

# ACT

To amend the law relating to the formalities of certain contracts, to modify the designation and jurisdiction of the Eastern Districts Local Division of the Supreme Court, to apply certain laws to the Sheriff for the Eastern Districts Local Division of the Supreme Court, to prohibit the disclosure of information concerning the identity of children involved in legal proceedings, to exclude certain land from the operation of section *two* of the General Law Amendment Act, 1956, to give recognition to the official title of "landdros" and to amend certain laws incidental thereto, to repeal Law No. 12 of 1884 (Natal), to amend Law No. 13 of 1883 (Natal), Law No. 46 of 1887 (Natal), the Administration of Justice Proclamation, 1902 (Transvaal), the Establishment of the Supreme Court and High Court Ordinance, 1902 (Transvaal), the Transfer Duty Proclamation, 1902 (Transvaal), the Superior Courts Criminal Jurisdiction Ordinance, 1903 (Transvaal), the Transfer Duty Ordinance, 1906 (Orange Free State), the South Africa Act, 1909, the Administration of Estates Act, 1913, the Justices of the Peace and Oaths Act, 1914, the Maintenance Orders Act, 1923, the Stock Theft Act, 1923, the Companies Act, 1926, the Arms and Ammunition Act, 1937, the Irrigation Districts Adjustment Act, 1944, the Magistrates' Courts Act, 1944, the General Law Amendment Act, 1949, the Radio Act, 1952, the Second-hand Goods Act, 1955, and the Criminal Procedure Act, 1955.

*(Afrikaans text signed by the Officer Administering the Government.)*

*(Assented to 24th June, 1957.)*

**BE IT ENACTED** by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Formalities in respect of contracts of sale of land.

1. (1) No contract of sale or cession in respect of land or any interest in land (other than a lease, mynrecht or mining claim or stand) shall be of any force or effect if concluded after the commencement of this section unless it is reduced to writing and signed by the parties thereto or by their agents acting on their written authority.

(2) The laws specified in the Schedule are hereby repealed to the extent set out in the fourth column of the Schedule.

Modification of designation of Eastern Districts Local Division of Supreme Court.

2. (1) (a) As from the commencement of this section, the Eastern Districts Local Division of the Supreme Court of South Africa shall under the name of the Eastern Cape Division of the Supreme Court of South Africa be a provincial division of the said Supreme Court, and any reference in any law to the said Division or to a provincial or local division of the said Supreme Court shall, subject to the provisions of paragraph (b), be construed accordingly; and
- (b) The reference in paragraph (b) of sub-section (5) of section *seventy-nine* of the Income Tax Act, 1941 (Act No. 31 of 1941), to a provincial division of the Supreme Court having jurisdiction in the area for which a court is constituted under that section, shall be construed, for the purpose of any nomination thereunder, which is required to be made within a period of three months after the commencement of this section, in respect of a court constituted for an area which includes the area of jurisdiction of the said Eastern Cape Division, as a reference to the Cape Provincial Division of the Supreme Court, and, for the purpose of any such nomination which is required to be made after the expiration of the said period of three months, in respect of a court constituted for the area of jurisdiction of the said Eastern Cape Division, as a reference to the said Eastern Cape Division.

(2) Nothing in sub-section (1) contained shall in any way affect the existing jurisdiction of the said Eastern Cape Division.

Amendment of section 13 of Act 35 of 1896 (Cape), as amended by section 2 of Act 62 of 1955.

3. (1) Section *thirteen* of the Better Administration of Justice Act, 1896, (Act No. 35 of 1896), of the Cape of Good Hope, is hereby amended—

- (a) by the substitution for the words "a jurisdiction concurrent with that of the Supreme Court" of the word "jurisdiction";

- (b) by the substitution for the words "no action shall be instituted in the said Supreme Court by a plaintiff residing in any such district or territory" of the words "a plaintiff residing in any such district or territory may institute an action in the Supreme Court"; and
- (c) by the substitution for the word "unless" wherever that word occurs in the first proviso of the word "if".

(2) Except as provided in sub-section (1) nothing in this section shall in any way affect the existing jurisdiction of the Eastern Cape Division of the Supreme Court of South Africa.

Application of certain laws to Sheriff for Eastern Cape Division of Supreme Court.

