

**REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA**

Vol. 524

Cape Town,  
Kaapstad, 17 February  
Februarie 2009

**No. 31908**

**THE PRESIDENCY**

No. 166

17 February 2009

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

**No. 66 of 2008: Judicial Matters Amendment Act, 2008.**

**DIE PRESIDENSIE**

No. 166

17 Februarie 2009

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

**No. 66 van 2008: Wysigingswet op Geregtelike Aangeleenthede, 2008.**

**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.

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*(English text signed by the President.)  
(Assented to 15 February 2009.)*

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# ACT

To amend the General Law Amendment Act, 1935, so as to further regulate the concealment of birth of a newly born child; to amend the Administration of Estates Act, 1965, so as to regulate the calculation of interest payable in respect of certain moneys paid into the Guardian's Fund and substitute obsolete terminology; to amend the Medicines and Related Substances Act, 1965, so as to effect a technical correction in the Afrikaans text; to amend the Criminal Procedure Act, 1977, so as to substitute obsolete references; to further regulate the payment of admission of guilt fines; to further regulate the release of an accused person on bail; to further regulate the appointment of psychiatrists in cases involving the mental capacity of an accused person; to provide for the prosecution of persons who commit offences while doing diplomatic duty outside of the Republic; to further regulate the imposition of periodical imprisonment; and to further regulate appeals in criminal proceedings from a magistrate's court to a High Court and from a High Court to the Supreme Court of Appeal; to amend the Attorneys Act, 1979, so as to extend the category of persons entitled to engage candidate attorneys; and to increase the fines that may be imposed on attorneys and candidate attorneys for improper conduct; to amend the Admiralty Jurisdiction Act, 1983, so as to further regulate the form of proceedings relating to maritime claims; to amend the Matrimonial Property Act, 1984, so as to remove a discriminatory provision; to amend the Criminal Law Amendment Act, 1997, so as insert certain serious offences in Part I of Schedule 2; to amend the Debt Collectors Act, 1998, so as to further regulate the appointment of members of the Council for Debt Collectors; to further regulate the number of the members of the executive committee of the Council for Debt Collectors; to further regulate the trust accounts of debt collectors; and to regulate the recusal of members of committees appointed to deal with disciplinary matters; to amend the Promotion of Access to Information Act, 2000, so as to extend the period within which rules of procedure must be made; and to further regulate the liability of persons exercising powers or performing duties in terms of the Act; to amend the Promotion of Administrative Justice Act, 2000, so as to extend the period within which to make rules of procedure for judicial review; to extend the period within which the code of good administrative conduct must be made; and to effect a technical correction in the IsiXhosa text; to amend the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, so as further regulate the remuneration and allowances payable to members of the Equality Review Committee; to amend the Judges' Remuneration and Conditions of Employment Act, 2001, so as to further regulate the service of judges after discharge from active service; to amend the Prevention and Combating of Corrupt Activities Act, 2004, so as to further regulate penalties; to amend the Criminal Law (Sexual Offences

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ] Woerde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- \_\_\_\_\_ Woerde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.
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*(Engelse teks deur die President geteken.)  
(Goedgekeur op 15 Februarie 2009.)*

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# WET

Tot wysiging van die Algemene Regswysigingswet, 1935, ten einde die verbergting van geboorte van 'n pasgebore kind verder te reël; tot wysiging van die Boedelwet, 1965, ten einde die berekening van rente wat betaalbaar is ten opsigte van sekere gelde wat in die Voogdyfonds inbetaal is, te reël en om verouderde terminologie te vervang; tot wysiging van die Wet op Medisyne en Verwante Stowwe, 1965, ten einde 'n tegniese regstelling in die Afrikaanse teks aan te bring; tot wysiging van die Strafproseswet, 1977, ten einde verouderde verwysings te vervang; om die betaling van skulderkenningsboetes verder te reël; om die vrylating van 'n beskuldigde persoon op borgtog verder te reël; om die aanstelling van psigiaters in sake wat handel met die geestesvermoëns van 'n beskuldigde persoon, verder te reël; om voorsiening te maak vir die vervolging van persone wat misdrywe pleeg terwyl hulle diplomatieke diens buite die Republiek verrig; om die oplegging van periodieke gevangenisstraf verder te reël; en om appèlle in strafregtelike verrigtinge vanaf 'n landdroshof na 'n Hoë Hof en vanaf 'n Hoë Hof na die Hoogste Hof van Appèl, verder te reël; tot wysiging van die Wet op Prokureurs, 1979, ten einde die kategorie van persone wat kandidaat-prokureurs in diens kan neem, uit te brei; en om die boetes wat prokureurs en kandidaat-prokureurs vir onbehoorlike gedrag opgelê kan word, te verhoog; tot wysiging van die Wet op die Reëling van Admiralteitsjurisdiksie, 1983, ten einde die vorm van verrigtinge wat verband hou met maritieme eise, verder te reël; tot wysiging van die Wet op Huweliksgoedere, 1984, ten einde 'n diskriminerende bepaling te skrap; tot wysiging van die Strafregwysigingswet, 1997, ten einde sekere ernstige misdrywe in Deel I van Bylae 2 in te voeg; tot wysiging van die Wet op Skuldinvorderaars, 1998, ten einde die aanstelling van lede van die Raad vir Skuldinvorderaars verder te reël; om die aantal lede van die uitvoerende komitee van die Raad vir Skuldinvorderaars, verder te reël; om die trustreknings van skuldinvorderaars verder te reël; en om die onttrekking van lede van komitees wat aangestel is om dissiplinêre aangeleenthede te hanteer, te reël; tot wysiging van die Wet op Bevordering van Toegang tot Inligting, 2000, ten einde die tydperk waarbinne reëls van prosedure gemaak moet word, te verleng; en om die aanspreeklikheid van persone wat sekere bevoegdhede of pligte ingevolge die Wet uitoefen of verrig, verder te reël; tot wysiging van die "Promotion of Administrative Justice Act", 2000, ten einde die tydperk waarbinne reëls van prosedure vir geregtelike hersiening gemaak moet word, te verleng; om die tydperk waarbinne die gedragskode oor goeie administratiewe handelinge gemaak moet word, te verleng; en om 'n tegniese regstelling in die IsiXhosa-teks aan te bring; tot wysiging van die "Promotion of Equality and Prevention of Unfair Discrimination Act, 2000", ten einde die vergoeding en toelaes betaalbaar aan lede van die "Equality Review Committee", verder te reël; tot wysiging van die Wet op Besoldiging en

**and Related Matters) Amendment Act, 2007, so as to extend the period within which the National Register for Sex Offenders must be established; to extend the period within which the National Commissioner of Correctional Services, the National Commissioner of the South African Police Service and the Director-General: Health must forward particulars in their possession to the Registrar of the National Register for Sex Offenders; to extend the period within which the Minister for Justice and Constitutional Development must adopt and table the policy framework relating to sexual offences, in Parliament; and to provide for matters connected therewith.**

**P**arliament of the Republic of South Africa enacts as follows:-

**Substitution of section 113 of Act 46 of 1935**

1. The following section is hereby substituted for section 113 of the General Law Amendment Act, 1935:

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**“Concealment of birth of newly born child”**

**113.** (1) Any person who, without a lawful burial order, disposes of the body of any newly born child with intent to conceal the fact of its birth, whether the child died before, during or after birth, shall be guilty of an offence and liable on conviction to a fine [**not exceeding one hundred pounds**] or to imprisonment for a period not exceeding three years.

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[**(2) Whenever a person disposes of the body of any such child which was recently born, otherwise than under a lawful burial order, he shall be deemed to have disposed of such body with intent to conceal the fact of the child’s birth, unless it is proved that he had no such intent.]**

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[**(3)] (2)** A person may be convicted under subsection (1) although it has not been proved that the child in question died before its body was disposed of.

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**(3) The institution of a prosecution under this section must be authorised in writing by the Director of Public Prosecutions having jurisdiction.”.**

**Amendment of section 88 of Act 66 of 1965**

2. Section 88 of the Administration of Estates Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of subsections (2) and (3), compounded interest calculated on a monthly basis at the rate per annum determined from time to time by the Minister [of Finance] for Justice and Constitutional Development, in consultation with the Minister of Finance, [and compounded annually at the thirty-first of March,] shall be allowed on each rand of the principal of every sum of money received by the Master for account of any minor, [lunatic] mentally ill person or person with severe or profound intellectual disability, unborn heir or any person having an interest therein of a usufructuary, fiduciary or fideicommissary nature.”.

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**Diensvoorraarde van Regters, 2001, ten einde die diens van regters na ontheffing van aktiewe diens, verder te reël; tot die wysiging van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywigheid, 2004, ten einde die oplegging van strawwe verder te reël; tot wysiging van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, ten einde die tydperk waarbinne die Nasionale Register vir Seks-oortreders ingestel moet word, te verleng; om die tydperk waarbinne die Nasionale Kommissaris van Korrekttiewe Dienste, die Nasionale Kommissaris van die Suid-Afrikaanse Polisiediens en die Direkteurgeneraal: Gesondheid besonderhede in hulle besit aan die Registrateur van die Nasionale Register vir Seks-oortreders moet aanstuur, te verleng; en om die tydperk waarbinne die Minister vir Justisie en Staatkundige Ontwikkeling die beleidsraamwerk wat betrekking het op seksuele misdrywe moet opstel en in die Parlement ter tafel lê, te verleng; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**D**ie Parlement van die Republiek van Suid-Afrika bepaal soos volg:—

#### **Vervanging van artikel 113 van Wet 46 van 1935**

**1. Artikel 113 van die Algemene Regswysigingswet, 1935, word hierby deur die volgende artikel vervang:** 5

##### **“Verbergting van geboorte van ‘n pasgebore kind”**

**113. (1) Iemand wat die liggaam van ‘n pasgebore kind wegmaak sonder ‘n wettige begrafnislasbrief, met die [oogmerk] bedoeling om die feit dat hy of sy gebore is, te verberg, en wel onverskillig of die kind voor, gedurende of na die geboorte oorlede is, maak hom of haar aan ‘n misdryf skuldig en is by veroordeling strafbaar met ‘n boete [van hoogtens honderd pond] of met gevangenisstraf van hoogtens drie jaar.** 10

**[(2) Wanneer iemand die liggaam van so ‘n kind wat onlangs gebore is, anders as ingevolge ‘n wettige begrafnislasbrief, wegmaak, word vermoed dat hy daardie liggaam weggemaak het met die oogmerk om die kind se geboorte te verberg, tensy bewys word dat hy nie daardie oogmerk gehad het nie.]** 15

**[(3)] (2) Iemand kan ingevolge subartikel (1) skuldig bevind word, alhoewel nie bewys is nie dat die betrokke kind oorlede is voordat sy liggaam weggemaak is.** 20

**(3) Die instelling van ‘n vervolging kragtens hierdie artikel moet skriftelik gemagtig word deur die Direkteur van Openbare Vervolgings watregsbevoegdheid het.”.**

#### **Wysiging van artikel 88 van Wet 66 van 1965**

**2. Artikel 88 van die Boedelwet, 1965, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:** 25

**“(1) Behoudens die bepalings van subartikels (2) en (3), word saamgestelde rente, bereken op ‘n maandelikse grondslag teen die jaarlikse koers wat die Minister [van Finansies] vir Justisie en Staatkundige Ontwikkeling, in oorleg met die Minister van Finansies, van tyd tot tyd bepaal, [en jaarliks op die een-en-dertigste dag van Maart saamgestel,] toegestaan op elke rand van die hoofsom van elke bedrag deur die Meester ontvang vir die rekening van ‘n minderjarige, [kranksinnige] ‘n geestelik gestremde persoon of ‘n persoon met ernstige of wesenlike intellektuele gestremdheid, ongebore erfgenaam of iemand wat ‘n belang daarin het soortgelyk aan dié van ‘n vruggebruiker, fiduciarius of fideicommissarius.”.** 30 35

**Amendment of section 1 of Act 101 of 1965, as substituted by section 1 of Act 65 of 1974 and amended by section 1 of Act 17 of 1979, section 1 of Act 20 of 1981, section 1 of Act 94 of 1991, section 1 of Act 49 of 1996, section 1 of Act 90 of 1997 and section 1 of Act 59 of 2002**

3. Section 1 of the Medicines and Related Substances Act, 1965, is hereby amended by the substitution, in the Afrikaans text, for the definition of “landdros” of the following definition:

“**‘landdros’** ’n landdros soos omskryf in artikel 1 van die Wet op Landdroste, 1993 (Wet No. 90 van 1993), en ook ’n [bykomende] addisionele landdros en ’n assistent-landdros;”.

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**Amendment of section 51 of Act 51 of 1977**

4. Section 51 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Any person who escapes or attempts to escape from custody after he or she has been lawfully arrested and before he or she has been lodged in any [prison] correctional facility, police-cell or lock-up, shall be guilty of an offence and liable on conviction to the penalties prescribed in section [48 of the Prisons Act, 1959 (Act 8 of 1959)] 117 of the Correctional Services Act, 1998 (Act No. 111 of 1998).

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(2) Any person who rescues or attempts to rescue from custody any person after he or she has been lawfully arrested and before he or she has been lodged in any [prison] correctional facility, police-cell or lock-up, or who aids [such] the person to escape or to attempt to escape from [such] custody, or who harbours or conceals or assists in harbouring or concealing any person who escapes from custody after he or she has been lawfully arrested and before he or she has been lodged in any [prison] correctional facility, police-cell or lock-up, shall be guilty of an offence and liable on conviction to the penalties prescribed in section [43 of the said Prisons Act, 1959] 117 of the said Correctional Services Act, 1998.”.

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**Amendment of section 55 of Act 51 of 1977, as amended by section 14 of Act 59 of 1983, section 5 of Act 33 of 1986 and section 3 of Act 4 of 1992**

5. Section 55 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for paragraph (a) of subsection (2A) of the following paragraph:

“(a) If the court issues a warrant of arrest in terms of subsection (2) in respect of a summons which is endorsed in accordance with section 57[(1)](3)(a)—

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(i) an endorsement to the same effect shall be made on the warrant in question;  
(ii) the court may make a further endorsement on the warrant to the effect that the accused may admit his or her guilt in respect of the failure to appear in answer to the summons or to remain in attendance at the criminal proceedings, and that he or she may upon arrest pay to a clerk of the court or at a police station a fine stipulated on the warrant in respect of [such] that failure, which fine shall not exceed the amount to be imposed in terms of subsection (2), without appearing in court.”.

