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**GOVERNMENT
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DEPARTMENT OF THE COUNCIL OF STATE

GOVERNMENT NOTICE No. 86

**IT IS HEREBY NOTIFIED THAT THE CHAIRMAN OF THE COUNCIL OF STATE HAS ASSENTED
TO THE FOLLOWING DECREE WHICH IS HEREBY PUBLISHED FOR GENERAL INFORMATION:-**

SMALL CLAIMS COURTS DECREE, 1990

DECREE No. 42 OF 1990

COUNCIL OF STATE — REPUBLIC OF CISKEI

SMALL CLAIMS COURTS DECREE, 1990

DECREE

To provide for the establishment of courts to adjudicate in small civil claims and for matters incidental thereto.

(English text signed by the Chairman of the Council of State. Assented to on 18 October 1990)

ARRANGEMENT OF DECREE

	Sections
Definitions	1
Chapter 1: Establishment and nature of small claims court.....	2-7
Chapter 2: Presiding officers and officers of the court.....	8-11
Chapter 3: Jurisdiction of the court.....	12-24
Chapter 4: Rules of court.....	25
Chapter 5: Procedure and evidence.....	26-33
Chapter 6: Judgement and costs.....	34-37
Chapter 7: Execution.....	38-43
Chapter 8: Review	44-45
Chapter 9: Offences	46-47
Chapter 10: General and supplementary.....	48-50

BE IT DECREED by the Council of State of the Republic of Ciskei, as follows:-

1. Definitions. - In this Decree, unless the context indicates otherwise —

"affidavit" includes an affirmation;

"Ciskei" means the Republic of Ciskei;

"commissioner" means a commissioner for small claims appointed under section 9;

"court" means a small claims court established by section 2(1);

"district" means a district in Ciskei created under section 2(1)(a) of the Magistrates' Courts Act, 1944 (Act 32 of 1944);

"Councillor" means the Councillor for Justice;

"prescribed" means prescribed by the rules;

"record" means to take down in writing or in shorthand;

"the rules" means the rules made under section 25;

"this Decree" includes the rules.

CHAPTER 1

ESTABLISHMENT AND NATURE OF SMALL CLAIMS COURT

2. Establishment of court. - (1) There is hereby established in every district for the adjudication of claims in terms of this Decree a court called a small claims court.

(2) The seat of such court shall be at the seat of the magistracy: Provided that the Councillor may by notice in the *Gazette* determine one or more other places in the district for the holding of sessions of the court.

3. Nature of court and nature of process. - (1) Subject to the provisions of subsection (2), a court shall not be a court of record.

SMALL CLAIMS COURTS DECREE, 1990

(2) The presiding officer shall record or cause to be recorded the judgment or order of the court and shall sign it.

(3) The process of a court, which shall be of force throughout Ciskei, shall be served or executed in the prescribed manner.

4. Court open to public. - (1) Subject to the provisions of subsection (2), the proceedings in a court shall take place in open court.

(2) The court may, in the interests of justice, good order or public morals or at the request of the parties to the proceedings for reasons considered sufficient by the court, order that the proceedings shall be held behind closed doors or that specified persons shall not be present thereat.

(3) If any person disturbs the proceedings of a court, the court may order that he be removed and detained in custody until the court adjourns, or the court may, if in its opinion order cannot otherwise be maintained, order that the courtroom be cleared and that the public shall not be present at the proceedings.

5. Language medium at proceedings. - (1) Either of the official languages may be used at any stage of the proceedings of a court.

(2) If evidence is given in a language with which the commissioner or any of the parties is not sufficiently conversant, the court shall call a competent interpreter to interpret that evidence appropriately, irrespective of whether the language in which the evidence is given is one of the official languages.

6. Inspection of documents by public and custody thereof. - (1) Subject to the rules, the documents of a court —

(a) shall be available for inspection by the public under the supervision of the clerk of the court at the prescribed times and upon payment of the prescribed fees; and

(b) shall be preserved at the seat of the magistracy of the district for which that court has been established for such period as the Director-General: Justice may determine.