4. (1) The provisions of Ordinance No. 37 of 1828 of the Cape of Good Hope, the Appeal Court and Sheriff's Duties' Act, 1886 (Act No. 17 of 1886), of the Cape of Good Hope, and of any other law relating to the Sheriff for the Province of the Cape of Good Hope shall, in so far as they apply with reference to the area of jurisdiction of the Eastern Cape Division of the Supreme Court of South Africa, be construed as from the commencement of this section as if they applied only with reference to the Sheriff for the Eastern Cape Division of the said Supreme Court.

(2) The provisions of any law or rule relating to the Deputy Sheriff for the District of Albany shall, as from the said commencement, be construed to apply with reference to the Sheriff for the Eastern Cape Division of the said Supreme Court.

Information concerning identity of children involved in legal proceedings not to be published.

5. (1) No person shall publish or make known in any manner the name, address, school, place of employment or any other information likely to reveal the identity of any person under the age of nineteen years who is or has been a party to any civil proceedings or a witness in any legal proceedings of whatever nature, unless the judge, magistrate or other officer who presides or presided at such proceedings, after having consulted any parent or guardian, if any, of such person, consents in writing to such publication or making known.

(2) Any person who contravenes sub-section (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Section 2 of Act 50 of 1956 not applicable in respect of certain land.

6. (1) Section two of the General Law Amendment Act, 1956, shall not apply in respect of land forming part of the farm Alexanderfontein or the farm Bultfontein in the district of Kimberley and held under a lease or licence registered in the office of De Beers Consolidated Mines Limited or the office of the Town Clerk of Kimberley, until the day upon which title deeds of such land are registered in a deeds registry or the first day of January, 1962, whichever is the earlier.

(2) Sub-section (1) shall be deemed to have come into operation on the twenty-second day of June, 1956.

Recognition of official title of "landdros" and amendment of certain laws.

7. (1) As from the commencement of this section any reference in the Afrikaans or Dutch version of any law or document to the official title—

(a) of "magistraat" or "addisionele magistraat" or "assistent-magistraat" shall be construed to include a reference to the official title of "landdros" or "addisionele landdros" or "assistent-landdros" respectively; and

(b) of "landdros" or "addisionele landdros" or "assistent-landdros" shall be construed to include a reference to the official title of "magistraat" or "addisionele magistraat" or "assistent-magistraat" respectively,

and any reference in such law or document to the holder of an office designated by any such title or to the district or sub-district or seat of office of that holder or the court of that district or sub-district or the area of jurisdiction of the court established for that district or sub-district or an order or judgment given by that holder or to any other matter which pertains to such office or the holder thereof or to any such district, sub-district, seat of office, court or area, shall be construed accordingly.

(2) (a) Section one hundred and seventeen of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), is hereby amended by the substitution in the Afrikaans version for the word "Magistraatshowewet" of the words "Wet op Landdroshowe".

(b) Section thirty-three of the Magistrates' Courts Amendment Act, 1952 (Act No 40 of 1952) and section

*four* of the Magistrates' Courts Amendment Act, 1954 (Act No. 14 of 1954), are hereby amended by the substitution in the Afrikaans version for the word "Magistraatshowe" of the word "Landdros-howe".

Insertion of section 2*bis* in Law 46 of 1887 (Natal).

8. The following section is hereby inserted after section two of Law No. 46 of 1887 of Natal:

"2*bis*. In this Law and in the Schedules the expression 'Resident Magistrate' shall include an additional magistrate, an assistant magistrate, a native commissioner, an additional native commissioner and an assistant native commissioner appointed as such under any law in respect of the area in question."

Amendment of section 24 of Proclamation 14 of 1902 (Transvaal).

9. Section *twenty-four* of the Administration of Justice Proclamation, 1902, of the Transvaal is hereby amended by the substitution for the words "Johannesburg: The boundaries and limits of the area within which the said Court shall have jurisdiction shall be defined by notice in the *Gazette* by the Governor, and may from time to time be altered as occasion may require" of the words "the districts of Benoni, Boksburg, Brakpan, Delmas, Germiston, Johannesburg, Kempton Park, Krugersdorp, Nigel, Randfontein, Roodepoort and Springs: Provided that the Governor-General may by proclamation in the *Gazette* exclude from the area of jurisdiction of the said Court any area included therein in terms of this section, or include therein any additional area".

Amendment of section 27 of Proclamation 14 of 1902 (Transvaal).

10. Section *twenty-seven* of the Administration of Justice Proclamation, 1902, of the Transvaal is hereby amended by the substitution for the words "the district in which it may be holden" of the words "its area of jurisdiction".