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**Amendment of section 56 of Act 51 of 1977, as amended by section 2 of Act 109 of 1984 and section 5 of Act 5 of 1991**

6. (1) Section 56 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

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“(1) If an accused is alleged to have committed an offence referred to in section 57(2)(a), [and] a peace officer [on reasonable grounds believes that a magistrate’s court, on convicting such accused of that offence, will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette, such peace office] may, whether or not the accused is in custody, hand to the accused a written notice which shall—

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WYSIGINGSWET OP GEREGETELIKE AANGELEENTHEDE. Wet No. 66, 2008  
2008

**Wysiging van artikel 1 van Wet 101 van 1965, soos vervang deur artikel 1 van Wet 65 van 1974 en gewysig deur artikel 1 van Wet 17 van 1979, artikel 1 van Wet 20 van 1981, artikel 1 van Wet 94 van 1991, artikel 1 van Wet 49 van 1996, artikel 1 van Wet 90 van 1997 en artikel 1 van Wet 59 van 2002**

3. Artikel 1 van die Wet op Medisyne en Verwante Stowwe, 1965, word hierby 5 gewysig deur die omskrywing van “landdros” in die Afrikaanse teks deur die volgende omskrywing te vervang:

“**landdros**” ’n landdros soos omskryf in artikel 1 van die Wet op Landdroste, 1993 (Wet No. 90 van 1993), en ook ’n [bykomende] addisionele landdros en ’n assistent-landdros;.”.

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**Wysiging van artikel 51 van Wet 51 van 1977**

4. Artikel 51 van die Strafproseswet, 1977, word hierby gewysig deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:

“(1) Iemand wat uit bewaring ontsnap of poog te ontsnap nadat hy of sy wettiglik in hegtenis geneem is en voordat hy of sy in ’n **[gevangenis]** korrektiewe fasilitet, polisiesel of opsluitplek geplaas is, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat in artikel **[48 van die Wet op Gevangenis, 1959 (Wet 8 van 1959)]** 117 van die Wet op Korrektiewe Dienste, 1998 (Wet No. 111 van 1998), voorgeskryf word.

(2) Iemand wat ’n ander uit bewaring bevry of poog te bevry nadat hy of sy wettiglik in hegtenis geneem is en voordat hy of sy in ’n **[gevangenis]** korrektiewe fasilitet, polisiesel of opsluitplek geplaas is, of wat **[so ’n]** die persoon help om uit **[sodanige]** bewaring te ontsnap of poog te ontsnap, of wat ’n ander herberg of versteek of met die herberg of versteking van iemand behulpsaam is wat uit bewaring ontsnap nadat hy of sy wettiglik in hegtenis geneem is en voordat hy of sy in ’n **[gevangenis]** korrektiewe fasilitet, polisiesel of opsluitplek geplaas is, is aan ’n misdryf skuldig en by skuldigbevinding strafbaar met die strawwe wat in artikel **[43 van bedoelde Wet op Gevangenis, 1959]** 117 van bedoelde Wet op Korrektiewe Dienste, 1998, voorgeskryf word.”.

**Wysiging van artikel 55 van Wet 51 van 1977 soos gewysig deur artikel 14 van Wet 59 van 1983, artikel 5 van Wet 33 van 1986 en artikel 3 van Wet 4 van 1992** 30

5. Artikel 55 van die Strafproseswet, 1977, word hierby gewysig deur paragraaf (a) van subartikel (2A) deur die volgende paragraaf te vervang:

“(a) Indien die hof ’n lasbrief ingevolge subartikel (2) uitrek ten opsigte van ’n dagvaarding wat ooreenkomsdig artikel 57[(1)] (3)(a) gevendosseer is—

- (i) moet ’n endossement met dieselfde strekking op die betrokke lasbrief aangebring word;
- (ii) kan die hof ’n verdere endossement op die lasbrief aanbring met die strekking dat die beskuldigde sy of haar skuld ten opsigte van sy of haar versuim om in antwoord op die dagvaarding te verskyn of om by die strafregtelike 40 verrigtinge aanwesig te bly, kan erken en dat hy of sy by inhegtenisneming ’n op die lasbrief bepaalde boete, wat nie die bedrag wat ingevolge subartikel (2) opgelê kan word, oorskry nie, ten opsigte van **[bedoelde]** daardie versuim aan ’n klerk van die landdroshof of by ’n polisiekantoor kan betaal sonder om in die hof te verskyn.”.

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**Wysiging van artikel 56 van Wet 51 van 1977, soos gewysig deur artikel 2 van Wet 109 van 1984 en artikel 5 van Wet 5 van 1991**

6. Artikel 56 van die Strafproseswet, 1977, word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:

“(1) Indien ’n beskuldigde na bewering ’n misdryf bedoel in artikel 57(2)(a) 50 gepleeg het, **[en]** kan ’n vredesbeampte **[op redelike gronde dink dat ’n landdroshof, by skuldigbevinding van so ’n beskuldigde weens daardie misdryf, nie ’n boete sal oplê wat die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, te bowe gaan nie.** kan so ’n vredesbeampte] hetsy die beskuldigde in bewaring is of nie, aan die beskuldigde 55 ’n skriftelike kennisgewing oorhandig wat—

**Act No. 66, 2008****JUDICIAL MATTERS AMENDMENT ACT, 2008**

- (a) specify the name, residential address and the occupation or status of the accused;
- (b) call upon the accused to appear at a place and on a date at a time specified in the written notice to answer a charge of having committed the offence in question;
- (c) contain an endorsement in terms of section 57 that the accused may admit his or her guilt in respect of the offence in question and that he or she may pay [a] the stipulated fine as determined by the Minister in terms of section 57(2)(b) in respect thereof without appearing in court; and
- (d) contain a certificate under the hand of the peace officer that he or she has handed the original of [such] that written notice to the accused and that he or she has explained to the accused the import thereof.
- (2) If the accused is in custody, the effect of a written notice handed to him or her under subsection (1) shall be that he or she be released forthwith from custody.”.

**Substitution of section 57 of Act 51 of 1977, as substituted by section 3 of Act 109 of 1984, section 6 of Act 33 of 1986, section 2 of Act 26 of 1987 and section 6 of Act 5 of 1991**

7. The following section is hereby substituted for section 57 of the Criminal Procedure Act, 1977:

**“Admission of guilt and payment of fine without appearance in court** 20

**57. (1) An admission of guilt fine referred to in this section may only be imposed and paid in respect of an offence which the Minister determines, as provided for in subsection (2).**

(2) For purposes of this section, the Minister may, from time to time, by notice in the *Gazette*, and after consultation with the Chief Justice, the National Director of Public Prosecutions and the Minister for Safety and Security, determine—

- (a) the offences in respect of which an admission of guilt fine may be imposed and paid; and
- (b) the amount of an admission of guilt fine which can be stipulated in a summons under section 54 (in this section referred to as the summons) or a written notice under section 56 (in this section referred to as the written notice), in respect of each offence.

**[1] (3) Where—**

- (a) a summons is issued against an accused under section 54 [(in this section referred to as the summons)] and the public prosecutor [or the clerk] of the court concerned [on reasonable grounds believes that a magistrate’s court, on convicting the accused of the offence in question, will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the *Gazette*, and such public prosecutor or the clerk of the court], in accordance with the directives issued by the National Director of Public Prosecutions provided for in subsection (1), endorses the summons to the effect that the accused may admit his or her guilt in respect of the offence in question and that he or she may pay a fine stipulated on the summons in respect of [such] that offence without appearing in court; or
- (b) a written notice under section 56 [(in this section referred to as the written notice)] is handed to the accused and the endorsement in terms of [paragraph (c) of] subsection (1)(c) of that section purports to have been made by a peace officer, the accused may, without appearing in court, admit his or her guilt in respect of the offence in question by paying the fine stipulated (in this section referred to as the admission of guilt fine) either to the clerk of the

- (a) die naam, die woonadres en die beroep of status van die beskuldigde vermeld;  
 (b) die beskuldigde aansê om by 'n plek en op 'n datum en op 'n tyd te verskyn wat in die skriftelike kennisgewing vermeld word om te antwoord op 'n aanklag dat hy of sy die betrokke misdryf gepleeg het;  
 (c) 'n endossement ooreenkomsdig artikel 57 bevat dat die beskuldigde sy of haar skuld ten opsigte van die betrokke misdryf kan erken en dat hy of sy ['n] die [bepaalde] boete soos bepaal deur die Minister ingevolge artikel 57(2)(b) ten opsigte daarvan kan betaal sonder om in die hof te verskyn; en  
 (d) 'n sertikaat onder naamtekening van die vredesbeampte bevat dat hy of sy die oorspronklike van [bedoelde] daardie skriftelike kennisgewing aan die beskuldigde oorhandig het en dat hy of sy die betekenis daarvan aan die beskuldigde verduidelik het.
- (2) Indien die beskuldigde in bewaring is, is die gevolg van 'n skriftelike kennisgewing wat ingevolge subartikel (1) aan hom of haar oorhandig is dat hy of sy onverwyld uit bewaring vrygelaat word.".

**Vervanging van artikel 57 van Wet 51 van 1977, soos vervang deur artikel 3 van Wet 109 van 1984, artikel 6 van Wet 33 van 1986, artikel 2 van Wet 26 van 1987 en artikel 6 van Wet 5 van 1991**

7. Artikel 57 van die Strafproseswet, 1977, word hierby deur die volgende artikel vervang:

**"Erkenning van skuld en betaling van boete sonder verskyning in hof**

**57. (1)** 'n Skulderkenningsboete bedoel in hierdie artikel word slegs opgelê en betaal ten opsigte van 'n misdryf wat die Minister bepaal, soos in subartikel (2) bepaal.

(2) Vir doeleindes van hierdie artikel kan die Minister van tyd tot tyd, by kennisgewing in die *Staatskoerant*, en na oorlegpleging met die Hoofregter, die Nasionale Direkteur van Openbare Vervolgings en die Minister van Veiligheid en Sekuriteit—

- (a) die misdrywe ten opsigte waarvan 'n skulderkenningsboete opgelê en betaal kan word, bepaal; en  
 (b) die bedrag van 'n skulderkenningsboete wat in 'n dagvaarding kragtens artikel 54 (in hierdie artikel die dagvaarding genoem) of 'n skriftelike kennisgewing kragtens artikel 56 (in hierdie artikel die skriftelike kennisgewing genoem), ten opsigte van elke misdryf vasgestel kan word, bepaal.

**[1] (3) Waar—**

(a) 'n Dagvaarding ingevolge artikel 54 teen 'n beskuldigde uitgereik word [in hierdie artikel die dagvaarding genoem] en die betrokke staatsaanklaer [of klerk] van die hof [op redelike gronde dink dat 'n landdroshof, by skuldigbevinding van die beskuldigde aan die betrokke misdryf, nie 'n boete sal oplê wat die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, te bowe gaan nie, en so 'n staatsaanklaer of klerk van die hof], in ooreenstemming met die voorskrifte wat deur die Nasionale

Direkteur van Openbare Vervolgings uitgereik is soos in subartikel **40** (11) bepaal, die dagvaarding endosseer met die strekking dat die beskuldigde sy of haar skuld ten opsigte van die betrokke misdryf kan erken en dat hy of sy 'n op die dagvaarding bepaalde boete ten opsigte van [bedoelde] daardie misdryf kan betaal sonder om in die hof te verskyn; of

(b) 'n Skriftelike kennisgewing ingevolge artikel 56 [in hierdie artikel die skriftelike kennisgewing genoem] aan die beskuldigde oorhandig word en die endossement ingevolge [paragraaf (c) van] subartikel (1)(c) van daardie artikel voorgee deur 'n vredesbeampte aangebring te gewees het.

kan die beskuldigde, sonder om in die hof te verskyn, sy of haar skuld ten opsigte van die betrokke misdryf erken deur die bepaalde boete (in hierdie artikel die skulderkenningsboete genoem) of aan die klerk van die

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magistrate's court which has jurisdiction or at any police station within the area of jurisdiction of that court or, if the summons or written notice in question is endorsed to the effect that the fine may be paid at a specified local authority, at [such] that local authority.

[**(2)**] [**(4)** (*a*) The summons or the written notice may stipulate that the admission of guilt fine shall be paid before a date specified in the summons or written notice, as the case may be.] 5

(*b*) An admission of guilt fine may be accepted by the clerk of the court concerned notwithstanding that the date referred to in paragraph (*a*) or the date on which the accused should have appeared in court has expired. 10

[**(3)**] [**(5)** (*a*) Subject to the provisions of subparagraphs (ii) and (iii), an accused who intends to pay an admission of guilt fine in terms of subsection (1), shall surrender the summons or the written notice, as the case may be, at the time of the payment of the fine.] 15

(ii) If the summons or written notice, as the case may be, is lost or is not available and the copy thereof known as the control document—

(aa) is not available at the place of payment referred to in subsection [(1)]

(3), the accused shall surrender a copy of the summons or written notice, as the case may be, at the time of the payment of the fine; or

(bb) is available at the place of payment referred to in subsection [(1)] (3), 20 the admission of guilt fine may be accepted without the surrender of a copy of the summons or written notice, as the case may be.

(iii) If an accused in respect of whom a warrant has been endorsed in terms of section 55(2A) intends to pay the relevant admission of guilt fine, the clerk of the court may, after he or she has satisfied himself or herself that the warrant is so endorsed, accept the admission of guilt fine without the surrender of the summons, written notice or copy thereof, as the case may be.] 25

(*b*) A copy referred to in paragraph (*a*)(ii) may be obtained by the accused at the magistrate's court, police station or local authority where the copy of the summons or written notice in question known as the control document is filed.] 30

(*c*) Notwithstanding the provisions of subsection [(1)] (3), an accused referred to in paragraph (*a*)(iii) may pay the admission of guilt fine in question to the clerk of the court where he or she appears in consequence of [such] that warrant, and if [**the said**] that clerk of the court is not the clerk of the magistrate's court referred to in subsection [(1)] (3), he or she shall transfer [such] that admission of guilt fine to the latter clerk of the magistrate's court.] 35

[**(4)**] [**(6)** No provision of this section shall be construed as preventing a public prosecutor attached to the court concerned from reducing an admission of guilt fine on good cause shown in writing.] 40

[**(5)** (*a*) **An admission of guilt fine stipulated in respect of a summons or a written notice shall be in accordance with a determination which the magistrate of the district or area in question may from time to time make in respect of any offence or, if the magistrate has not made such a determination, in accordance with an amount determined in respect of any particular summons or any particular written notice by either a public prosecutor attached to the court of such magistrate or a police official of or above the rank of non-commissioned officer attached to a police station within the magisterial district or area in question or, in the absence of such a police official at any such police station, by the senior police official then in charge at such police station.] 45**

(*b*) **An admission of guilt fine determined under paragraph (*a*) shall not exceed the maximum of the fine prescribed in respect of the offence in question or the amount determined by the Minister from time to time by notice in the *Gazette*, whichever is the lesser.]** 50 55

landdroshof watregsbevoegdheid het of by 'n polisiekantoor binne die regsgebied van daardie hof te betaal of, indien die betrokke dagvaarding of skriftelike kennisgwing geëndosseer is met die strekking dat die boete by die bepaalde plaaslike bestuur betaal kan word, by [so 'n] daardie plaaslike bestuur te betaal.