(2) The Director-General: Justice may order that after the expiry of the period contemplated in subsection (1)(b) the documents so preserved shall be removed to a specified place of custody or be otherwise disposed of.

7. Parties who may appear in court. - (1) Only a natural person may institute an action in a court and, subject to the provisions of section 14(2), a juristic person may become a party to an action in a court only as a defendant.

(2) A party to an action shall appear in person before the court and except as provided in subsection (3) and (4), shall not be assisted or represented by any person at the proceedings.

(3) A minor or any other person who does not have the capacity to institute or defend proceedings in a court of law unassisted, shall be assisted in a court by his parent, guardian or spouse, as the case may be.

(4) A juristic person shall be represented in a court by its duly nominated director or other officer.

CHAPTER 2

PRESIDING OFFICERS AND OTHER OFFICERS OF THE COURT

8. Presiding officer. - The officer presiding at a court shall be called a commissioner for small claims and shall be required to be appointed under section 9.

9. Appointment of commissioner. - (1) Subject to the provisions of this section, the Councillor may appoint as a commissioner, to hold office at his pleasure, any person other than an officer in the public service —

(a) who, for an uninterrupted period of not less than 5 years —

(i) has practised as an attorney or advocate, whether in Ciskei or elsewhere; or
(ii) has in Ciskei or elsewhere held an appointment, and has served, as a magistrate in terms of the Magistrates' Courts Act, 1944 (Act 32 of 1944) or any corresponding law; or

(iii) has been engaged in the tuition of law at tertiary level and while so engaged has at any time practised as an attorney or advocate.

SMALL CLAIMS COURTS DECREE, 1990

(2) Notwithstanding anything in subsection (1) contained the Councillor may, if circumstances so require, appoint as a commissioner for such period as he may specify when making the appointment or at any time thereafter —

(a) any officer of the public service who is capable of exercising the functions of a commissioner; or

(b) any other person who possesses experience which makes him suitable for appointment.

(3) A commissioner appointed under subsection (1) or subsection (2)(b) may resign his appointment by notice in writing addressed to the Councillor.

(4) A person appointed as commissioner under subsection (1) or (2) shall, before commencing with his functions, make and subscribe an oath or affirmation in the following form:

I, A. B., do hereby swear/solemnly and sincerely affirm and declare that whenever I may be called upon to perform the functions of a commissioner in a small claims court I will administer justice to all persons alike without fear, favour or prejudice and, as the circumstances may require, in accordance with the laws and customs of Ciskei.

(5) Such oath or affirmation shall be made in open court before the most senior available magistrate of the district concerned who shall at the foot thereof record that it was made before him, specify the date on which it was so made and affix his signature thereto.

10. Procedure in case of absence or incapacity of commissioner. - When by reason of absence or incapacity a commissioner is unable to complete the hearing of an action, that hearing shall be commenced *de novo* before another commissioner.

11. Officers of the court. - (1) The magistrate of the district in which the seat of the court is situated shall appoint for that court so many clerks and assistant clerks of the court, interpreters and legal assistants as are necessary for the performance of the prescribed functions.

(2) The messenger of the magistrate's court shall act as messenger for the small claims court for that district.

(3) The State or any clerk of the court, assistant clerk of the court or legal assistant shall not be liable for any damage or loss resulting from assistance given in good faith by such clerk of the court, assistant clerk of the court or legal assistant to any party or prospective party to an action before a court by way of legal advice or the compilation or preparation of a summons, statement or other document.

CHAPTER 3

JURISDICTION

12. Area of jurisdiction. - The area of jurisdiction of a court shall be the district for which it is established.

13. Transfer of actions. - An action may, with the consent of all the parties or upon the application of any of the parties who satisfies the court that the hearing of the action at that place of sitting or in that court may result in undue expense or inconvenience to him, be transferred by the court to any other place of sitting or any other court as the case may be, and such other court shall, notwithstanding anything to the contrary in this Decree contained, have jurisdiction to hear that action.