Amendment of section 2 of Ordinance 2 of 1902 (Transvaal).

11. Section *two* of the Establishment of the Supreme Court and High Court Ordinance, 1902, of the Transvaal is hereby amended by the substitution for the words "district of Witwatersrand" of the words "area set out in section *twenty-four* of the Administration of Justice Proclamation, 1902 (Proclamation No. 14 of 1902) of the Transvaal, as amended from time to time by the Governor-General in terms of that section".

Amendment of section 1 of Ordinance 10 of 1903 (Transvaal), as amended by section 1 of Act 14 of 1909 (Transvaal).

12. Section *one* of the Superior Courts Criminal Jurisdiction Ordinance, 1903, of the Transvaal is hereby amended by the substitution for the words "Johannesburg, Boksburg, Germiston and Krugersdorp" of the words "Boksburg, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randfontein and Roodepoort: Provided that the Governor-General may by proclamation in the *Gazette* exclude from the area of jurisdiction of the said Court any area included therein in terms of this section, or include therein any additional area".

Amendment of section 97 of the South Africa Act, 1909, as substituted by section 1 of Act 41 of 1941 and amended by section 7 of Act 50 of 1956.

13. The following section is hereby substituted for section *ninety-seven* of the South Africa Act, 1909:

"Appoint-  
ment of  
acting  
judges.

97. (1) Whenever it is for any reason expedient that a person be appointed to act as a judge of any division of the Supreme Court of South Africa in the place of any judge of that division or in addition to the judges of that division or in any vacancy in that division, the Governor-General may appoint some fit and proper person so to act either during his pleasure or for a specified period.

(2) The Minister of Justice may in the circumstances mentioned in sub-section (1) appoint some fit and proper person to act as provided in that sub-section for a period not exceeding one month.

(3) No person other than a judge or former judge of the said Supreme Court shall be appointed to act as the Chief Justice of South Africa or as a judge of appeal.

(4) Any appointment made under sub-section (1) or (2) shall be deemed to have been made also in respect of any period during which the person appointed is necessarily engaged in connection with the disposal of any proceedings in which he took part and which have not been finally disposed of at the termination of the period for which he was appointed or, having been disposed of either before or after such termination, are subsequently reopened."

Amendment of section 100 of the South Africa Act, 1909, as amended by section 2 of Act 12 of 1920.

14. Section *one hundred* of the South Africa Act, 1909, is hereby amended by the addition of the following sub-section, the existing section becoming sub-section (1):

“(2) If any person appointed under section *ninety-seven* to act as a judge, is appointed as a judge under sub-section (1) of this section before the termination of his appointment so to act, the appointment may be made with retrospective effect from a date not earlier than the date with effect from which he was appointed so to act.”.

Amendment of section 2 of Act 24 of 1913, as amended by section 8 of Act 62 of 1955.

15. Section *two* of the Administration of Estates Act, 1913, is hereby amended—

- (a) by the substitution in the definition of “Master” for the word “Province” of the word “area”; and
- (b) by the insertion in the definition of “State” after the words “British Possession” of the words “and any Territory in respect of which a proclamation has been issued under section *forty*”.

Substitution of sections 4 and 5 of Act 24 of 1913, as amended by section 9 of Act 62 of 1955.

16. The following sections are hereby substituted for sections *four* and *five* of the Administration of Estates Act, 1913:

“Appointment of masters and assistant masters.

4. (1) Subject to the laws governing the public service, the Minister shall, in respect of the area of jurisdiction of each provincial division of the Supreme Court appoint a master of the Supreme Court, and may, in respect of each such area, or any portion thereof specified by the Minister, appoint one or more assistant masters of the Supreme Court, who may, in respect of such area or such specified portion, but subject to the control, direction and supervision of the master of that area, do anything which may lawfully be done by that master.

(2) Any person who at the commencement of this section holds office as master or assistant master of the Supreme Court in respect of the area of jurisdiction of any provincial division of the Supreme Court or any specified portion thereof, shall, except in the case of the Master and the Assistant Master of the Cape of Good Hope Provincial Division of the Supreme Court in regard to the area of jurisdiction of the Eastern Cape Division of the Supreme Court, be deemed to have been appointed as such under this section in respect of such area or such specified portion.

Seat of office of master and assistant master.