[(2)] (4) (a) Die dagvaarding of die skriftelike kennisgewing kan bepaal dat die skulderkenningsboete voor 'n in die dagvaarding of, na gelang van die geval, skriftelike kennisgewing vermelde datum betaal moet word.

(b) 'n Skulderkenningsboete kan deur die betrokke klerk van die hof aanvaar word niteenstaande dat die in paragraaf (a) bedoelde datum of die datum waarop die beskuldigde in die hof moes verskyn het, verstryk het.

[(3)] (5) (a) (i) Behoudens die bepalings van subparagrafe (ii) en (iii), moet 'n beskuldigde wat 'n skulderkenningsboete ingevolge subartikel (1) wil betaal, die dagvaarding of die skriftelike kennisgewing, na gelang van die geval, ten tyde van die betaling van die skulderkenningsboete afgee.

(ii) Indien die dagvaarding of skriftelike kennisgewing, na gelang van die geval, verlore is of nie beskikbaar is nie en die afskrif daarvan bekend as die beheerstuk—

(aa) nie by die plek van betaling in subartikel [(1)] (3) bedoel, beskikbaar is nie, moet die beskuldigde 'n afskrif van die dagvaarding of skriftelike kennisgewing, na gelang van die geval, ten tyde van die betaling van die skulderkenningsboete afgee; of

(bb) by die plek van betaling in subartikel [(1)] (3) bedoel, beskikbaar is, kan die skulderkenningsboete aanvaar word sonder die afgifte van 'n afskrif van die dagvaarding of skriftelike kennisgewing, na gelang van die geval.

(iii) Indien 'n beskuldigde ten opsigte van wie 'n lasbrief ingevolge artikel 55(2A) geëndosseer is die betrokke skulderkenningsboete wil betaal, kan die klerk van die hof, nadat hy of sy homself of haarsel vergewis het dat die betrokke lasbrief aldus geëndosseer is, die skulderkenningsboete aanvaar sonder die afgifte van die dagvaarding, skriftelike kennisgewing of afskrif daarvan, na gelang van die geval.

(b) 'n In paragraaf (a)(ii) bedoelde afskrif kan deur die beskuldigde verkry word by die landdroshof, polisiekantoor of plaaslike bestuur waar die afskrif van die betrokke dagvaarding of skriftelike kennisgewing bekend as die beheerstuk gebêre word.

(c) Ondanks die bepalings van subartikel [(1)] (3) kan 'n beskuldigde bedoel in paragraaf (a)(iii) die betrokke skulderkenningsboete betaal aan die klerk van die hof waar hy of sy weens [sodanige] daardie lasbrief verskyn, en indien [bedoelde] daardie klerk van die hof nie die klerk van die landdroshof bedoel in subartikel [(1)] (3) is nie, plaas hy of sy [sodanige] daardie skulderkenningsboete na laasgenoemde klerk van die landdroshof oor.

[(4)] (6) Geen bepaling van hierdie artikel word so uitgelê dat 'n staatsaanklaer verbonde aan die betrokke hof verhinder word om 'n skulderkenningsboete om deugdelike schriftelike redes te verminder nie.

[(5) (a) 'n Skulderkenningsboete wat ten opsigte van 'n dagvaarding of 'n skriftelike kennisgewing bepaal is, moet in ooreenstemming wees met 'n vasstelling wat die landdros van die betrokke distrik of gebied van tyd tot tyd ten opsigte van 'n misdryf maak of, indien die landdros nie so 'n vasstelling gemaak het nie, in ooreenstemming met 'n bedrag wat ten opsigte van 'n besondere dagvaarding of 'n besondere skriftelike kennisgewing bepaal is deur of 'n staatsaanklaer wat verbonde is aan die hof van bedoelde landdros of 'n polisiebeampte met of bo die rang van onderoffisier wat verbonde is aan 'n polisiekantoor binne die betrokke landdrostdistrik of -gebied of, in die afwesigheid van so 'n polisiebeampte by so 'n polisiekantoor, deur die senior polisiebeampte wat dan in beheer van so 'n polisiekantoor is.

(b) 'n Kragtens paragraaf (a) bepaalde skulderkenningsboete oorskry nie die maksimum boete nie wat ten opsigte van die betrokke misdryf voorgeskryf is of die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, watter ook al die minste is.]

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(7) An admission of guilt fine stipulated in respect of a summons or a written notice shall be in accordance with the determination made by the Minister from time to time in respect of the offence in question, as provided for in subsection (2).

[(6)] (8) An admission of guilt fine paid at a police station or a local authority in terms of subsection [(1)] (3) and the summons or, as the case may be, the written notice surrendered under subsection [(3)] (5), shall, as soon as is expedient, be forwarded to the clerk of the magistrate's court which has jurisdiction, and [such] that clerk of the court shall thereafter, as soon as is expedient, enter the essential particulars of [such] that summons or, as the case may be, [such] that written notice and of any summons or written notice surrendered to the clerk of the court under subsection [(3)] (5), in the criminal record book for admissions of guilt, whereupon the accused concerned shall, subject to the provisions of subsection [(7)] (9), be deemed to have been convicted and sentenced by the court in respect of the offence in question.

[(7)] (9) The judicial officer presiding at the court in question shall examine the documents and if it appears to him or her that a conviction or sentence under subsection [(6)] (8) is not in accordance with justice or [that any such sentence], except as provided in subsection [(4)] (6), is not in accordance with a determination made by the [magistrate] Minister under subsection [(5)] (2) or [, where the determination under that subsection has not been made by the magistrate, that the sentence is not adequate] does not comply with a directive issued by the National Director of Public Prosecutions as provided for in subsection (11) [such] that judicial officer may set aside the conviction and sentence and direct that the accused be prosecuted in the ordinary course, whereupon the accused may be summoned to answer [such] that charge as the public prosecutor may deem fit to prefer: Provided that where the admission of guilt fine which has been paid exceeds the amount determined by the [magistrate] Minister under subsection [(5)] (2), the [said] judicial officer may, in lieu of setting aside the conviction and sentence in question, direct that the amount by which the [said] admission of guilt fine exceeds the said determination be refunded to the accused concerned.

(10) Any determination made by the Minister under this section must be tabled in Parliament for approval.

(11) (a) The National Director of Public Prosecutions must issue directives regarding the cases and circumstances in which a prosecutor may issue a summons referred to in subsection (3)(a) or a written notice referred to in section 57A(1) in which an admission of guilt fine may be imposed in respect of the offences which the Minister determines under subsection (2) and any directive so issued must be observed in the application of this section.

(b) The directives referred to in paragraph (a) must ensure that adequate disciplinary steps will be taken against a prosecutor who fails to comply with any directive.

(c) The Minister must submit any directives issued under this subsection to Parliament before those directives take effect, and the first directives so issued, must be submitted to Parliament within four months of the commencement of this section.

(d) Any directive issued under this subsection may be amended or withdrawn in like manner.”.

**Amendment of section 57A of Act 51 of 1977, as inserted by section 1 of Act 86 of 1996**

**8. Section 57A of the Criminal Procedure Act, 1977, is hereby amended by—**

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

“(1) If an accused who is alleged to have committed an offence, as provided for in section 57(2)(a), has appeared in court and is—

(7) 'n Skulderkenningsboete wat ten opsigte van 'n dagvaarding of 'n skriftelike kennisgewing bepaal is, moet in ooreenstemming wees met die vassetting wat die Minister van tyd tot tyd ten opsigte van die betrokke misdryf bepaal het, soos in subartikel (2) bepaal.

[6] (8) 'n Skulderkenningsboete wat ingevolge subartikel [(1)] (3) by 'n polisiekantoor of 'n plaaslike bestuur betaal word en die dagvaarding of, na gelang van die geval, die skriftelike kennisgewing ingevolge subartikel [3] (5) afgegee, moet so spoedig doenlik gestuur word aan die klerk van die landdroshof wat regshoogheid het, en [**die bedoelde**] daardie klerk van die hof moet so spoedig doenlik daarna die wesenlike besonderhede van [**bedoelde**] daardie dagvaarding of, na gelang van die geval, [**bedoelde**] daardie skriftelike kennisgewing en van 'n dagvaarding of skriftelike kennisgewing ingevolge subartikel [(3)] (5) aan die klerk van die hof afgegee, in die strafakeboek vir erkennings van skuld inskryf, waarop die betrokke beskuldigde, behoudens die bepalings van subartikel [(7)] (9), geag word deur die hof ten opsigte van die betrokke misdryf skuldig bevind en gevonnis te gewees het.

[7] (9) Die regterlike amptenaar wat by die betrokke hof voorsit, gaan die stukke na en indien dit aan hom of haar blyk dat 'n skuldigbevinding of vonnis ingevolge subartikel [(6)] (8) nie ooreenkomsdig reg geskied het nie of [**dat so 'n vonnis**], behalwe soos in subartikel [(4)] (6) bepaal, nie ooreenkomsdig 'n kragtens subartikel [(5)] (2) deur die [**landdros**] Minister gemaakte vassetting is nie of [**waar die vassetting ingevolge genoemde subartikel nie deur die landdros gemaak is nie, dat die vonnis nie toereikend is nie**] nie aan 'n voorskrif voldoen wat deur die Nasionale Direkteur van Openbare Vervolgings uitgereik is nie, soos in subartikel (11) bepaal, kan [**bedoelde**] daardie regterlike amptenaar die skuldigbevinding en vonnis tersyde stel en gelas dat die beskuldigde op die gewone wyse vervolg word, waarop die beskuldigde gedagvaar kan word om te antwoord op die aanklag wat die staatsaanklaer na goeddunke mag inbring: Met dien verstande dat waar die skulderkenningsboete wat betaal is, die bedrag oorskry wat deur die [**landdros**] Minister ingevolge subartikel [(5)] (2), vasgestel is, [**bedoelde**] die regterlike amptenaar, in plaas van die betrokke skuldigbevinding en vonnis tersyde te stel, kan gelas dat die bedrag waarmee [**bedoelde**] die skulderkenningsboete bedoelde vasstelling oorskry, aan die betrokke beskuldigde terugbetaal word.

(10) Enige bepaling wat kragtens hierdie artikel deur die Minister gemaak is, moet in die Parlement ter tafel gelê word vir goedkeuring.

(11) (a) Die Nasionale Direkteur van Openbare Vervolgings moet voorskrifte uitrek ten opsigte van die sake en omstandighede waaronder 'n aanklaer 'n dagvaarding bedoel in subartikel (3)(a) of 'n skriftelike kennisgewing bedoel in artikel 57A(1) kan uitrek waarin 'n skulderkenningsboete opgelê kan word ten opsigte van die misdrywe wat die Minister kragtens subartikel (2) bepaal, en 'n voorskrif aldus uitgereik, moet in die toepassing van hierdie artikel nagekom word.

(b) Die voorskrifte bedoel in paragraaf (a) moet verseker dat voldoende dissiplinêre stappe gedoen sal word teen 'n aanklaer wat versuim om aan enige voorskrif te voldoen.

(c) Die Minister moet voorskrifte wat kragtens hierdie subartikel uitgereik is, aan die Parlement voorlê voordat daardie voorskrifte van krag word, en die eerste voorskrifte aldus uitgereik, moet binne vier maande na die inwerkingtreding van hierdie artikel aan die Parlement voorgelê word.

(d) Enige voorskrif wat kragtens hierdie subartikel uitgereik word, kan op dergelyke wyse gewysig of teruggetrek word.”.

#### Wysiging van artikel 57A van Wet 51 van 1977, soos ingevoeg deur artikel 1 van Wet 86 van 1996 55

8. Artikel 57A van die Strafproseswet, 1977, word hierby gewysig deur—

(a) subartikel (1) deur die volgende subartikel te vervang:

“(1) Indien 'n beskuldigde wat na bewering 'n misdryf, soos in artikel 57(2)(a) bepaal, gepleeg het in die hof verskyn het op daardie aanklag en—

- (a) in custody awaiting trial on that charge and not on another more serious charge;

(b) released on bail under section 59 or 60; or

(c) released on warning under section 72,

the public prosecutor may, before the accused has entered a plea and [if he or she on reasonable grounds believes that a magistrate's court, on convicting such accused of that offence, will not impose a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette,] in accordance with the directives issued by the National Director of Public Prosecutions under section 57(11), hand to the accused a written notice, or cause [such] the notice to be delivered to the accused by a peace officer, containing an endorsement in terms of section 57 that the accused may admit his or her guilt in respect of the offence in question and that he or she may pay [a] the stipulated fine in respect [thereof] of that offence, as determined by the Minister in terms of section 57(2)(b), without appearing in court again.”;

(b) the substitution for subsection (4) of the following subsection:

“(4) The provisions of sections 55, 56(2) and (4) and 57[(2)] (1), (2), (4) to [(7)] (9), inclusive, shall apply *mutatis mutandis* to the relevant written notice handed or delivered to an accused under subsection (1) as if, in respect of section 57, [such] the notice were the written notice [contemplated] referred to in that section and as if the fine stipulated in [such] the written notice were also the admission of guilt fine [contemplated] referred to in that section.”.

**Amendment of section 60 of Act 51 of 1977, as substituted by section 3 of Act 75 of 1995 and amended by section 4 of Act 85 of 1997, section 5 of Act 34 of 1998, section 9 of Act 62 of 2000 and section 4 of Act 55 of 2003**

**9. Section 60 of the Criminal Procedure Act, 1977, is hereby amended by—**

(a) the insertion after subsection (2A) of the following subsection:

“(2B) (a) If the court is satisfied that the interests of justice permit the release of an accused on bail as provided for in subsection (1), and if the payment of a sum of money is to be considered as a condition of bail, the court must hold a separate inquiry into the ability of the accused to pay the sum of money being considered or any other appropriate sum.