14. Jurisdiction in respect of persons. - (1) Subject to the provisions of subsections (2) and (3), a court shall have jurisdiction in respect of —

(a) any person who resides, carries on business or is employed within the district for which the court is established;

(b) any partnership, as defendant, which has business premises situated or any member of which resides, within such district;

(c) any person in respect of any proceedings incidental to any action instituted in that court by such person;

(d) any person, whether or not he resides, carries on business or is employed within the district, if the cause of action arose wholly within that district;

SMALL CLAIMS COURTS DECREE, 1990

(e) any defendant, whether in convention or reconvention, who appears and takes no objection to the jurisdiction of the court;

(f) any person who owns immovable property within the district, in actions in respect of such property or a mortgage bond thereon.

(2) No action shall be instituted against the State in a court.

(3) A court shall not have jurisdiction in respect of any claim or counterclaim based in whole or in part upon a cession or assignment of right.

15. Jurisdiction in respect of causes of action. - Subject to the provisions of this Decree, a court shall have jurisdiction in respect of the cause of action in —

(a) actions for the delivery or transfer of any property, movable or immovable, not exceeding R1 500 in value or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(b) actions for ejectment against the occupier of any premises or land within the district: Provided that where the right of occupation of the premises or land is in dispute between the parties, that right does not exceed R1 500 in clear value to the occupier or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(c) actions based on or arising out of a liquid document or a mortgage bond, where the claim does not exceed R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(d) actions based on or arising out of a credit agreement, as defined in section 1 of the Credit Agreements Act, 1980 (Act 75 of 1980), where the claim or the value of the property in dispute does not exceed R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(e) actions other than those already mentioned in this section, where the claim or the value of the matter in dispute does not exceed R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(f) counterclaims not exceeding R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*, in respect of any cause of action mentioned in paragraphs (a) to (e).

16. Matters beyond jurisdiction. - A court shall have no jurisdiction in matters —

(a) in which the dissolution of any marriage (customary or otherwise) is sought;

(b) concerning the validity or interpretation of a will or other testamentary document;

(c) concerning the status of a person in respect of his mental capacity;

(d) in which is sought specific performance without an alternative claim for the payment of damages, except in the case of —

(i) the rendering of an account in respect of which the claim does not exceed R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*; or

(ii) the delivery or transfer of any property, movable or immovable not exceeding in value R1 500 or such other amount determined by the Councillor from time to time by notice in the *Gazette*;

(e) in which is sought a decree of perpetual silence;

(f) in which is sought damages in respect of —

(i) defamation;

(ii) malicious prosecution;

(iii) wrongful imprisonment;

(iv) wrongful arrest;

(v) seduction;

(vi) breach of promise to marry; or

(g) in which an interdict is sought.

17. Incidental jurisdiction. - (1) In an action in which the sum claimed does not exceed the jurisdiction of a court and is the balance of an account, the court may enquire into and hear evidence upon the whole account, even though that account relates to items and transactions exceeding the jurisdiction of a court.

SMALL CLAIMS COURTS DECREE, 1990

(2) Where the amount claimed or other relief sought does not exceed the jurisdiction of a court, the court shall not be deprived of that jurisdiction merely because it is necessary for the court, in order to arrive at a decision, to give a finding on a matter beyond its jurisdiction.

(3) In determining whether a claim falls within the jurisdiction of a court, no claim for interest on the principal sum claimed or for costs or for general alternative relief shall be taken into account.

18. Abandonment of part of claim. - (1) In order to bring a claim or counterclaim within the jurisdiction of a court a party may, in his summons or statement of defence or at any time before or during the hearing, explicitly abandon a part of that claim or counterclaim.

(2) That part of a claim or counterclaim so abandoned shall thereby be extinguished: Provided that, if the claim or counterclaim is granted in part only, the abandonment shall be deemed first to apply to that part of the claim or counterclaim which was not granted.