5. (1) A master or an assistant master shall have his office at the seat of the provincial division of the Supreme Court in respect of whose area of jurisdiction he has been appointed or in the case of an assistant master appointed in respect of a specified portion of the area of jurisdiction of a provincial division, at a place determined by the Minister within such specified portion.

(2) The assistant master who, at the commencement of this section, has his office at Kimberley, shall be deemed to have his office there in pursuance of a determination by the Minister under sub-section (1) and the area of jurisdiction of the Griqualand West Local Division of the Supreme Court shall be deemed to be a portion of a provincial division of the Supreme Court specified by the Minister and in respect of which the said assistant master has been appointed.”.

Amendment of section 6 of Act 24 of 1913.

17. Section *six* of the Administration of Estates Act, 1913, is hereby amended by the substitution for the word “Province” wherever it occurs of the word “area”.

Amendment of section 40 of Act 24 of 1913.

18. (1) Section *forty* of the Administration of Estates Act, 1913, is hereby amended by the substitution for the word “State” wherever it occurs of the word “Territory”.

(2) Any proclamation issued under section *forty* of the Administration of Estates Act, 1913, before the commencement of this section, shall be deemed to have been issued under that section as amended by sub-section (1) of this section.

Insertion of section 41*bis* in Act 24 of 1913.

19. The following section is hereby inserted in the Administration of Estates Act, 1913, after section *forty-one*:

“Recognition of foreign trustees.

41*bis*. (1) Whenever a duly authenticated and certified copy of the will of a deceased person which has been lodged in any State is deposited



with a Master and the will settles property within the Union upon any person (in this section referred to as a trustee) to be administered by him for the benefit of any other person, the Master may, subject to the provisions of sub-section (2), and if satisfied that the will has been duly proved and accepted as a valid testamentary disposition in that State, endorse such copy under his seal of office and thereupon such copy shall be sufficient recognition of the appointment of that trustee for the purpose of claiming any property within the Union which he is required in terms of the will to administer.

(2) The trustee shall choose *domicilium citandi et executandi* within the Union and furnish security to the satisfaction of the Master for the due and faithful administration of the estate to which he has been appointed, unless the will directs that such security is to be dispensed with or the Master is satisfied that such security should be dispensed with or the court otherwise directs."

Amendment of section 104 of Act 24 of 1913.

20. Section *one hundred and four* of the Administration of Estates Act, 1913, is hereby amended by the substitution for the words "of the Province in which" of the words "in whose area of jurisdiction" and for the words "that Province or otherwise within the jurisdiction of the Court of that Province" of the words "the jurisdiction of the Court concerned".

Pending matters emanating from Eastern Cape Division.

21. The amendments effected by paragraph (a) of section *fifteen*, and sections *sixteen*, *seventeen* and *twenty* shall not affect any matter arising under the Administration of Estates Act, 1913 (Act No. 24 of 1913), the Insolvency Act, 1936 (Act No. 24 of 1936) or any other law which emanated from the area of jurisdiction of the Eastern Cape Division of the Supreme Court and which was brought up for consideration in the office of the Master of the Cape of Good Hope Provincial Division of the Supreme Court before the date of commencement of the said paragraph and the said sections and such matter shall be proceeded with and disposed of as if the said paragraph and the said sections had not been passed.

Amendment of section 1 of Act 16 of 1914, as amended by section 2 of Act 54 of 1949.

22. Section *one* of the Justices of the Peace and Oaths Act, 1914, is hereby amended by the substitution in sub-section (1) for the words "described by notice in the *Gazette*" of the words "fixed by the said Minister".

Amendment of section 2 of Act 16 of 1914, as amended by section 3 of Act 54 of 1949.

23. Section *two* of the Justices of the Peace and Oaths Act, 1914, is hereby amended by the deletion of sub-section (2).

Amendment of section 6 of Act 16 of 1914, as amended by section 3 of Act 54 of 1949.

24. Section *six* of the Justices of the Peace and Oaths Act, 1914, is hereby amended by the deletion in sub-section (1) of all the words after the word "Justice" where it occurs for the second time.

Amendment of section 8 of Act 16 of 1914, as amended by section 1 of Act 21 of 1953.

25. Section *eight* of the Justices of the Peace and Oaths Act, 1914, is hereby amended by the deletion of the words occurring after the words "attested declaration" where those words occur for the first time, but excluding the proviso thereto, and the addition at the end of the said proviso of the words "or if he has reason to believe that the person concerned is unwilling to make such affidavit or declaration".