(b) If, after an inquiry referred to in paragraph (a), it is found that the accused is—

(i) unable to pay any sum of money, the court must consider setting appropriate conditions that do not include an amount of money for the release of the accused on bail or must consider the release of the accused in terms of a guarantee as provided for in subsection (13)(b); or

(ii) able to pay a sum of money, the court must consider setting conditions for the release of the accused on bail and a sum of money which is appropriate in the circumstances.”;

(b) the substitution for subsection (13) of the following subsection:

“(13) The court releasing an accused on bail in terms of this section may order that the accused—

(a) deposit with the clerk of [the] any magistrate's court or the registrar of [the] any High Court, as the case may be, or with a correctional official at the correctional facility where the accused is in custody or with a police official at the place where the accused is in custody, the sum of money determined by the court in question; or

(b) shall furnish a guarantee, with or without sureties, that he or she will pay and forfeit to the State the amount that has been set as bail, or that has been increased or reduced in terms of section 63(1), in circumstances in which the amount would, had it been deposited, have been forfeited to the State.”.

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- (a) in hegtenis op daardie aanklag verhoorafwagtend is en nie op 'n ander ernstiger aanklag nie;
- (b) kragtens artikel 59 of 60 op borgtog vrygelaat is; of
- (c) kragtens artikel 72 op waarskuwing vrygelaat is,
- kan die staatsaanklaer, voordat die beskuldigde pleit en [**indien hy of sy op redelike gronde dink dat 'n landdroshof, by skuldigbevinding van so 'n beskuldigde weens daardie misdryf, nie 'n boete sal ople wat die bedrag wat die Minister van tyd tot tyd by kennisgewing in die in die Staatskoerant bepaal, te bowe gaan nie,]** in ooreenstemming met die voorskrifte wat deur die Nasionale Direkteur van Openbare Vervolgingskragtens artikel 57(1) uitgereik is, aan die beskuldigde 'n skriftelike kennisgewing oorhandig, of [**so 'n] die** kennisgewing deur 'n vredesbeampte by die beskuldigde laat aflewer, wat 'n endossement ingevolge artikel 57 bevat dat die beskuldigde sy of haar skuld ten opsigte van die betrokke misdryf kan erken en dat hy of sy [**'n] die bepaalde boete ten opsigte [daarvan] van daardie misdryf, soos deur die Minister ingevolge artikel 57(2)(b) bepaal, kan betaal sonder om weer in die bos te verskyn."]; en**
- (b) subartikel (4) deur die volgende subartikel te vervang:
- "(4) Die bepalings van artikels 55, 56(2) en (4) en 57[(2)] (1), (2), (4) tot en met [(7)] (9), is *mutatis mutandis* van toepassing op die tersaaklike skriftelike kennisgewing wat kragtens subartikel (1) aan 'n beskuldigde oorhandig of aangelever is asof, met betrekking tot artikel 57, dié kennisgewing die skriftelike kennisgewing [**beoog**] bedoel in daardie artikel is en die bepaalde boete in dié skriftelike kennisgewing die skulderkenningsboete [**beoog**] bedoel in daardie artikel is.".

**Wysiging van artikel 60 van Wet 51 van 1977, soos vervang deur artikel 3 van Wet 75 van 1995 en gewysig deur artikel 4 van Wet 85 van 1997, artikel 5 van Wet 34 van 1998, artikel 9 van Wet 62 van 2000 en artikel 4 van Wet 55 van 2003**

- 9. Artikel 60 van die Strafproseswet, 1977, word hierby gewysig deur—** 30
- (a) die volgende subartikel na subartikel (2A) in te voeg:
- "(2B) (a) Indien die hof oortuig is dat die belang van gerechtigheid toelaat dat 'n beskuldigde op borgtog vrygelaat word soos in subartikel (1) bepaal, en indien die betaling van 'n bedrag geld as 'n borgvoorraarde oorweeg staan te word, moet die hof 'n aparte ondersoek hou na die vermoë van die beskuldigde om die bedrag geld te betaal wat oorweeg word of enige ander gepaste bedrag.
- (b) Indien, na 'n ondersoek bedoel in paragraaf (a), dit bevind word dat die beskuldigde—
- (i) nie in staat is om enige bedrag geld te betaal nie, moet die hof oorweeg om gepaste voorwaardes vas te stel wat nie 'n bedrag geld insluit nie vir die vrylating van die beskuldigde op borgtog of moet die hof die vrylating van die beskuldigde oorweeg ingevolge 'n waarborg soos in subartikel (13)(b) bepaal; of
- (ii) in staat is om 'n bedrag geld te betaal, moet die hof oorweeg om voorwaardes vir die vrylating van die beskuldigde op borgtog vas te stel en 'n bedrag geld wat in die omstandighede gepas is."; en
- (b) subartikel (13) deur die volgende subartikel te vervang:
- "(13) Die hof wat ingevolge hierdie artikel 'n beskuldigde op borgtog vrylaat, kan gelas dat die beskuldigde—
- (a) die bedrag geld by die klerk van [**die hof**] enige landdroshof of die griffier van [**die hof**] enige Hoë Hof, na gelang van die geval, of by 'n korrektiewe beampte by die [**gevangenis**] korrektiewe fasiliteit waar hy of sy in bewaring is of hy 'n polisiebeampte by die plek waar hy of sy in bewaring is, deponeer wat die betrokke hof bepaal; of
- (b) 'n waarborg, met of sonder borge, verstrek dat hy of sy die bedrag wat as borgtog vasgestel is of wat ingevolge artikel 63(1) verhoog of verminder is, aan die Staat sal betaal en verbeur in omstandighede waarin die bedrag, indien dit gedeponeer sou gewees het, aan die Staat verbeur sou word.".

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**Amendment of section 79 of Act 51 of 1977, as amended by section 4 of Act 4 of 1992, section 17 of Act 116 of 1993, section 44 of Act 129 of 1993, section 28 of Act 105 of 1997, section 6 of Act 68 of 1998, section 8 of Act 42 of 2001 and section 68 of Act 32 of 2007**

**10. Section 79 of the Criminal Procedure Act, 1977, is hereby amended—**

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

“(1) Where a court issues a direction under section 77(1) or 78(2), the relevant enquiry shall be conducted and be reported on—

(a) where the accused is charged with an offence other than one referred to in paragraph (b), by the medical superintendent of a psychiatric hospital designated by the court, or by a psychiatrist appointed by [such] the medical superintendent at the request of the court; or

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(b) where the accused is charged with murder or culpable homicide or rape or compelled rape as [contemplated] provided for in sections 3 or 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively, or another charge involving serious violence, or if the court considers it to be necessary in the public interest, or where the court in any particular case so directs—

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(i) by the medical superintendent of a psychiatric hospital designated by the court, or by a psychiatrist appointed by [such] the medical superintendent at the request of the court;

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(ii) by a psychiatrist appointed by the court and who is not in the full-time service of the State unless the court directs otherwise, upon application of the prosecutor, in accordance with directives issued under subsection (13) by the National Director of Public Prosecutions;

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(iii) by a psychiatrist appointed for the accused by the court; and

(iv) by a clinical psychologist where the court so directs.”; and

(b) by the addition after subsection (12) of the following subsection:

“(13) (a) The National Director of Public Prosecutions must, in consultation with the Minister, issue directives regarding the cases and circumstances in which a prosecutor must apply to the court for the appointment of a psychiatrist as provided for in subsection (1)(b)(ii) and any directive so issued must be observed in the application of this section.

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(b) The directives referred to in paragraph (a) must ensure that adequate disciplinary steps will be taken against a prosecutor who fails to comply with any directive.

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(c) The Minister must submit any directives issued under this subsection to Parliament before those directives take effect, and the first directives so issued, must be submitted to Parliament within four months of the commencement of this subsection.

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(d) Any directive issued under this subsection may be amended or withdrawn in like manner.”.

**Insertion of section 110A in Act 51 of 1977**

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**11. The following section is hereby inserted in the Criminal Procedure Act, 1977, after section 110:**

**“Jurisdiction in respect of offences committed by certain persons outside Republic**

**110A. (1) Notwithstanding any other law, any South African citizen who commits an offence outside the area of jurisdiction of the courts of the Republic and who cannot be prosecuted by the courts of the country in which the offence was committed, due to the fact that the person is immune from prosecution as a result of the operation of the provisions of—**

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**Wysiging van artikel 79 van Wet 51 van 1977, soos gewysig deur artikel 4 van Wet 4 van 1992, artikel 17 van Wet 116 van 1993, artikel 44 van Wet 129 van 1993, artikel 28 van Wet 105 van 1977, artikel 6 van Wet 68 van 1998, artikel 8 van Wet 42 van 2001 en artikel 68 van Wet 32 van 2007**

- 10.** Artikel 79 van die Strafproseswet, 1977, word hierby gewysig— 5  
 (a) deur subartikel (1) deur die volgende subartikel te vervang:  
 “(1) Waar ’n hof ’n lasgewing ingevolge artikel 77(1) of 78(2) uitreik,  
 word die betrokke ondersoek ingestel en oor verslag gedoen—  
 (a) waar die beskuldigde aangekla word weens ’n ander misdryf as ’n  
 misdryf vermeld in paragraaf (b), deur die geneeskundige superintendent van ’n psigiatriese hospitaal deur die hof aangewys, of deur  
 ’n psigiater deur [bedoelde] die geneeskundige superintendent op  
 versoek van die hof aangestel; of  
 (b) waar die beskuldigde aangekla word van moord of strafbare  
 manslag of verkragting of gedwonge verkragting soos  
 onderskeidelik beoog in artikel 3 of 4 van die Wysigingswet op die  
 Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007,  
 of van ’n ander aanklag waarby ernstige geweld betrokke is, of waar  
 dit na die hof se oordeel in die openbare belang nodig is, of waar die  
 hof in ’n spesifieke geval so gelas— 10  
 (i) deur die geneeskundige superintendent van ’n psigiatriese  
 hospitaal deur die hof aangewys, of deur ’n psigiater deur [so  
 ’n] die geneeskundige superintendent aangewys op versoek  
 van die hof;  
 (ii) deur ’n psigiater aangewys deur die hof en wat nie in voltydse  
 diens van die Staat is nie tensy die hof anders gelas, op aansoek  
van die aanklaer, in ooreenstemming met voorskrifte wat  
ingevolge subartikel (13) deur die Nasionale Direkteur van  
Openbare Vervolgings uitgereik is; 20  
 (iii) deur ’n psigiater vir die beskuldigde deur die hof aangestel; en 30  
 (iv) deur ’n kliniese sielkundige waar die hof so gelas.”; en  
 (b) deur die volgende subartikel na subartikel (12) by te voeg:  
 “(13) (a) Die Nasionale Direkteur van Openbare Vervolgings moet, in  
 oorleg met die Minister, voorskrifte uitreik ten opsigte van die sake en  
 omstandighede waaronder ’n aanklaer by die hof aansoek moet doen vir  
 die aanstelling van ’n psigiater soos in subartikel (1)(b)(ii) bepaal en  
 enige voorskrif aldus uitgereik, moet in die toepassing van hierdie artikel  
 nagekom word.  
 (b) Die voorskrifte bedoel in paragraaf (a) moet verseker dat  
 voldoende dissiplinêre stappe gedoen sal word teen ’n aanklaer wat  
 versuim om aan enige voorskrif te voldoen.  
 (c) Die Minister moet enige voorskrifte wat kragtens hierdie subartikel  
 uitgereik word, aan die Parlement voorlê voordat daardie voorskrifte van  
 krag word, en die eerste voorskrif aldus uitgereik, moet binne vier  
 maande na die inwerkingtreding van hierdie subartikel aan die Parlement  
 voorgelê word.  
 (d) Enige voorskrif wat kragtens hierdie subartikel uitgereik word, kan  
op dergelyke wyse gewysig of teruggetrek word.” 40  
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**Invoeging van artikel 110A in Wet 51 van 1977**

- 11.** Die volgende artikel word hierby na artikel 110 in die Strafproseswet, 1977, 50  
 ingevoeg:

**“Regsbevoegdheid ten opsigte van misdrywe deur sekere persone buite  
 Republiek gepleeg**

**110A.** (1) Enige Suid-Afrikaanse burger wat, ondanks enige ander wet,  
 ’n misdryf buite die regsgebied van die howe van die Republiek pleeg en  
 wat nie deur die howe van die land waarbinne die misdryf gepleeg is,  
 vervolg kan word nie weens die feit dat daardie persoon immuun is teen  
 vervolging as gevolg van die werking van die bepalings van— 55

**Act No. 66, 2008****JUDICIAL MATTERS AMENDMENT ACT, 2008**

- (a) the Convention on the Privileges and Immunities of the United Nations, 1946;  
 (b) the Convention on the Privileges and Immunities of the Specialised Agencies, 1947;  
 (c) the Vienna Convention on Diplomatic Relations, 1961;  
 (d) the Vienna Convention on Consular Relations, 1963; or  
 (e) any other international convention, treaty or any agreement between the Republic and any other country or international organisation, and that person is found within the area of jurisdiction of any court in the Republic which would have had jurisdiction to try the offence if it had been committed within its area of jurisdiction, that court shall, subject to subsection (2), have jurisdiction to try that offence.
- (2) No prosecution may be instituted against a person under subsection (1), unless—  
 (a) the offence is an offence under the laws of the Republic; and  
 (b) the National Director of Public Prosecutions instructs that a prosecution be instituted against the person.
- (3) At the conclusion of the trial against a person under this section, a copy of the proceedings, certified by the clerk of the court or registrar, together with any remarks as the prosecutor may wish to append thereto, must be submitted to the Minister of Foreign Affairs.”.

**Amendment of section 285 of Act 51 of 1977, as amended by section 16 of Act 33 of 1986****12. Section 285 of the Criminal Procedure Act, 1977, is hereby amended—**

- (a) by the substitution for subsection (5) of the following subsection:  
 “(5) If, before the expiration of any sentence of periodical imprisonment imposed upon any person for any offence that person—  
 (a) [such person] is undergoing a punishment of any other form of detention imposed by any court; or  
 (b) after having surrendered himself or herself pursuant to the notice issued under subsection (2), without lawful excuse, the proof whereof shall be on that person, thereafter fails to surrender himself or herself for the purpose of undergoing periodical imprisonment, as required, any magistrate before whom [such] that person is brought, [shall] may set aside the unexpired portion of the sentence of periodical imprisonment and, after considering the evidence recorded in respect of [such] the offence in question, may impose in lieu of [such] any unexpired portion any punishment within the limits of his or her jurisdiction and of any punishment prescribed by any law as a punishment for [such] the offence in question.”; and  
 (b) by the addition of the following subsection:  
 “(6) Any magistrate may, if it appears from information on oath that a person who has been sentenced in terms of subsection (1) has failed to surrender himself or herself to undergo imprisonment as provided for in this section, issue a warrant for the arrest of that person in order to deal with him or her in terms of subsection (5)(b).”.