19. Deduction of admitted debt. - In order to bring a claim or counterclaim within the jurisdiction of a court a party may, in his summons or statement of defence or at any time before or during the hearing deduct from his claim or counterclaim, whether liquidated or unliquidated, any amount admitted by him to be due by him to the other party.

20. Splitting of claims disallowed. - A claim exceeding the jurisdiction of a court and based on one and the same cause of action may not be split with the object of recovering it in more than one action, if the parties to those actions and the point in issue in those actions would be the same.

21. Cumulative jurisdiction. - If two or more claims, each based upon a different cause of action, are combined in one summons, a court shall have the same jurisdiction to adjudicate upon each claim as it would have had if each claim had formed the sole object of a separate action.

22. No jurisdiction by virtue of consent of parties. - A court shall not be competent to hear any action which exceeds its jurisdiction by virtue of the consent of the parties to its jurisdiction.

23. Cessation of action. - (1) If a court is of the opinion that a case contains difficult or complex questions of law or of fact which cannot adequately or fairly or should not be decided by it, it shall stop the proceedings.

(2) If the proceedings are stopped as contemplated in subsection (1), the plaintiff may institute a fresh action in any other court of competent jurisdiction.

24. Defendants subject to jurisdiction of court. - (1) No person shall be obliged to institute an action in terms of this Decree in respect of a claim which may also be adjudicated upon in any other court of law, but if an action is so instituted, the defendant shall be subject to the jurisdiction of the small claims court in question.

(2) Any provision in any agreement to the effect that the jurisdiction of a small claims court shall be excluded, or that a party thereto shall not institute an action in terms of this Decree, other than a provision to the effect that a dispute arising from the agreement shall be resolved by arbitration, shall be void.

CHAPTER 4

RULES OF COURT

25. Power of Councillor to make rules. - (1) The Councillor may make rules regulating the following matters in respect of small claims courts :

(a) practice and procedure, including the procedure when proceedings are reviewed;

(b) fees and costs;

(c) the duties and powers of officers of the court;

(d) any other matter which he may consider necessary or expedient to prescribe for carrying out any provision of this Decree for the attainment of any object of this Decree.

(2) Different rules may be made under subsection (1) with regard to different classes of cases.

SMALL CLAIMS COURTS DECREE, 1990

(3) No rule affecting the revenue or expenditure of the State shall be made under subsection (1) except with the concurrence of the Councillor of Finance and Economic Development.

(4) No new rule and no amendment or repeal of a rule shall come into operation unless it has been published in the *Gazette* at least 30 days before the day upon which it is expressed to come into operation.

CHAPTER 5

PROCEDURE AND EVIDENCE

26. Procedure. - (1) Subject to the provisions of this Chapter, the ordinary rules of evidence shall not apply in respect of the proceedings in a small claims court and the court may ascertain any relevant fact in such manner as it may deem fit.

(2) Evidence to prove or disprove any fact in issue may be submitted by the parties in writing or orally.

(3) A party shall not question or cross-examine the other party to the proceedings or question or cross-examine any witness called by such other party, but the commissioner shall proceed inquisitorially to ascertain the relevant facts and, to that end, may question any party or witness at any stage of the proceedings: Provided that the commissioner may at his discretion permit any party to put a question to the other party or to any witness.

27. Evidence. - (1) Subject to the provisions of subsection (2), a party may call witnesses to prove his claim, counterclaim or defence.

(2) The provisions of subsection (1) shall not be construed as affecting the discretion of the commissioner to decide that sufficient evidence has been adduced to enable the court to come to a decision and to order that no further evidence shall be adduced.

28. Evidence to be given under oath. - No person shall testify or be questioned in a court unless the prescribed oath or affirmation has been administered to or accepted from him by the commissioner or by the clerk of the court or his assistant or the interpreter, as the case may be, in the presence of that commissioner.

29. Institution of action. - (1) For the purpose of instituting an action in a court the plaintiff shall personally or through his authorized representative deliver a summons as prescribed to the clerk of the court, together with a copy of his written demand which had previously been delivered to the defendant by the plaintiff by hand or sent to him by registered post and in which the defendant was, notwithstanding anything to the contrary in any other law contained, allowed at least 14 days, calculated from the date of receipt of that demand by the defendant, to satisfy the plaintiff's claim.