Amendment of section 1 of Act 15 of 1923.

26. Section *one* of the Maintenance Orders Act, 1923, is hereby amended—

(a) by the addition after paragraph (d) of the following paragraph:

"(e) any other country or territory determined by the Governor-General by proclamation in the *Gazette*,";

(b) by the insertion after the words "or in such territory" of the words "or in such country"; and

(c) by the substitution for the words "part or territory" wherever those words occur of the words "part, territory or country".

Amendment of long title of Act 15 of 1923.

27. The long title of the Maintenance Orders Act, 1923, is hereby amended by the insertion after the word "territories" of the words "or other proclaimed countries".

Insertion of section 13*bis* in Act 26 of 1923.

28. The following section is hereby inserted in the Stock Theft Act, 1923, after section *thirteen*:

"Provisions of Act may be made applicable in respect of farm produce not mentioned in definition of produce. 13*bis*. (1) The Minister may by notice in the *Gazette* declare that any or all of the provisions of this Act relating to produce shall also apply, either generally or in any area specified in the notice or any area other than an area so specified, in respect of any such class of farm produce not mentioned in the definition of 'produce' in section *thirteen* as is specified in the notice.

(2) The Minister may in like manner amend or repeal any such notice."

Amendment of section 62 *quat* of Act 46 of 1926, as inserted by section 34 of Act 46 of 1952.

29. Section *sixty-two quat* of the Companies Act, 1926, is hereby amended by the addition at the end of paragraph (a) of sub-section (6) of the following proviso:

"Provided that for the purposes of this paragraph preference shares shall not be construed to include preference shares to which voting rights, other than voting rights referred to in paragraph (a) of sub-section (4), are attached;"

Amendment of section 136 of Act 46 of 1926, as amended by section 80 of Act 23 of 1939.

30. Section *one hundred and thirty-six* of the Companies Act, 1926, is hereby amended by the substitution in the Afrikaans version of sub-section (1) for the word "of" where it occurs for the first time of the word "en" and the insertion in the said sub-section after the word "situate" of the words "or, if such registered office is situated in a portion of such district in respect of which an additional or assistant magistrate permanently performs the functions of the magistrate of the district at a place other than the seat of magistracy of that district, at the office of such additional or assistant magistrate".

Amendment of section 177 of Act 46 of 1926, as amended by section 99 of Act 23 of 1939.

31. Section *one hundred and seventy-seven* of the Companies Act, 1926, is hereby amended by the insertion after the word "and" where it occurs for the second time of the words "(subject to the provisions of paragraph (b) of sub-section (1)*ter* of section *one hundred and ninety-seven B*)".

Amendment of section 197B of Act 46 of 1926, as amended by section 3 of Act 11 of 1932, section 106 of Act 23 of 1939 and section 115 of Act 46 of 1952.

32. Section *one hundred and ninety-seven B* of the Companies Act, 1926, is hereby amended by the addition to sub-section (1)*ter* of the following paragraph, the existing sub-section becoming paragraph (a):

"(b) If such judicial management order is superseded by a winding-up order, the preference conferred upon any liability in terms of paragraph (a) shall remain in force except in so far as claims arising out of the costs of the winding-up are concerned."

Amendment of section 2 of Act 28 of 1937, as amended by section 15 of Act 32 of 1952 and section 1 of Act 2 of 1956.

33. Section *two* of the Arms and Ammunition Act, 1937, is hereby amended by the deletion in sub-section (9) of the words "but not exceeding a period of six months as from the date of importation of such arm".

Amendment of section 30 of Act 28 of 1937, as amended by section 5 of Act 2 of 1956.

34. Section *thirty* of the Arms and Ammunition Act, 1937, is hereby amended—

(a) by the substitution for paragraph (i) of the following paragraphs:

"(i) In the case of a contravention of or failure to comply with any provision of section *one*, to imprisonment without the option of a fine for a period not exceeding ten years;

(i)*bis* in the case of a contravention of or failure to comply with any provision of section *two*, *four*, *fifteen*, *twenty-three*, *twenty-five* or *twenty-five bis* or a proclamation issued under section *twenty-six* or *twenty-eight*, or in the case of an offence mentioned in paragraph (a), (b), (f) or (g), upon a first conviction, to a fine not exceeding four hundred pounds or to imprisonment for a period not exceeding two years, or to both such fine and

such imprisonment, and upon a second or subsequent conviction, to imprisonment without the option of a fine for a period not exceeding three years: Provided that if the person concerned is convicted of a contravention—