**Amendment of section 309 of Act 51 of 1977, as amended by section 2 of Act 76 of 1977, section 17 of Act 105 of 1982, section 8 of Act 107 of 1990, section 51 of Act 129 of 1993, section 13 of Act 75 of 1995, section 2 of Act 33 of 1997, section 2 of Act 76 of 1997, section 38 of Act 105 of 1997, section 2 of Act 42 of 2003 and section 6 of Act 38 of 2007**

- 13. Section 309 of the Criminal Procedure Act, 1977, is hereby amended by the deletion of subsection (3A).**

**WYSIGINGSWET OP GEREGETELIKE AANGELEENTHEDE, Wet No. 66, 2008**  
2008

- (a) die Konvensie op die Voorregte en Immunitate van die Verenigde Nasies, 1946;
  - (b) die Konvensie op die Voorregte en Immunitate van Gespesialiseerde Agentskappe, 1947;
  - (c) die Weense Konvensie op Diplomatieke Betrekkinge, 1961;
  - (d) die Weense Konvensie op Konsulêre Betrekkinge, 1963; of
  - (e) enige ander internasionale konvensie, verdrag of enige ooreenkoms tussen die Republiek en enige ander land of internasionale organisasie, en daardie persoon gevind word binne die regssgebied van enige hof in die Republiek wat regsbevoegdheid sou gehad het om die misdryf te verhoor indien dit binne sy regssgebied gepleeg sou gewees het, het daardie hof, behoudens subartikel (2),regsbevoegdheid om daardie misdryf te verhoor.
- (2) Geen vervolging word teen 'n persoon kragtens subartikel (1) ingestel nie, tensy—
- (a) die misdryf 'n misdryf kragtens die reg van die Republiek is; en
  - (b) die Nasionale Direkteur van Openbare Vervolgings gelas dat 'n vervolging teen die persoon ingestel word.
- (3) By die afhandeling van die verhoor teen 'n persoon kragtens hierdie artikel, moet 'n afskrif van die verrigtinge, gesertifiseer deur die klerk van die hof of griffier, tesame met enige opmerkings wat die aanklaer mag wens om daarby aan te heg, aan die Minister van Buitelandse Sake voorgelê word.”.

**Wysiging van artikel 285 van Wet 51 van 1977, soos gewysig deur artikel 16 van Wet 33 van 1986**

- 12. Artikel 285 van die Strafproseswet, 1977, word hierby gewysig—** 25
- (a) deur subartikel (5) deur die volgende subartikel te vervang:
 

“(5) Indien, voor die verstryking van periodieke gevangenisstraf wat 'n persoon weens 'n misdryf opgelê is, daardie persoon—

    - (a) [daardie persoon] 'n straf van 'n ander vorm van aanhouding deur 'n hof opgelê, ondergaan; of
    - (b) nadat hy of sy homself of haarselv oorgegee het na aanleiding van 'n kennisgewing wat kragtens subartikel (2) uitgereik is, sonder 'n regmatige verskoning, die bewys waarvan op die persoon rus, daarna versuum om homself of haarselv oor te gee vir doeleindes van die uitdiening van periodieke gevangenisstraf, soos vereis,

[moet] kan 'n landdros voor wie [hy] daardie persoon gebring word die onverstreke gedeelte van die periodieke gevangenisstraf tersyde stel en kan hy of sy, na oorweging van die getuenis ten opsigte van [genoemde] die betrokke misdryf genotuleer, in die plek van [daardie] enige onverstreke gedeelte 'n straf oplê wat binne die perke val van sy of haar regsbevoegdheid en van 'n straf by 'n wetsbepaling voorgeskryf as 'n straf vir [daardie] die betrokke misdryf.”; en
  - (b) deur die volgende subartikel by te voeg:
 

“(6) Enige landdros kan, indien dit blyk uit inligting onder eed dat 'n persoon wat ingevolge subartikel (1) gevonnis is, versuum het om homself of haarselv oor te gee om gevangenisstraf soos bedoel in hierdie artikel uit te dien, 'n lasbrief uitrek vir die inhegtenisneming van daardie persoon ten einde met hom of haar ingevolge subartikel (5)(b) te handel.”.

**Wysiging van artikel 309 van Wet 51 van 1977, soos gewysig deur artikel 2 van Wet 76 van 1977, artikel 17 van Wet 105 van 1982, artikel 8 van Wet 107 van 1990, artikel 51 van Wet 129 van 1993, artikel 13 van Wet 75 van 1995, artikel 2 van Wet 33 van 1997, artikel 2 van Wet 76 van 1997, artikel 38 van Wet 105 van 1997, artikel 2 van Wet 42 van 2003 en artikel 6 van Wet 38 van 2007** 50

- 13. Artikel 309 van die Strafproseswet, 1977, word hierby gewysig deur subartikel (3A) te skrap.** 55

**Amendment of section 309C of Act 51 of 1977, as inserted by section 3 of Act 76 of 1997 and substituted by section 3 of Act 42 of 2003**

**14.** Section 309C of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsections (4), (5) and (6) of the following subsections:

“(4) When receiving the notice referred to in subsection (3), the clerk of the court must without delay submit to the registrar of the High Court concerned copies of—

- (a) the application that was refused;
- (b) the magistrate’s reasons for refusal of the application; and
- (c) the record of the proceedings in the magistrate’s court in respect of which the application was refused[: **Provided that**—

(i) if the accused was tried in a regional court and was legally represented at the trial; or

(ii) if the accused and the Director of Public Prosecutions agree thereto; or

(iii) if the prospective appeal is against the sentence only; or

(iv) if the petition relates solely to an application for condonation, a copy of the judgment, which includes the reasons for conviction and sentence, shall, subject to subsection (6)(a), suffice for the purposes of the petition].

(5) (a) A petition [contemplated] as provided for in this section must be considered in chambers by [a judge] two judges designated by the Judge President[: **Provided that the Judge President may, in exceptional circumstances, at any stage designate two judges to consider such petition**].

(b) If the judges referred to in [the proviso to] paragraph (a) differ in opinion, the petition must also be considered in chambers by the Judge President or by any other judge designated by the Judge President.

(c) For the purposes of paragraph (b) any decision of the majority of the judges considering the petition, shall be deemed to be the decision of all three judges.

(6) Judges considering a petition may—

(a) call for any further information[, including a copy of the record of any proceedings that was not submitted in terms of the proviso to subsection (4)(c),] from the magistrate who refused the application in question, or from the magistrate who presided at the trial to which [any such] the application relates, as the case may be; or

(b) in exceptional circumstances, order that the petition or any part thereof be argued before them at a time and place determined by them.”.

**Amendment of section 315 of Act 51 of 1977, as substituted by section 20 of Act 105 of 1982 and amended by section 10 of Act 107 of 1990, section 39 of Act 105 of 1997, section 11 of Act 62 of 2000 and section 4 of Act 42 of 2003**

**15.** Section 315 of the Criminal Procedure Act, 1977, is hereby amended by the deletion of paragraphs (b) and (c) of subsection (1).

**Amendment of section 316 of Act 51 of 1977, as substituted by section 5 of Act 42 of 2003**

**16.** Section 316 of the Criminal Procedure Act, 1977, is hereby amended—

(a) by the substitution for subsection (10) for the following subsection:

“(10) When receiving notice of a petition as [contemplated] provided for in subsection (9), the registrar shall forward to the registrar of the Supreme Court of Appeal copies of the—

(a) application or applications that were refused;

(b) the reasons for refusing [such] the application or applications; and

(c) the record of the proceedings in the High Court in respect of which the application was refused[: **Provided that**—

(i) if the accused was legally represented at the trial; or

**Wysiging van artikel 309C van Wet 51 van 1977, soos ingevoeg deur artikel 3 van Wet 76 van 1997 en vervang deur artikel 3 van Wet 42 van 2003**

**14.** Artikel 309C van die Strafproseswet, 1977, word hierby gewysig deur subartikels (4), (5) en (6) deur die volgende subartikels te vervang:

“(4) Wanneer die klerk van die hof kennis ontvang soos beoog in subartikel (3), moet die klerk van die hof sonder versuim aan die griffier van die betrokke Hoë Hof afskrifte voorlê van—

- (a) die aansoek wat geweiер is;
- (b) die landdros se redes vir die weierung van die aansoek; en
- (c) die oorkonde van die verrigtinge in die landdroshof ten opsigte waarvan die aansoek geweiер is [: Met dien verstande dat—

(i) indien die beskuldigde in 'n streekhof verhoor is en regsvereenwoording by die verhoor gehad het; of

(ii) indien die beskuldigde en die Direkteur van Openbare Vervolgingsdaartoe instem; of

(iii) die voorgenome appèl slegs teen die vonnis is; of

(iv) indien die versoekskrif slegs op 'n aansoek van kondonasie betrekking het,

'n afskrif van die uitspraak, met inbegrip van die redes vir skuldigbevinding en vonnis, behoudens subartikel (6)(a), voldoende vir doeleindes van die versoekskrif sal wees].

(5) (a) 'n Versoekskrif [beoog] soos bedoel in hierdie artikel word in kamers oorweeg deur ['n regter] twee regters deur die Regter-president aangewys [: Met dien verstande dat die Regter-president, in buitengewone omstandighede, op enige tydstip twee regters kan aanwys om die versoekskrif te oorweeg].

(b) Indien die regters in [die voorbehoudsbepaling by] paragraaf (a) bedoel van mening verskil, word die versoekskrif ook deur die Regter-president of deur enige ander regter deur die Regter-president aangewys, in kamers oorweeg.

(c) By die toepassing van paragraaf (b) word 'n beslissing van die meerderheid van die regters wat die versoekskrif oorweeg, geag die beslissing van al drie regters te wees.

(6) Regters wat die versoekskrif oorweeg, kan—

(a) verdere inligting [, met inbegrip van 'n afskrif van die oorkonde van enige verrigtinge wat nie ingevolge die voorbehoudsbepaling by subartikel (4)(c) voorgelê is nie,] van die landdros wat die betrokke aansoek geweiер het, of van die landdros wat voorgesit het by die verhoor waarop [enige sodanige] die aansoek betrekking het, na gelang van die geval, aanvra; of

(b) in buitengewone omstandighede, gelas dat die versoekskrif of enige gedeelte daarvan op 'n vasgestelde tyd en plek voor hulle beredeneer word.”.

**Wysiging van artikel 315 van Wet 51 van 1977, soos vervang deur artikel 20 van Wet 105 van 1982 en gewysig deur artikel 10 van Wet 107 van 1990, artikel 39 van Wet 105 van 1997, artikel 11 van Wet 62 van 2000 en artikel 4 van Wet 42 van 2003**

**15.** Artikel 315 van die Strafproseswet, 1977, word hierby gewysig deur paragrawe (b) en (c) van subartikel (1) te skrap.

**Wysiging van artikel 316 van Wet 51 van 1977, soos vervang deur artikel 5 van Wet 42 van 2003**

**16.** Artikel 316 van die Strafproseswet, 1977, word hierby gewysig—

(a) deur subartikel (10) deur die volgende subartikel te vervang:

“(10) Wanneer 'n kennisgiving van 'n versoekskrif soos [beoog] in subartikel (9) bepaal, ontvang word, moet die griffier aan die griffier van die Hoogste Hof van Appèl afskrifte voorlê van die—

(a) aansoek of aansoeke wat geweiер is;

(b) redes vir die weierung van die aansoek of aansoeke; en

(c) oorkonde van die verrigtinge in die Hoë Hof ten opsigte waarvan die aansoek geweiер is [: Met dien verstande dat—

(i) indien die beskuldigderegsvereenwoording by die verhoor gehad; of

- (ii) if the accused and the prosecuting authority agree thereto; or  
 (iii) if the prospective appeal is against the sentence only; or  
 (iv) if the petition relates solely to an application for condonation,  
 a copy of the judgment, which includes the reasons for conviction and sentence, shall, subject to subsection (12)(a), suffice for the purposes of the petition.”; and
- (b) by the substitution for subsection (12) of the following subsection:
- “(12) The judges considering a petition may—  
 (a) call for any further information[, including a copy of the record of the proceedings that was not submitted in terms of the proviso to subsection (10)(c),] from the judge who refused the application in question, or from the judge who presided at the trial to which [any such] the application relates, as the case may be; or  
 (b) in exceptional circumstances, order that the application or applications in question or any of them be argued before them at a time and place determined by them.”.

**Amendment of section 341 of Act 51 of 1977, as amended by section 9 of Act 64 of 1982, section 25 of Act 33 of 1986, section 16 of Act 26 of 1987 and section 4 of Act 18 of 1996**

17. Section 341 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) (a) The amount to be specified in any notification issued under this section as the amount of the fine which a court would probably impose in respect of any offence, shall be determined from time to time [for any particular area by the magistrate of the district or area in which such area is situated,] by the Minister by notice in the Gazette, after consultation with the Chief Justice, the National Director of Public Prosecutions and the Minister of Safety and Security, and may differ from the admission of guilt fine determined under section 57[(5)(a)] (2)(b) for the offence in question.

(b) Any determination made by the Minister under paragraph (a) must be tabled in Parliament for approval.”.

**Amendment of section 3 of Act 53 of 1979, as substituted by section 2 of Act 87 of 1989 and amended by section 2 of Act 102 of 1991**

18. Section 3 of the Attorneys Act, 1979, is hereby amended—

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

“(f) in the full-time employment of a law clinic, and if the council of the province in which that law clinic is operated, certifies that the law clinic concerned complies with the requirements prescribed by [such] the council for the operation of [such] the clinic; [and]”;

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

“(fa) as an employee of the Legal Aid Board at an office of the Legal Aid Board; and”; and

(c) by the substitution in subsection (1)(i) for subparagraph (i) of the following subparagraph;

“(i) if he or she is an attorney so practising on his or her own account or as a partner in a firm of attorneys or as a member of a professional company, or is employed full-time at a law clinic, or is employed full-time at an office of the Legal Aid Board, so practised or been so employed for a period of three years or periods of three years in the aggregate during the preceding four years;”.