(2) Upon production of the prescribed proof that the demand contemplated in subsection (1) was delivered to the defendant and if the clerk of the court is satisfied that the plaintiff is a natural person and that his summons complies with the prescribed requirements, the clerk of the court shall set a date and time for the hearing of the action and issue the summons and hand it to the plaintiff or his authorized representative, who shall thereafter personally serve it on the defendant or deliver it to the messenger of the court for service on the defendant.

(3) No process or pleadings, other than the summons, shall be required of the parties but the defendant may at any time before the hearing lodge with the clerk of the court a written statement setting forth the nature of his defence and particulars of the grounds on which it is based and a copy of such statement shall be furnished to the plaintiff by the defendant.

30. Withdrawal of claim. - (1) With the leave of the court and on such conditions as it may determine a plaintiff may at any time, whether before or during the hearing of the action, withdraw his claim against the defendant and, if he does so, the proceedings shall cease.

(2) Notwithstanding the termination of the proceedings, as contemplated in subsection (1), the plaintiff may, if the court on his application has granted him leave to do so, bring a fresh action against the defendant.

31. Joinder of plaintiffs. - (1) Any number of persons, each of whom has a separate claim against the same defendant, may join as plaintiffs in one action if the right of each such person to relief depends upon the determination of a question of law or fact which, if separate actions were instituted, would arise in each action: Provided that, if such a joint action is instituted, the defendant may make application to the court for separate trials to be held and the court may thereupon at its discretion make such order as it may deem just and expedient.

SMALL CLAIMS COURTS DECREE, 1990

(2) In a joint action judgement may be granted for any one or more of the plaintiffs.

32. Joinder of defendants. - Two or more defendants may be sued in the alternative or both in the alternative and jointly in one action, if the plaintiff alleges that he is uncertain which of the defendants is in law liable in respect of his claim: Provided that, on application by one or more of the defendants, the court may at its discretion order that separate trials be held or make such other order as it may deem just and expedient.

33. Amendment of documents. - (1) A court may at any time before judgement amend the summons or any other documents relating to a case: Provided that no amendment shall be made by which any party other than the party applying for the amendment, may be prejudiced in the conduct of his action or defence.

(2) An amendment may so be made upon such conditions as the court may deem reasonable.

(3) In documents before the court it shall be sufficient to employ the name of any person or place as commonly known: Provided that the court may, on application made to it at any time before or after judgement, substitute a correct name for any incorrect name.

(4) If an unmarried woman is summoned for a debt on contract and thereafter enters into a marriage in community of property, or if a married woman is summoned for such a debt and it subsequently appears that she was married in community of property, the court may at any time, on application made before or after judgement, substitute the husband of that woman as defendant or judgement debtor.

CHAPTER 6

JUDGEMENT AND COSTS

34. Judgement. - A court may, after the hearing of an action, grant —

- (a) judgement for the plaintiff in respect of his claim in so far as he has proved it;
- (b) judgement for the defendant in respect of his defence or counterclaim in so far as he has proved it;
- (c) absolution from the instance, if the court is of the opinion that the evidence does not enable it to give judgement for either party;
- (d) such judgement as to the costs contemplated in section 37 as may be just;
- (e) an order, on such conditions as the court may deem fit, against the party for whom judgement has been granted, deferring, for a specified period and either wholly or in part, further proceedings upon the judgement pending arrangements to be made by the other party for the satisfaction of the judgement.

35. Judgement by consent or by default. - (1) If a defendant, after the service on him of a summons in terms of section 29 —

- (a) admits liability and consents to judgement in writing, or
- (b) otherwise fails to appear before the court on the trial date or on any other date to which the proceedings have been postponed,

the court may on application by the plaintiff grant judgement for the plaintiff in so far as he has proved his claim and the liability therefor of the defendant and the court may dismiss any counterclaim by the defendant.