(aa) of sub-section (1) of section *twenty-three*, and the evidence establishes that he supplied the arm or ammunition in question to a person other than a European or to a company of which any director or the manager or the secretary is not a European; or

(bb) of sub-section (1) of section *four* or sub-section (2) of section *twenty-three*, and the number of arms, excluding arms designed to discharge any cartridge loaded with a bullet of a reputed diameter of .22 of an inch or less, in respect of which he is convicted exceeds one or the quantity of ammunition, excluding any cartridge loaded with a bullet of a reputed diameter of .22 of an inch or less, in respect of which he is convicted exceeds one hundred rounds and such person does not satisfy the court that such number or quantity was not in the circumstances in excess of his reasonable requirements,

such person shall be liable to imprisonment without the option of a fine for a period not exceeding ten years;”;

(b) by the deletion in paragraph (ii) of the word “*four*” and the substitution for the words “*twenty-two or twenty-three*” of the words “*or twenty-two*” and for the word “*fifty*” of the words “*one hundred*”; and

(c) by the insertion in paragraph (iii) after the expression “(i)” of the expression “(i)*bis*” and the substitution for the word “*fifty*” of the words “*one hundred*”.

Amendment of section 34 of Act 28 of 1937, as amended by section 6 of Act 2 of 1956.

35. Section *thirty-four* of the Arms and Ammunition Act, 1937, is hereby amended by the insertion in paragraph (a) after the word “certificates” of the words “applications, authorizations”.

Amendment of section 5 of Act 21 of 1944.

36. Section *five* of the Irrigation Districts Adjustment Act, 1944, is hereby amended by the substitution in sub-section (4) for the words occurring after the expression “(Act No. 18 of 1911)” of the words “and shall be withdrawn from the Public Debt Commissioners or be used only with the approval of the Minister and subject to such conditions as he may determine”.

Amendment of section 2 of Act 32 of 1944, as amended by section 3 of Act 40 of 1952.

37. Section *two* of the Magistrates’ Courts Act, 1944, is hereby amended by the insertion after paragraph (b) of the following paragraph:

“(b)*bis* increase or decrease the limits of any regional division;”.

Amendment of section 9 of Act 32 of 1944, as amended by section 8 of Act 40 of 1952 and section 17 of Act 50 of 1956.

38. Section *nine* of the Magistrates’ Courts Act, 1944, is hereby amended—

(a) by the insertion in sub-section (2) after the words “public service” where those words occur for the first time of the words “or any competent retired officer of the public service”; and

(b) by the insertion in sub-section (3) after the word “as” of the words “magistrate of a regional division in addition to any magistrate or acting magistrate of that division or as”.

Amendment of section 29 of Act 32 of 1944, as amended by section 13 of Act 40 of 1952.

39. Section *twenty-nine* of the Magistrates’ Courts Act, 1944, is hereby amended by the insertion after paragraph (d) of sub-section (1) of the following paragraph:

“(d)*bis* in actions on any agreement as defined in sub-section (1) of section *one* of the Hire-Purchase Act, 1942 (Act No. 36 of 1942), where the claim or the value of the property in dispute does not exceed five hundred pounds;”.

Amendment of  
section 98 of  
Act 32 of 1944.

40. Section *ninety-eight* of the Magistrates' Courts Act, 1944, is hereby amended by the insertion in sub-section (4) after the word "*ninety-six*" of the words "or in which the court of a regional division has imposed any sentence,".

Amendment of  
section 7 of  
Act 54 of 1949,  
as amended by  
section 19 of  
Act 13 of 1954.

41. Section *seven* of the General Law Amendment Act, 1949, is hereby amended by the substitution in paragraph (i) of sub-section (1) for the words "provinces of the Union" of the words "provincial divisions of the Supreme Court of South Africa".

Amendment of  
section 19 of  
Act 3 of 1952.