- (ii) indien die beskuldigde en die Direkteur van Openbare Vervolgings daartoe instem; of
- (iii) indien die voorgenome appèl slegs teen die vonnis is; of
- (iv) indien die versoekskrif slegs op 'n aansoek om kondonasie betrekking het,  
'n afskrif van die uitspraak, met inbegrip van die redes vir skuldigbevinding en vonnis, behoudens subartikel (12)(a), voldoende vir doeleinnes van die versoek sal wees]."; en
- (b) deur subartikel (12) deur die volgende subartikel te vervang:
- "(12) Die regters wat die versoekskrif oorweeg kan—
- (a) verdere inligting[, met inbegrip van 'n afskrif van die oorkonde van enige verrigtinge wat nie ingevolge die voorbehoudsbepaling by subartikel (10)(c) voorgelê is,] van die regter wat die betrokke aansoek geweier het, of van die regter wat voorgesit het by die verhoor waarop [enige sodanige] die aansoek betrekking het, na gelang van die geval, aanvra; of
- (b) in buitegewone omstandighede, gelas dat die versoekskrif of enige gedeelte daarvan op 'n vasgestelde tyd en plek voor hulle beredeneer word.".

**Wysiging van artikel 341 van Wet 51 van 1977, soos gewysig deur artikel 9 van Wet 20 64 van 1982, artikel 25 van Wet 33 van 1986, artikel 16 van Wet 26 van 1987 en artikel 4 van Wet 18 van 1996**

17. Artikel 341 van die Strafproseswet, 1977, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

- "(5) (a) Die bedrag wat in 'n ingevolge hierdie artikel uitgereikte kennisgewing 25 aangegee moet word as die bedrag van die boete wat 'n hof ten opsigte van 'n misdryf waarskynlik sal oplê, word [vir 'n bepaalde gebied] van tyd tot tyd deur die [landdros van die distrik of gebied waarin daardie gebied geleë is,] Minister, na oorlegpleging met die Hoofregter, die Nasionale Direkteur van Openbare Vervolgings en die Minister van Veiligheid en Sekuriteit, by kennisgewing in die Staatskoerant, vasgestel, en kan verskil van die skulderkenningsboete wat ingevolge artikel 57[(5)(a)] (2)(b) vir die betrokke misdryf vasgestel is.
- (b) Enige vasstelling wat deur die Minister kragtens paragraaf (a) gemaak is, moet in die Parlement ter tafel gelê word vir goedkeuring.". 35

**Wysiging van artikel 3 van Wet 53 van 1979, soos vervang deur artikel 2 van Wet 87 van 1989 en gewysig deur artikel 2 van Wet 102 van 1991**

18. Artikel 3 van die Wet op Prokureurs, 1979, word hierby gewysig—

- (a) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
- "(f) in die voltydse diens van 'n regskliniek, en indien die raad van die provinsie waarin daardie regskliniek bedryf word, sertificeer dat die betrokke regskliniek voldoen aan die vereistes deur [sodanige] die raad vir die bedryf van [sodanige] die kliniek voorgeskryf; [en]";
- (b) deur die volgende paragraaf na paragraaf (f) van subartikel (1) in te voeg:
- "(fA) as 'n werknemer van die Regshulpgraad by 'n kantoor van die Regshulpgraad; en"; en
- (c) deur subparagraph (i) van subartikel (1)(i) deur die volgende subparagraph te vervang:
- "(i) wat, indien hy of sy 'n prokureur is wat aldus vir eie rekening of as venoot in 'n prokureursfirma of as 'n lid van 'n professionele maatskappy praktiseer, of wat voltyds in diens is by 'n regskliniek, of wat voltyds in diens is by 'n kantoor van die Regshulpgraad, vir 'n tydperk van drie jaar of vir tydperke wat in totaal drie jaar beloop tydens die voorafgaande vier jaar aldus gepraktiseer het of in diens was.". 50 55

**Amendment of section 72 of Act 53 of 1979, as amended by section 5 of Act 80 of 1985, section 25 of Act 87 of 1989, section 17 of Act 115 of 1993 and section 13 of Act 204 of 1993**

**19.** Section 72 of the Attorneys Act, 1979, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A council conducting an enquiry in terms of section 71 may find the person concerned guilty of unprofessional or dishonorable or unworthy conduct and may—

(a) in the case of a practitioner—

(i) impose upon him or her a fine not exceeding [R10 000] R100 000; or 10

(ii) reprimand him or her; or

(iii) for a specified period or until otherwise decided by the council, debar him or her from engaging or continuing to engage a candidate attorney; and

(iv) recover from him or her the costs incurred by the council in connection with [such] the enquiry; 15

(b) in the case of a candidate attorney—

(i) cancel or suspend his or her articles of clerkship or contract of service;

(ii) impose upon him or her a fine not exceeding [R2 000] R20 000; or

(iii) reprimand him or her;

(c) in the case of a former candidate attorney referred to in section 8(4)—

(i) debar him or her from remaining in the employ of the attorney referred to in section 8(4) or 8(5), as the case may be; or

(ii) impose upon him or her a fine not exceeding [R2 000] R20 000; or

(iv) reprimand him or her.” 25

**Amendment of section 3 of Act 105 of 1983, as amended by section 2 of Act 87 of 1992 and section 21 of Act 139 of 1992**

**20.** Section 3 of the Admiralty Jurisdiction Regulation Act, 1983, is hereby amended—

(a) by the substitution for subsection (6) of the following subsection:

“(6) [Subject to the provisions of subsection (9), an] An action in rem, other than [such] an action in respect of a maritime claim [contemplated] referred to in paragraph (d) of the definition of ‘maritime claim’, may be brought by the arrest of an associated ship instead of the ship in respect of which the maritime claim arose.”; and 35

(b) by the deletion of subsection (9).

**Substitution of section 18 of Act 88 of 1984**

**21.** Section 18 of the Matrimonial Property Act, 1984, is hereby substituted for the following section:

**“Certain damages excluded from community and recoverable from other spouse” 40**

**18.** Notwithstanding the fact that a spouse is married in community of property—

(a) any amount recovered by him or her by way of damages, other than damages for patrimonial loss, by reason of a delict committed against him or her, does not fall into the joint estate but becomes his or her separate property; 45

(b) he or she may recover from the other spouse damages[, other than damages for patrimonial loss,] in respect of bodily injuries suffered by him or her and attributable either wholly or in part to the fault of that spouse and these damages do not fall into the joint estate but become the separate property of the injured spouse.”. 50

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2008**Wysiging van artikel 72 van Wet 53 van 1979, soos gewysig deur artikel 5 van Wet 80 van 1985, artikel 25 van Wet 87 van 1989, artikel 17 van Wet 115 van 1993 en artikel 13 van Wet 204 van 1993**

**19.** Artikel 72 van die Wet op Prokureurs, 1979, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) ’n Raad wat ’n ondersoek ingevolge artikel 71 instel, kan die betrokke persoon skuldig bevind aan onprofessionele of oneerbare of onbetaamlike gedrag en kan—

(a) in die geval van ’n praktisy—

(i) hom of haar ’n boete van hoogstens [R10 000] R100 000 oplê; of 10

(ii) hom of haar berispe; of

(iii) hom of haar vir ’n bepaalde tydperk of tot andersins deur die raad besluit, verbied om ’n kandidaat-prokureur in diens te neem of verder in diens aan te hou; en

(iv) die koste deur die raad in verband met [**daardie**] die ondersoek 15 opgeloop, op hom of haar verhaal;

(b) in die geval van ’n kandidaat-prokureur—

(i) sy of haar leerkontrak of dienskontrak opskort of intrek; of

(ii) hom of haar ’n boete van hoogstens [R2 000] R20 000 oplê; of

(iii) hom of haar berispe;

(c) in die geval van ’n voormalige kandidaat-prokureur in artikel 8(4) vermeld—

(i) hom of haar verbied om aan te bly in die diens van die prokureur vermeld in artikel 8(4) of 8(5), na gelang van die geval; of

(ii) hom of haar ’n boete van hoogstens [R2 000] R20 000 oplê; of

(iii) hom of haar berispe.”. 25

**Wysiging van artikel 3 van Wet 105 van 1983, soos gewysig deur artikel 2 van Wet 87 van 1992 en artikel 21 van Wet 139 van 1992**

**20.** Artikel 3 van die Wet op die Reëling van Admiraliteitsjurisdiksie, 1983, word hierby gewysig—

(a) deur subartikel (6) deur die volgende subartikel te vervang:

“(6) [**Behoudens die bepalings van subartikel (9) kan ’n**] Aksie in rem, uitgesonderd [so] ’n aksie ten opsigte van ’n maritieme eis [**beoog**] bedoel in paragraaf (d) van die omskrywing van ‘maritieme eis’, kan ingestel word deur die inbeslagneming van ’n geassosieerde skip in plaas van die skip ten opsigte waarvan die maritieme eis ontstaan het.”; 35 en

(b) deur subartikel (9) te skrap.

**Vervanging van artikel 18 van Wet 88 van 1984**

**21.** Artikel 18 van die Wet op Huweliksgoedere, 1984, word hierhy deur die volgende artikel vervang:

“**Sekere vergoeding uitgesluit van gemeenskap en verhaalbaar op ander gade**

**18.** Ondanks die feit dat ’n gade in gemeenskap van goed getroud is—

(a) val enige bedrag wat hy of sy by wyse van vergoeding, uitgesonderd vergoeding vir vermoënskade, weens die pleeg van ’n delik teen hom 45 of haar, op enige persoon verhaal het, nie in die gemeenskaplike boedel nie, maar word dit sy of haar afsonderlike goed;

(b) kan hy of sy op die ander gade vergoeding [, uitgesonderd vergoeding vir vermoënskade,] verhaal ten opsigte van liggamlike beserings deur hom of haar opgedoen en wat in die geheel of gedeeltelik aan die skuld van daardie gade te wye is en hierdie 50 vergoeding word nie deel van die gemeenskaplike boedel nie, maar word die afsonderlike goed van die beseerde gade.”.

**Act No. 66, 2008****JUDICIAL MATTERS AMENDMENT ACT, 2008**

**Amendment of Part 1 of Schedule 2 to Act 105 of 1997, as amended by section 37 of Act 62 of 2000, section 36 of Act 12 of 2004, section 27 of Act 33 of 2004, section 68 of Act 32 of 2007 and section 5 of Act 38 of 2007**

**22.** Part I of Schedule 2 to the Criminal Law Amendment Act, 1997, is hereby amended by the addition of the following offences:

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“Any offence referred to in Part I or Part II of Schedule 1 to the Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002).”.

**Amendment of section 3 of Act 114 of 1998**

**23.** Section 3 of the Debt Collectors Act, 1998, is hereby amended by the substitution 10 for subsection (4) of the following subsection:

“(4) [A member of the Council shall hold officer for a term, not exceeding three years, determined by the Minister at the time of the member’s appointment: Provided that the Minister may withdraw an appointment of a member at any time and, provided further, that a member may be reappointed at the expiration of his or her term of office.]

(a) A member of the Council, subject to paragraphs (b), (c), (d) and (e), holds office for a term, not exceeding three years, determined by the Minister at the time of the member’s appointment.

(b) The Minister may, on good cause shown, withdraw an appointment of a member at any time.

(c) A member of the Council may be re-appointed at the expiry of his or her term of office.

(d) A member of the Council appointed in terms of this section who is a member of a committee referred to in section 15(2), must, notwithstanding his or her subsequent vacation of office as a member of the Council, dispose of the matters he or she is seized with and, for that purpose only, is deemed to hold office as a member of the Council in respect of any period during which he or she is necessarily engaged in connection with the disposal of the matters which were not disposed of when he or she vacated office as a member of the Council.

(e) A member of the Council referred to in paragraph (d) who, in the opinion of the Council, is—

(i) unfit to dispose of the matters in question; or  
(ii) incapacitated and is not able to dispose of the matters in question due to that incapacity,

may be exempted by the Council from the provisions of paragraph (d). ”.

**Amendment of section 5 of Act 114 of 1998**

**24.** Section 5 of the Debt Collectors Act, 1998, is hereby amended by the substitution 40 for subsection (1) of the following subsection:

“(1) The Council may appoint not less than three and not more than five of its members as an executive committee of the Council which shall, subject to the provisions of subsection (2) and the directions of the Council, be competent during the periods between meetings of the Council to perform or exercise all the powers and functions of the Council: Provided that the majority of the members of the executive committee shall be members of the Council other than those appointed in 45 terms of section 3(2)(b)(iii).”.

**Amendment of section 20 of Act 114 of 1998, as amended by section 14 of Act 22 of 2005**

**25.** Section 20 of the Debt Collectors Act, 1998, is hereby amended—

(a) by the substitution for subsection (8) of the following subsection:

“(8) If any debt collector—

(a) dies;

(b) becomes insolvent;

(c) in the case of a company or close corporation, is liquidated or placed under judicial management, whether provisionally or finally;

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**Wysiging van Deel 1 van Bylae 2 by Wet 105 van 1997, soos gewysig deur artikel 37 van Wet 62 van 2000, artikel 36 van Wet 12 van 2004, artikel 27 van Wet 33 van 2004, artikel 68 van Wet 32 van 2007 en artikel 5 van Wet 38 van 2007**

**22.** Deel I van Bylae 2 by die Strafregwysigingswet, 1997, word hierby gewysig deur die volgende misdrywe by te voeg:

**“Enige misdryf in Deel I of Deel II van Bylae 1 by die Wet op die Implementering van die Statuut van Rome oor die Internasionale Strafhof, 2002 (Wet No. 27 van 2002), bedoel.”.**

**Wysiging van artikel 3 van Wet 114 van 1998**

**23.** Artikel 3 van die Wet op Skuldinvorderaars, 1998, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

**“(4) [‘n Lid van die Raad beklee sy of haar amp vir die tydperk, maar hoogstens drie jaar, wat die Minister ten tyde van die lid se aanstelling bepaal: Met dien verstande dat die Minister te eniger tyd die aanstelling van ‘n lid kan terugtrek en, met dien verstande verder, dat ‘n lid by die verstryking van sy of haar ampstermyn weer aangestel kan word.]**

**(a)** Behoudens paragrawe (b), (c), (d) en (e) beklee ‘n lid van die Raad sy of haar amp vir die tydperk, maar hoogstens drie jaar, wat die Minister ten tyde van die lid se aanstelling bepaal.

