



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 438 Cape Town, 5 December 2001 No. 22893
Kaapstad, Desember 2001

THE PRESIDENCY

No. 1282 5 December 2001

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

No. 41 of 2001: Interim Rationalisation of Jurisdiction of High Courts Act, 2001.

DIE PRESIDENSIE

No. 1282 5 Desember 2001

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

No. 41 van 2001: Wet op Interim Rasionalisering van Jurisdiksie van Hoë Howe, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 41, 2001

INTERIM RATIONALISATION OF JURISDICTION
OF HIGH COURTS ACT, 2001

*(English text signed by the President.)
(Assented to 29 November 2001.)*

ACT

To make provision for the interim rationalisation of the areas of jurisdiction of the High Courts; and to provide for matters connected therewith.

PREAMBLE

WHEREAS item 16(6)(a) of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), provides that as soon as practical after the new Constitution took effect all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution;

AND WHEREAS item 16(6)(b) of Schedule 6 to the Constitution provides that the Cabinet member responsible for the administration of justice, acting after consultation with the Judicial Service Commission, must manage the said rationalisation;

AND WHEREAS item 16(4)(a) of Schedule 6 to the Constitution provides that a provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or a general division of such a court, becomes a High Court under the new Constitution without any alteration in its area of jurisdiction, subject to any rationalisation contemplated in item 16(6) of Schedule 6 to the Constitution;

AND WHEREAS the rationalisation process envisaged in item 16(6) of Schedule 6 to the Constitution is a comprehensive process which will require a considerable period to bring to its conclusion;

AND WHEREAS the interim rationalisation of the areas of jurisdiction of certain High Courts as a matter of urgency will promote the efficiency of, and equity relating to, the administration of justice throughout the whole of the Republic;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“district” means any district referred to in section 2(1)(a) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

“High Court” means any High Court contemplated in section 166(c) of the Constitution;

“Judicial Service Commission” means the Judicial Service Commission contemplated in section 178(1) of the Constitution;

“Minister” means the Cabinet member responsible for the administration of justice.

WET OP INTERIM RASIONALISERING VAN
JURISDIKSIE VAN HOË HOWE, 2001

Wet No. 41, 2001

*(Engelse teks deur die President geteken.)
(Goedgekeur op 29 November 2001.)*

WET

Om voorsiening te maak vir die interim rasionalisering van die regsgebiede van die Hoë Howe; en vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN item 16(6)(a) van Bylae 6 by die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), bepaal dat sodra dit doenlik is nadat die nuwe Grondwet in werking getree het, alle howe, met inbegrip van hulle struktuur, samestelling, funksionering en jurisdiksie, en alle tersaaklike wetgewing, gerasionaliseer moet word met die oog daarop om 'n regstelsel in te stel wat aan die voorskrifte van die nuwe Grondwet voldoen;

EN AANGESIEN item 16(6)(b) van Bylae 6 by die Grondwet bepaal dat die Kabinetslid wat vir die regspleging verantwoordelik is, handelende na oorleg met die Regterlike Dienskommissie, die bedoelde rasionalisering moet bestuur;

EN AANGESIEN item 16(4)(a) van Bylae 6 by die Grondwet bepaal dat 'n provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika of 'n hooggeregshof van 'n tuisland of 'n algemene afdeling van so 'n hof, 'n Hoë Hof kragtens die nuwe Grondwet word, sonder verandering van sy regsgebied, behoudens enige rasionalisering in item 16(6) van Bylae 6 by die Grondwet beoog;

EN AANGESIEN die rasionaliseringsproses beoog in item 16(6) van Bylae 6 by die Grondwet 'n omvattende proses is wat 'n geruime tyd sal duur om afgehandel te word;

EN AANGESIEN die interim rasionalisering van die regsgebiede van sekere Hoë Howe as 'n dringende aangeleentheid die doeltreffendheid van, en billikheid met betrekking tot, die regspleging sal bevorder in die hele Republiek;

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

Omskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - 5 “distrik” ’n distrik bedoel in artikel 2(1)(a) van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944);
 - “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);
 - “Hoë Hof” ’n Hoë Hof in artikel 166(c) van die Grondwet beoog;
 - 10 “Minister” die Kabinetslid wat vir die regspleging verantwoordelik is;
 - “Regterlike Dienskommissie” die Regterlike Dienskommissie in artikel 178(1) van die Grondwet beoog.