(2) (a) If a plaintiff fails to appear before the court on the trial date or on any other date to which the proceedings have been postponed, the court may on application by the defendant and subject to the provisions of paragraph (b) —

- (i) dismiss the plaintiff's claim; and
- (ii) with regard to a counterclaim, grant judgement for the defendant in so far as he has proved such counterclaim and the liability therefor of the plaintiff.

(b) Nothing in paragraph (a)(i) contained shall be construed as prohibiting or preventing the plaintiff from reinstituting the action against the defendant if the court has granted him leave to do so.

36. Rescission of certain judgements. - The court may, upon application by any person affected thereby or, in a case contemplated in paragraph (c) *suo motu* —

SMALL CLAIMS COURTS DECREE, 1990

(a) rescind or vary any judgement granted by it in the absence of the person against whom that judgement was granted: Provided the application is set down for hearing on a date within six weeks after the applicant first had knowledge of the judgement;

(b) rescind or vary any judgement granted by it which was void *ab origine* or was obtained by fraud or as a result of a mistake common to the parties: Provided the application is made not later than one year after the applicant first had knowledge of the voidness, fraud or mistake;

(c) correct patent errors in any judgement, provided, in the case of an application, the application is made not later than one year after the applicant first had knowledge of any errors.

37. Costs. - Costs awards in terms of this Decree may only include —

- (a) court fees;
- (b) the prescribed amount for the issue of the summons; and
- (c) the fees and travelling expenses of the messenger of the court.

CHAPTER 7

EXECUTION

38. Money to be paid direct to judgement creditor. - Money payable in terms of a judgement or order of the court shall be paid by the judgement debtor direct to the judgement creditor.

39. Enquiry into financial position of judgement debtor. - (1) When a court grants judgement for the payment of a sum of money, it shall enquire from the judgement debtor whether he is able to comply with the judgement without delay and, if he states that he is unable to do so, the court may *in camera* conduct an enquiry into his financial position and his ability to pay the judgement debt and costs.

(2) After any such enquiry the court may —

(a) order the judgement debtor to pay the judgement debt and costs in specified instalments or otherwise;

(b) suspend the order under paragraph (a) either wholly or in part on such conditions as to the furnishing of security or otherwise as the court may determine.

40. Offer by judgement debtor after judgement. - (a) If no order has been made in terms of section 39(2) the judgement debtor may, within 10 days after the court has granted judgement for the payment of a sum of money, make a written offer to the judgement creditor to pay the judgement debt and costs in specified instalments or otherwise and, if such an offer is accepted by the judgement creditor, the clerk of the court shall if the judgement creditor has so requested in writing accompanied by the offer, order the judgement debtor to pay the judgement debt and costs in accordance with his offer.

(b) An order of the clerk of the court under paragraph (a) shall be deemed to be an order of the court in terms of section 39.

41. Manner of execution. - (1) Whenever a court has granted judgement for the payment of money or made an order for the payment of money in instalments against any person (in this section referred to as the judgement debtor) and the judgement debtor fails to pay such money within 10 days or fails to pay any instalment at the time and in the manner ordered by the court, such judgement or such order, as the case may be, shall be enforceable by execution in the magistrate's court having jurisdiction in accordance with the provisions of the Magistrates' Courts Act 1944 (Act 32 of 1944), and the judgement creditor may proceed as if the judgement had been granted in the magistrate's court in his favour for the amount mentioned in the affidavit referred to in subsection (2).

(2) The clerk of the court shall, upon the written application of the judgement creditor accompanied by an affidavit specifying the amount and the costs still owing under the judgement or order and how that amount is arrived at, transmit that affidavit together with a certified copy of that judgement or order reflecting the nature of the cause of action to the clerk of the magistrate's court of the district in which the judgement debtor resides, carries on business or is employed or, if the judgement debtor is a juristic person, of the district in which its registered office or main place of business is situated.

(3) Upon receipt of the documents referred to in subsection (2) the clerk of the magistrate's court concerned shall record in his registers the details of the judgement or order concerned and the amount mentioned in the affidavit as still owing.