**(b)** Die Minister kan te eniger tyd, op grondige redes, die aanstelling van ‘n lid terugtrek.

**(c)** ‘n Lid van die Raad kan by die verstryking van sy of haar ampstermyn weer aangestel word.

**(d)** ‘n Lid van die Raad wat ingevolge hierdie artikel aangestel is wat ‘n lid is van ‘n komitee soos bedoel in artikel 15(2), moet, ondanks sy of haar daaropvolgende ontruiming van die amp van lid van die Raad, die aangeleenthede waarmee hy of sy belas is, afhandel en, vir daardie doel alleenlik, word geag om die amp van lid van die Raad te beklee ten opsigte van enige tydperk waartydens hy of sy noodsaklikerwys besig is in verband met die afhandeling van die aangeleenthede wat nie afgehandel was nie toe hy of sy die amp van lid van die Raad ontruim het.

**(e)** ‘n Lid van die Raad bedoel in paragraaf (d), wat, na die mening van die Raad—

**(i)** nie gesik is om die betrokke aangeleenthede af te handel nie; of  
**(ii)** nie in staat is om die betrokke aangeleenthede af te handel nie as gevolg van daardie onbevoegdheid,

**kan deur die Raad van die bepalings van paragraaf (d) vrygestel word.”.**

**Wysiging van artikel 5 van Wet 114 van 1998**

**24.** Artikel 5 van die Wet op Skuldinvorderaars, 1998, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

**“(1) Die Raad kan nie minder nie as drie maar nie meer nie as vyf van sy lede as ‘n uitvoerende komitee van die Raad aanstel wat, behoudens die bepalings van subartikel (2) en die voorskrifte van die Raad, bevoeg is om gedurende die tydperke tussen vergaderings van die Raad al die bevoegdhede en werksaamhede van die Raad uit te oefen of te verrig: Met dien verstande dat die meerderheid van die lede van die uitvoerende komitee nie lede van die Raad is wat ingevolge artikel 3(2)(b)(iii) aangestel is nie.”.**

**Wysiging van artikel 20 van Wet 114 van 1998, soos gewysig deur artikel 14 van Wet 22 van 2005**

**25.** Artikel 20 van die Wet op Skuldinvorderaars, 1998, word hierby gewysig—

**(a)** deur subartikel (8) deur die volgende subartikel te vervang:

**“(8) Indien ‘n skuldinvorderaar—**

- (a)** sterf;
- (b)** insolvent raak;
- (c)** in die geval van ‘n maatskappy of beslote korporasie, gelikwideer word of onder geregtelike bestuur, hetsy voorlopig of finaal, geplaas word;

- (d) has his or her registration withdrawn, or is on reasonable grounds likely to have his or her registration withdrawn;  
 (e) is declared by a competent court to be incapable of managing his or her own affairs; or  
 (f) abandons his or her practice or ceases to practise,  
 the Council—  
 (i) must [I, where necessary], take control [and] over, administer [his or her] and finalise that trust account [until]; or  
 (ii) may, in the circumstances the Council deems fit, make an application to the Master of the High Court having jurisdiction [has, on application made by the Council, or by a person having an interest in the trust account of that debt collector, appointed] to appoint a *curator bonis* with [such] the rights, duties and powers [as the Master may deem fit] as prescribed to control, [and] administer and finalise [such] that account.”; and 15
- (b) by the addition of the following subsection:  
 “(9) The Master of the High Court—  
 (a) may, before an appointment of a *curator bonis* is made as provided for in subsection (8), require from the person who is to be appointed as *curator bonis*, security to the satisfaction of the Master in an amount determined by the Master for the proper performance of his or her functions;  
 (b) shall have the powers and duties as prescribed; and  
 (c) is entitled to the fees as provided for in Schedule 2 of the regulations made in terms of section 103 of the Administration of Estates Act, 25 1965 (Act No. 66 of 1965).”.

#### Amendment of section 23 of Act 114 of 1998

26. Section 23 of the Debt Collectors Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) Without prejudice to the generality of the provisions of subsection (1), the Minister may, after consultation with the Council, make regulations—  
 (a) prescribing the fees payable by a debt collector to the Council in terms of section 13(1), and the periods within which [such] those fees are payable;  
 (b) prescribing the circumstances under which a debt collector shall not be bound to pay an amount referred to in section 13 (1); [and]  
 (c) regarding the training of debt collectors[.] ;  
 (d) regarding the recusal of members of committees referred to in section 15(2);  
 (e) regarding the remuneration, rights, duties and powers of a *curator bonis* appointed under section 20(8); and  
 (f) regarding the powers and duties of the Master of the High Court when appointing a *curator bonis* in terms of section 20(8).”.

#### Amendment of section 79 of Act 2 of 2000, as amended by section 23 of Act 55 of 2003

27. Section 79 of the Promotion of Access to Information Act, 2000, is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

- “The Rules Board for Courts of Law, established by section 2 of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), must [within four years after the commencement of this section], before 28 February 2009, subject to the approval of the Minister, make rules of procedure for—”.

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- (d) se registrasie ingetrek word, of dit op redelike gronde waarskynlik is dat sy of haar registrasie ingetrek gaan word;
- (e) deur 'n bevoegde hof onbevoeg verklaar word om sy of haar eie saak te beheer; of
- (f) sy of haar praktyk laat vaar of staak,  
moet die Raad—
- (i) [waar nodig sy of haar] beheer oor daardie trustrekening [beheer] neem, [en] administreer en finaliseer [totdat]; of
- (ii) kan die Raad, onder die omstandighede wat die Raad goedvind, 'n aansoek rig aan die Meester van die Hoë Hof wat jurisdiksie het, [op aansoek van die Raad of van iemand wat 'n belang by die trustrekening van daardie skuldinvorderaar het] om 'n *curator bonis* [aangestel het] aan te stel, met [soveel van] die regte, pligte en bevoegdhede [as wat die Meester goedvind] soos voorgeskryf om [sodanige] daardie rekening te beheer, [en] te administreer en te finaliseer.”; en
- (b) deur die volgende subartikel by te voeg:
- “(9) Die Meester van die Hoë Hof—
- (a) kan, voor 'n aanstelling van 'n *curator bonis* gedoen word soos in subartikel (8) bepaal, van die persoon wat as *curator bonis* aangestel staan te word, sekuriteit vereis tot die bevrediging van die Meester in 'n bedrag vasgestel deur die Meester vir die behoorlike verrigting van sy of haar werksaamhede;
- (b) het die bevoegdhede en pligte soos voorgeskryf; en
- (c) is geregtig op die fooic soos bepaal in Bylae 2 by die regulasies uitgevaardig ingevalvolg artikel 103 van die Boedelwet, 1965 (Wet No. 66 van 1965).”.

**Wysiging van artikel 23 van Wet 114 van 1998**

**26.** Artikel 23 van die Wet op Skuldinvorderaars, 1998, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- “(2) Sonder om afbreuk te doen aan die algemeenheid van die hepalings van subartikel (1), kan die Minister na oorleg met die Raad regulasies maak—
- (a) wat die die gelde voorskryf wat deur 'n skuldinvorderaar ingevalvolg artikel 13(1) aan die Raad betaal moet word, asook die tydperke waarbinne [sodanige] daardie gelde betaalbaar is;
- (b) wat die omstandighede voorskryf waaronder 'n skuldinvorderaar nie gebind is om 'n bedrag bedoel in artikel 13(1) te betaal nie; [en]
- (c) betreffende die opleiding van skuldinvorderaars[.];
- (d) betreffende die onttrekking van lede van komitees bedoel in artikel 15(2);
- (e) betreffende die vergoeding, regte, pligte en bevoegdhede van 'n *curator bonis* kragtens artikel 20(8) aangestel; en
- (f) betreffende die bevoegdhede en pligte van die Meester van die Hoë Hof wanneer 'n *curator bonis* ingevalvolg artikel 20(8) aangestel word.”.

**Wysiging van artikel 79 van Wet 2 van 2000, soos gewysig deur artikel 23 van Wet 55 van 2003**

**27.** Artikel 79 van die Wet op Bevordering van Toegang tot Inligting, 2000, word hierby gewysig deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

“Die Reëlsraad vir Geregshewe, ingestel by artikel 2 van die Wet op die Reëlsraad vir Geregshewe, 1985 (Wet 107 van 1985), moet [binne vier jaar na die inwerkingtreding van hierdie artikel], voor 28 Februarie 2009, met die goedkeuring van die Minister, reëls van prosedure vir—”.

**Substitution of section 89 of Act 2 of 2000**

**28.** The following section is hereby substituted for section 89 of the Promotion of Access to Information Act, 2000:

**“Liability**

**89.** No person is criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of this Act or the rules made under section 79.”. 5

**Amendment of section 7 of Act 3 of 2000, as amended by section 27 of Act 55 of 2003**

**29.** Section 7 of the Promotion of Administrative Justice Act, 2000, is hereby amended by the substitution for subsection (3) of the following subsection: 10

“(3) The Rules Board for Courts of Law established by section 2 of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), must [within three years after the date of commencement of section 10 of this Act], before 28 February 2009, subject to the approval of the Minister, make rules of procedure for judicial review.”. 15

**Amendment of section 10 of Act 3 of 2000, as substituted by section 15 of Act 22 of 2005 and amended by section 42 of Act 30 of 2007**

**30.** Section 10 of the Promotion of Administrative Justice Act, 2000, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) The code of good administrative conduct [contemplated] referred to in subsection (5A) must, before publication in the *Gazette*, be approved by Cabinet and Parliament and must be made [within 42 months after the commencement of this section] before 28 February 2009.”. 20

**Insertion of section 10A in Act 3 of 2000**

**31.** The following section is hereby inserted in the Promotion of Administrative Justice Act, 2000, after section 10: 25

**“Liability**

**10A.** No person is criminally or civilly liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power or duty in terms of this Act or the rules made under section 7(3).”. 30

**Amendment of section 11 of Act 3 of 2000**

**32.** Section 11 of the Promotion of Administrative Justice Act, 2000, is hereby substituted, in the IsiXhosa text, for the following section:

**“Igama elifutshane noqaliso**

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11. LoMthetho ubizwa ngokuba nguMthetho weNkuthazo wokuPhatha ngobuLungisa, [1999] 2000, yaye uyakuqula ukusebenza ngomhla oyakutunjwa nguPrezidanti ngukubhengeza isiHlomelo kwiGazethi.”.

**Amendment of section 33 of Act 4 of 2000**

**33.** Section 33 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, is hereby amended by the substitution for subsection (6) of the following subsection: 40

“(6) The members of the Equality Review Committee referred to in—

**Vervanging van artikel 89 van Wet 2 van 2000**

**28.** Artikel 89 van die Wet op Bevordering van Toegang tot Inligting, 2000, word hierby deur die volgende artikel vervang:

**“Aanspreekliheid**

**89.** Geen persoon is straf- of siviellregtelik aanspreeklik vir enige handeling in goeie trou in die uitvoering of verrigting of beweerde uitvoering of verrigting van enige bevoegdheid of plig ingevolge hierdie Wet of die reëls wat kragtens artikel 79 gemaak is, nie.” 5

**Wysiging van artikel 7 van Wet 3 van 2000, soos gewysig deur artikel 27 van Wet 10**

**29.** Artikel 7 van die isiXhosa-teks van die “Promotion of Administrative Justice Act, 2000”, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Ibhodi yemiGaquo yeeNkundla zoMthetho emiswe sisiqendu (2) somthetho webhodi yemiGaquo yeeNkundla zoMthetho 1995 (Umruthetho 107 ka 1985), iyakuthi [**ungekapheli iminyaka emithathu sigalile isiqendu 10 salomthetho**, 15 ngaphambi komhla wama-28 kuFebruarie 2009, ngemvume yoMphathiswa, yenze imigaqo yokuhlola ezinkundleni.”].

**Wysiging van artikel 10 van Wet 3 van 2000, soos vervang deur artikel 15 van Wet 22 van 2005 en gewysig deur artikel 42 van Wet 30 van 2007**

**30.** Artikel 10 van die isiXhosa-teks van die “Promotion of Administrative Justice Act, 2000”, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Umgapro wokuziphatha olungileyo wokulawula kwicandelwana (5A) kufuneka ngaphambi kokuba upapashwe kwiGazethi uvunywe yiKhabhinethi nayiPalamente yaye kufuneka wenziwe [**engu 42 enva kokuqala kwale sigaba**] 25 ngaphambi komhla wama-28 kuFebruarie 2009.”.

**Invoeging van artikel 10A in Wet 3 van 2000**

**31.** Die volgende artikel word hierby na artikel 10 van die isiXhosa-teks van die “Promotion of Administrative Justice Act, 2000”, ingevoeg:

**“Ukuba netyala**

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**10A.** Akukho mntu uyakufunyaniswa enetyala lobugebenga okanye lembambano nangayiphi into ayenze enyanisekile ekusebenziseni amagunya okanye esenza uxanduva ngokwalomthetho okanye imigaqo eyensiwe phantsi kwesiqendu 7(3).”.

**Wysiging van artikel 11 van Wet 3 van 2000**

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**32.** Artikel 11 van die isiXhosa-teks van die “Promotion of Administrative Justice Act, 2000”, word hierby deur die volgende artikel vervang:

**“Igama elifutshane noqaliso**

**11.** LoMthetho ubizwa ngokuba nguMthetho weNkuthazo wokuPhatha ngobLungisa, [1999] 2000, yaye uyakuqula ukusebenza ngomhla 40 oyakutyunjwa nguPrezidenti ngukuhhengeza isiHlomelo kwiGazethi.”.

**Wysiging van artikel 33 van Wet 4 van 2000**

**33.** Artikel 33 van die isiZulu-teks van die “Promotion of Equality and Prevention of Unfair Discrimination Act, 2000”, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

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“(6) Amalungu eKomiti lokuBukeza ukuLingana okukhulunywa ngalo—

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## JUDICIAL MATTERS AMENDMENT ACT, 2008

(a) section 32(d) and (e) are entitled to [such] the remuneration, allowances and other benefits; and  
 (b) section 32(a), (b), (c), (f) and (g) are entitled to the allowances,  
 as may be determined by the Minister in consultation with the Minister of Finance.”.