Minister may alter area of jurisdiction of any High Court

2. (1) Notwithstanding the provisions of any other law, the Minister may, after consultation with the Judicial Service Commission, by notice in the *Gazette*—
- (a) alter the area of jurisdiction for which a High Court has been established by including therein or excising therefrom any district or part thereof; 5
 - (b) amend or withdraw any notice issued in terms of this section.
- (2) Any notice referred to in subsection (1) must be approved by Parliament before publication thereof in the *Gazette*.
- (3) The publication of a notice referred to in subsection (1) does not affect any proceedings which have been instituted but not yet completed at the time of such publication. 10

Transfer of proceedings from one High Court to another

3. (1) If any civil proceedings have been instituted in any High Court, and it appears to the Court concerned that such proceedings—
- (a) should have been instituted in another High Court; or 15
 - (b) would be more conveniently or more appropriately heard or determined in another High Court,
- the Court may, upon application by any party thereto and after hearing all other parties thereto, order such proceedings to be removed to that other High Court.
- (2) An order for removal under subsection (1) must be transmitted to the registrar of the High Court to which the removal is ordered, and upon receipt of such order that Court may hear and determine the proceedings in question. 20

Repeal of laws and saving

4. Subsections (1) and (4) of section 6 of, and the First Schedule to, the Supreme Court Act, 1959, are hereby repealed. 25
- (2) Notwithstanding the repeal of the laws referred to in subsection (1), the seats and the areas of jurisdiction of the High Courts referred to in the said First Schedule shall, subject to any alteration under section 2, remain as they were immediately before the commencement of this Act.

Short title 30

5. This Act is called the Interim Rationalisation of Jurisdiction of High Courts Act, 2001.

Minister kan regsgebied van 'n Hoë Hof verander

2. (1) Ondanks enige ander wetsbepaling kan die Minister, na oorlegpleging met die Regterlike Dienskommissie, by kennisgewing in die *Staatskoerant*—

5 (a) die regsgebied waarvoor 'n Hoë Hof ingestel is, verander deur 'n distrik of gedeelte daarvan, daarby in te sluit of daarvan uit te sluit;

(b) 'n kennisgewing ingevolge hierdie artikel uitgereik, wysig of intrek.

(2) 'n Kennisgewing in subartikel (1) bedoel, moet voor publikasie daarvan in die *Staatskoerant* deur die Parlement goedgekeur word.

10 (3) Die publisering van 'n kennisgewing bedoel in subartikel (1) raak nie enige verrigtinge wat op die tydstip van die publisering ingestel is maar nog nie afgehandel is nie.

Oorplasing van verrigtinge van een Hoë Hof na 'n ander

3. (1) Indien siviele verrigtinge in enige Hoë Hof aanhangig gemaak is, en dit vir die betrokke Hof blyk dat sodanige verrigtinge—

15 (a) in 'n ander Hoë Hof ingestel moes gewees het; of

(b) met groter gerief of gepastheid in 'n ander Hoë Hof verhoor of beslis kan word,

kan daardie Hof, op aansoek van 'n party daarby en nadat al die ander partye daarby aangehoor is, gelas dat die verrigtinge na daardie ander Hoë Hof oorgeplaas word.

20 (2) 'n Oorplasingsbevel kragtens subartikel (1) word gestuur aan die griffier van die Hoë Hof waarheen die oorplasing beveel word, en by ontvangs van daardie bevel kan bedoelde Hof die betrokke verrigtinge verhoor en daaroor beslis.

Herroeping van wette en oorgangsbepaling

4. (1) Subartikels (1) en (4) van artikel 6 van, en die Eerste Bylae by, die Wet op die 25 Hooggeregshof, 1959, word hierby herroep.

(2) Ondanks die herroeping van die wette in subartikel (1) bedoel, bly die setels en die regsgebiede van die Hoë Howe in die vermelde Eerste Bylae bedoel, behoudens enige verandering kragtens artikel 2, soos wat dit onmiddellik voor die inwerkingtreding van hierdie Wet was.

30 Kort titel

5. Hierdie Wet heet die Wet op Interim Rasionalisering van Jurisdiksie van Hoë Howe, 2001.