SMALL CLAIMS COURTS DECREE, 1990

42. Property exempted from execution. - The provisions of section 67 of the Magistrates' Courts Act 1944 (Act 32 of 1944), shall apply *mutatis mutandis* in respect of a warrant of execution in terms of this Decree.

43. Notice of change of address by judgement debtor. - Any person against whom a court has granted judgement or made an order and who has not satisfied in full that judgement or order and paid all costs for which he is liable in connection therewith, shall, if he has changed his place of residence, business or employment, within 14 days from the date of every such change notify the judgement creditor fully and correctly in writing of his new place of residence, business or employment.

CHAPTER 8

REVIEW

44. Judgement or order final. - A judgement or order of a small claims court shall be final and no appeal shall lie from it: Provided that nothing herein contained shall be construed as prohibiting or preventing the Supreme Court from reviewing any such judgement or order.

45. Grounds for review. - The grounds upon which the proceedings of a small claims court may be taken on review before the general division of the Supreme Court are —

- (a) lack of jurisdiction on the part of the court;
- (b) interest in the cause, bias, malice or corruption on the part of the commissioner; and
- (c) gross irregularity with regard to the proceedings.

CHAPTER 9

OFFENCES

46. Offences relating to execution. - Any person who —

(a) obstructs a messenger or deputy messenger of the court in the execution of his duties under this Decree, or

(b) fails to give notice of change of address in terms of section 43,

shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

47. Contempt of court. - (1) Any person who wilfully insults a commissioner during a sitting of his court or a clerk or messenger of the court or other officer present at that sitting or who wilfully interrupts the proceedings of a court or otherwise misbehaves himself in the place of sitting of a court shall, without derogation from the provisions of section 4(3), be liable to be sentenced summarily or upon summons to a fine not exceeding R500 or to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.

(2) When a commissioner sentences any person under this section, he shall without delay transmit to the registrar of the Supreme Court for consideration and review by a judge in chambers, a statement, certified by him to be true and correct, of the grounds and reasons for the action taken by him, and he shall also furnish to the person sentenced a copy of that statement.

(3) For the purposes of section 9 of the Prisons Act 1983 (Act 36 of 1983), a commissioner shall be deemed to be a magistrate duly appointed as such in terms of section 9 of the Magistrates' Courts Act 1944 (Act 32 of 1944).

CHAPTER 10

GENERAL AND SUPPLEMENTARY

48. Jurisdiction as to plea of *ultra vires*. - No small claims court shall be competent to pronounce upon the validity of any regulation, order or by-law made under a statute or any statutory proclamation of the Chairman of the Council of State and every such court shall assume that every such regulation, order, by-law or proclamation is valid.

49. Pending proceedings. - The provisions of this Decree shall not affect any matter pending in any other court of law at the commencement of this Decree and such a matter shall be disposed of in that other court as if this Decree had not been passed.

SMALL CLAIMS COURTS DECREE, 1990

50. Short title and commencement. - This Decree shall be called the Small Claims Courts Decree, 1990 and shall come into operation on a date to be fixed by the Chairman of the Council of State by proclamation in the *Gazette*.

OKUQULATHIWEYO			CONTENTS		
<i>Isaziso sika-</i>	<i>Inani</i>	<i>Inani le</i>	<i>Govt.</i>	<i>Page</i>	<i>Gazette</i>
<i>Rhulumente No.</i>	<i>leKhasi</i>	<i>Gazethi</i>	<i>Notice No.</i>	<i>No.</i>	<i>No.</i>
		150			150
DEPARTMENT OF THE COUNCIL OF STATE			DEPARTMENT OF THE COUNCIL OF STATE		
GOVERNMENT NOTICE No. 86			GOVERNMENT NOTICE No. 86		
SMALL CLAIMS COURTS DECREE, 1990			SMALL CLAIMS COURTS DECREE, 1990		
(DECREE No. 42 OF 1990)			(DECREE No. 42 OF 1990)		

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