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**Amendment of section 7 of Act 47 of 2001**

**34.** Section 7 of the Judges' Remuneration and Conditions of Employment Act, 2001, is hereby amended—

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

“(b) Service referred to in paragraph (a) of the definition of ‘service’ in section 1, in a permanent post on the establishment of a particular court, may, subject to paragraph (bA), only be performed if that service is requested by the Chief Justice, President of the Supreme Court of Appeal or the judge president in whose area of jurisdiction the Constitutional Court judge or judge resides or of the court to which he or she was attached when discharged from active service, or with his or her consent, any other judge president, in consultation with the Chief Justice or the the judge president in question, as the case may be, and the Minister so approves, after consultation with the Judicial Service Commission.”. and

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

“(bA) Service referred to in paragraph (a) of the definition of ‘service’ in section 1 which becomes necessary as a result of the creation of an additional temporary post on the establishment of a particular court, to deal with additional workload or backlogs which have developed, may be performed if that service is approved by the Minister after consultation with the head of the court in question, and for the period decided by the Minister, which period may not exceed three months at a time.”.

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**Amendment of section 26 of Act 12 of 2004**

**35.** Section 26 of the Prevention and Combating of Corrupt Activities Act, 2004, is hereby amended by the addition of the following subsection:

“(4) Notwithstanding anything to the contrary in any law, a magistrate’s court shall be competent to impose the penalty provided for in subsection (1)(a)(iii), (1)(c), or (3).”.

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**Amendment of section 42 of Act 32 of 2007**

**36.** Section 42 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) A National Register for Sex Offenders containing particulars of persons convicted of any sexual offence against a child or a person who is mentally disabled or are alleged to have committed a sexual offence against a child or a person who is mentally disabled and who have been dealt with in terms of section 77(6) of 78(6) of the Criminal Procedure Act, 1977, whether committed before or after the commencement of this Chapter and whether committed in or outside the Republic, must, [within six months after the commencement of this Chapter] before 30 June 2009, and, in accordance with the provisions of this Chapter and the regulations made thereunder, be established and maintained by the Minister.”.

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**Amendment of section 50 of Act 32 of 2007**

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**37.** Section 50 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the substitution for subsections (5), (6) and (7) of the following subsections:

“(5) (a) The National Commissioner of Correctional Services must, in the prescribed manner and [within] at least three months [after the commencement of

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(a) esigabeni 32(d) no (e) anelungelo [kulowo] lomvuzo, izinkokhelo kanye nezinye izibonelelo; futhi  
 (b) esigabeni 32(a), (b), (c), (f) no (g) anelungelo lezibonelelo,  
 njengoba zinganqunywa nguNgqongqoshe ebonisana noNgqongqoshe weze-Zimali.”.

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### Wysiging van artikel 7 van Wet 47 van 2001

**34.** Artikel 7 van die Wet op Besoldiging en Diensvoorwaardes van Regters, 2001, word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:  
 “(b) Diens bedoel in paragraaf (a) van die omskrywing van ‘diens’ in artikel 1, in ’n permanente pos op die diensstaat van ’n bepaalde hof, kan, behoudens paragraaf (bA), slegs verrig word indien daardie diens versoek word deur die Hoofregter, President van die Hoogste Hof van Appèl of die regter-president binne wie se regssgebied die Konstitusionele Hof regter of regter woonagtig is of die hof waaraan hy of sy verbonde was toe hy of sy van aktiewe diens onthef is, of, met sy of haar instemming, enige ander regter-president, in oorleg met die Hoofregter of die betrokke regter-president, na gelang van die geval, en die Minister, na oorleg met die Regterlike Dienskommissie, aldus goedkeur.”; en
- (b) deur die invoeging in subartikel (1) na paragraaf (b) van die volgende paragraaf:  
 “(bA) Diens bedoel in paragraaf (a) van die omskrywing van ‘diens’ in artikel 1 wat noodsaaklik word as gevolg van die skepping van ’n addisionele tydelike pos op die diensstaat van ’n bepaalde hof, ten einde die addisionele werkslading of agterstand wat ontwikkel het, mee te handel, kan verrig word indien daardie diens deur die Minister goedkeur word na oorlegpleging met die hoof van die betrokke hof, en vir die tydperk vasgestel deur die Minister, welke tydperk nie drie maande op ’n slag mag oorskry nie.”.

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### Wysiging van artikel 26 van Wet 12 van 2004

**35.** Artikel 26 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, word hierby gewysig deur die volgende subartikel by te voeg:

- “(4) Ondanks enige andersluidende wetsbepalings, is ’n landdroshof bevoeg om ’n straf op te lê soos bepaal in subartikel (1)(a)(iii), (1)(c), of (3).”.

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### Wysiging van artikel 42 van Wet 32 van 2007

**36.** Artikel 42 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) ’n Nasionale Register vir Seks-oortreders wat besonderhede bevat van persone wat aan ’n seksuele misdryf teenoor ’n kind of ’n persoon wat verstandelik gestremd is, skuldig bevind is of wat na bewering ’n seksuele misdryf teenoor ’n kind of ’n persoon wat verstandelik gestremd is, gepleeg het en met wie ingevolge artikel 77(6) of 78(6) van die Strafproseswet, 1977, gehandel is, ongeag of dit voor of na die inwerkingtreding van hierdie Hoofstuk gepleeg is en ongeag of dit binne of buite die Republiek gepleeg is, moet [binne ses maande vanaf die inwerkingtreding van hierdie Hoofstuk] voor 30 Junie 2009 en in ooreenstemming met die bepalings van hierdie Hoofstuk en die regulasies daarkragtens uitgevaardig, ingestel en deur die Minister bygehou word.”.

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### Wysiging van artikel 50 van Wet 32 van 2007

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**37.** Artikel 50 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, word hierby gewysig deur subartikels (5), (6) en (7) deur die volgende subartikels te vervang:

- “(5) (a) Die Nasionale Kommissaris van Korrektiewe Dienste moet op die voorgeskrewe wyse en [binne] ten minste drie maande [na die inwerkingtreding

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**this Chapter]** before the establishment of the Register referred to in section 42, forward to the Registrar the particulars referred to in section 49 of every prisoner or former prisoner which he or she has on record, who, at the commencement of this Chapter, is serving a sentence of imprisonment or who has served a sentence of imprisonment as the result of a conviction for a sexual offence against a child, including an offence **[contemplated]** referred to in section 14 of the Sexual Offences Act, 1957 (Act 23 of 1957), and must, where possible, forward the available particulars of every prisoner or former prisoner which he or she has on record, who at the commencement of this Chapter, is serving a sentence of imprisonment or has served a sentence of imprisonment as a result of a conviction for a sexual offence against a person who is mentally disabled, including an offence **[contemplated]** referred to in section 15 of the Sexual Offences Act, 1957, and the Registrar must forthwith enter those particulars in the Register.

(b) The National Commissioner of Correctional Services must, in the prescribed manner and period, inform each serving prisoner whose particulars have been forwarded to the Registrar of the implications thereof.

(6) The National Commissioner of the South African Police Service must, in the prescribed manner and **[within] at least** three months **[after the commencement of this Chapter]** before the establishment of the Register referred to in section 42, forward to the Registrar all the available particulars in his or her possession referred to in section 49 of every person, who, at the commencement of this Chapter, has a previous conviction for a sexual offence against a child, including, as far as is possible, an offence **[contemplated]** referred to in section 14 of the Sexual Offences Act, 1957, and who has a previous conviction for a sexual offence against a person who is mentally disabled, including, as far as is possible, an offence **[contemplated]** referred to in section 15 of the Sexual Offences Act, 1957, and the Registrar must forthwith enter those particulars in the Register.

(7) (a) The Director-General: Health must, in the prescribed manner and **[within] at least** three months **[after the commencement of this Chapter]** before the establishment of the Register referred to in section 42, forward to the Registrar the particulars referred to in section 49 of every person, who, at the commencement of this Chapter, is subject to a direction in terms of section 77(6) or 78(6) of the Criminal Procedure Act, 1977, as the result of an act which constituted a sexual offence against a child or a person who is mentally disabled and the Registrar must forthwith enter those particulars in the Register.

(b) The Director-General: Health must, in the prescribed manner and period, inform each person referred to in paragraph (a) whose particulars have been forwarded to the Registrar of the implications thereof.”.

#### Amendment of section 62 of Act 32 of 2007

38. Section 62 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Minister must—

- (a) **[within one year after the implementation of this Act]** before 31 March 2009, adopt and table the policy framework in Parliament;
- (b) publish the policy framework in the *Gazette* within one month after it has been tabled in Parliament;
- (c) review the policy framework within five years after its publication in the *Gazette* and at least once every five years thereafter; and
- (d) amend the policy framework when required, in which case **[such]** the amendments must be tabled in Parliament and published in the *Gazette*, as **[contemplated]** provided for in paragraph (b).”.

**van hierdie Hoofstuk]** voor die instelling van die Register bedoel in artikel 42, die besonderhede van elke gevangene of voormalige gevangene in artikel 49 bedoel wat hy of sy op rekord het en wat by die inwerkingtreding van hierdie Hoofstuk 'n vonnis van gevangenisstraf uitdien of uitgedien het as gevolg van 'n skuldig-bevinding aan 'n seksuele misdryf teenoor 'n kind, met inbegrip van 'n misdryf [beoog] bedoel in artikel 14 van die Wet op Seksuele Misdrywe, 1957 (Wet No. 23 van 1957), aan die Registrateur stuur, en moet, waar moontlik, die beskikbare besonderhede van elke gevangene of voormalige gevangene wat hy of sy op rekord het en wat by die inwerkingtreding van hierdie Hoofstuk 'n vonnis van gevangenisstraf uitdien of uitgedien het as gevolg van 'n skuldig-bevinding aan 'n seksuele misdryf teenoor 'n persoon wat verstandelik gestremd is, met inbegrip van 'n misdryf in artikel 15 van die Wet op Seksuele Misdrywe, 1957, [beoog] bedoel, aan die Registrateur stuur, en die Registrateur moet sodanige besonderhede onverwyld in die Register opneem.

(b) Die Nasionale Kommissaris van Korrektiewe Dienste moet op die voorgeskrewe wyse en binne die voorgeskrewe tydperk elke dienende gevangene wie se besonderhede aan die Registrateur gestuur is, inlig oor die implikasies daarvan.

(6) Die Nasionale Kommissaris van die Suid-Afrikaanse Polisiediens moet op die voorgeskrewe wyse en [binne] ten minste drie maande [na die inwerking-treding van hierdie Hoofstuk] voor die instelling van die Register bedoel in artikel 42, alle beskikbare besonderhede bedoel in artikel 49 wat hy of sy op rekord het van elke persoon wat by die inwerkingtreding van hierdie Hoofstuk 'n vorige veroordeling vir 'n seksuele misdryf teenoor 'n kind het, met inbegrip van, in die mate wat dit moontlik is, 'n veroordeling vir 'n misdryf [beoog] bedoel in artikel 14 van die Wet op Seksuele Misdrywe, 1957, en wat 'n vorige veroordeling vir 'n seksuele misdryf teenoor 'n persoon wat verstandelik gestremd is, het, met inbegrip van, in die mate wat dit moontlik is, 'n misdryf in artikel 15 van die Wet op Seksuele Misdrywe, 1957, [beoog] bedoel, aan die Registrateur stuur, en die Registrateur moet sodanige besonderhede onverwyld in die Register opneem.

(7) (a) Die Direkteur-generaal: Gesondheid moet op die voorgeskrewe wyse en [binne] ten minste drie maande [na die inwerkingtreding van hierdie Hoofstuk] voor die instelling van die Register bedoel in artikel 42, die besonderhede in artikel 49 bedoel van elke persoon wat by die inwerkingtreding van hierdie Hoofstuk onderhewig is aan 'n lasgewing ingevolge artikel 77(6) of 78(6) van die Strafproseswet, 1977, as gevolg van 'n handeling wat 'n seksuele misdryf teenoor 'n kind of 'n persoon wat verstandelik gestremd is, uitgemaak het, aan die Registrateur stuur, en die Registrateur moet sodanige besonderhede onverwyld in die Register opneem.

(b) Die Direkteur-generaal: Gesondheid moet op die voorgeskrewe wyse en binne die voorgeskrewe tydperk elke persoon in paragraaf (a) bedoel, en wie se besonderhede aan die Registrateur gestuur is, inlig oor die implikasies daarvan.”.

### Wysiging van artikel 62 van Wet 32 van 2007

38. Artikel 62 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang

- “(2) Die Minister moet die beleidsraamwerk—  
 (a) [binne 'n jaar na die implementering van hierdie Wet] voor 31 Maart 2009, opstel en in die Parlement ter tafel lê;  
 (b) binne 'n maand na tertafellegging in die Parlement in die Staatskoerant publiseer;  
 (c) binne vyf jaar na publisering daarvan in die Staatskoerant en daarna minstens een elke vyf jaar hersien; en  
 (d) wanneer nodig, wysig, in welke geval [sodanige] die wysigings in die Parlement ter tafel gelê en in die Staatskoerant gepubliseer moet word soos in paragraaf (b) [beoog] bepaal.”.

**Transitional provisions**

**39.** Any admission of guilt fine which, before the commencement of sections 5 to 8 and 17 of this Act—

- (a) was imposed in terms of section 57(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), before its amendment by section 7 of this Act; and 5  
(b) has not been dealt with in terms of section 57(7) of the Criminal Procedure Act, 1977, before its amendment by section 7 of this Act, must be dealt with as if section 7 of this Act had not been passed.

**Short title and commencement**

**40.** (1) This Act is called the Judicial Matters Amendment Act, 2008. 10

(2) Sections 5, 6, 7, 8, 10, 13, 14, 15, 16, 17, 25, 26 and 39 come into operation on a date fixed by the President by proclamation in the *Gazette*.

**Oorgangsbeplings**

**39.** Enige skulderkenningsboete wat, voor die inwerkingtreding van artikels 5 tot 8 en 17 van hierdie Wet—

- (a) ingevolge artikel 57(1) van die Strafproseswet, 1977 (Wet No. 51 van 1977), voor die wysiging daarvan deur artikel 7 van hierdie Wet, opgelê is; en  
(b) wat nie ingevolge artikel 57(7) van die Strafproseswet, 1977, mee gehandel is nie voor die wysiging daarvan deur artikel 7 van hierdie Wet, word mee gehandel asof artikel 7 van hierdie Wet nie aangeneem is nie.

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**Kort titel en inwerkingtreding**

**40.** (1) Hierdie Wet heet die Wysigingswet op Geregetlike Aangeleenthede, 2008. 10

(2) Artikels 5, 6, 7, 8, 10, 13, 14, 15, 16, 17, 25, 26 en 39 tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.