42. Section *nineteen* of the Radio Act, 1952, is hereby amended—

- (a) by the substitution in paragraph (a) of sub-section (1) for the words "*thirteen, or seventeen*" of the words "*or thirteen*";
- (b) by the insertion in the said sub-section after the words "guilty of an offence and" of the words "except as provided in sub-section (1)*bis*"; and
- (c) by the insertion after sub-section (1) of the following sub-section:

"(1)*bis* Any person who transmits by radio in contravention of section *five* or who has in his possession radio apparatus, other than a radio receiving set, in contravention of sub-section (1) of section *six* or who, having been authorized under a licence, certificate or permit issued under this Act to transmit by radio or to be in possession of radio apparatus as aforesaid, contravenes or fails to comply with any condition of such licence, certificate or permit, or who contravenes section *seventeen*, shall be liable on conviction to a fine not exceeding three hundred pounds or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment, and the court convicting such person may in addition make any of the orders referred to in subparagraph (i), (ii) or (iii) of sub-section (1) of this section."

Amendment of  
section 1 of  
Act 23 of 1955,  
as amended by  
section 21 of  
Act 50 of 1956.

43. Section *one* of the Second-hand Goods Act, 1955, is hereby amended by the insertion in the definition of "dealer" after the expression "(Act No. 32 of 1925)" of the words "or of a resolution under section *thirteen* of the Finance Act, 1939 (Act No. 33 of 1939)".

Amendment of  
section 14 of  
Act 23 of 1955.

44. (1) Section *fourteen* of the Second-hand Goods Act, 1955, is hereby amended by the substitution for the words occurring after the word "prescribing" of the words "any matter which in terms of this Act is required or permitted to be prescribed".

(2) The amendment effected by sub-section (1) shall be deemed to have come into operation on the first day of January, 1956.

Substitution of  
section 5 of  
Act 56 of 1955.

45. The following section is hereby substituted for section *five* of the Criminal Procedure Act, 1955:

"Prosecution of offenders by attorney-general under control of Minister.

5. (1) The Governor-General shall, subject to the laws relating to the public service, appoint, in respect of the area of jurisdiction of each provincial division of the Supreme Court of South Africa an attorney-general, who shall have authority to prosecute in the name of Her Majesty the Queen, in any court in the area in respect of which he has been appointed, any person charged with any offence in regard whereto any court in the said area has jurisdiction, and he may perform all functions relating to the exercise of that authority.

(2) The Governor-General may, by proclamation in the *Gazette*, withdraw any portion of the area for which an attorney-general has been appointed, from his authority under this Act or under any other law, and place it under the authority of the attorney-general appointed for another area, and thereupon the portion so placed under the authority of the attorney-general in question shall, for the purpose of the exercise of that authority, be deemed to form part of the original area for which he was appointed.



(3) Every attorney-general shall exercise his authority and perform his functions under this Act or under any other law subject to the control and directions of the Minister who may reverse any decision arrived at by an attorney-general and may himself in general or in any specific matter exercise any part of such authority and perform any such function.

(4) The Minister may, subject to the laws governing the public service, in respect of each area for which an attorney-general has been appointed, appoint one or more deputy attorneys-general, who may, subject to the control and directions of the attorney-general concerned, do anything which may be lawfully done by the attorney-general.

(5) Any person who at the commencement of this section holds office as attorney-general, solicitor-general, deputy attorney-general or deputy solicitor-general in any area referred to in sub-section (1), shall be deemed to have been appointed under this section as attorney-general or deputy attorney-general, as the case may be, in respect of the area in question.

(6) Any reference in any law to the solicitor-general or a deputy solicitor-general in respect of the area of jurisdiction of the Eastern Districts Local Division of the Supreme Court, shall be construed as a reference to the attorney-general or a deputy attorney-general respectively for the area of jurisdiction of the Eastern Cape Division of the Supreme Court of South Africa."

Amendment of  
section 64 of  
Act 56 of 1955.

46. Section *sixty-four* of the Criminal Procedure Act, 1955, is hereby amended by the insertion in sub-section (2) after the word "*sixty-five*" of the word "*bis*".

Substitution  
of section 65 of  
Act 56 of 1955.

47. The following sections are hereby substituted for section *sixty-five* of the Criminal Procedure Act, 1955:

"Court may  
grant leave  
of absence  
from a pre-  
paratory ex-  
amination.

65. If after a preparatory examination has commenced, the court is, upon application made in person by an accused or his representative, satisfied—

(a) that the physical condition of that accused is such that he is unable to attend or that it is undesirable that he should attend the examination; or

(b) that circumstances in connection with the illness or death of a member of that accused's family have arisen which make his presence elsewhere necessary or expedient,

the court may, if in its opinion the examination cannot be postponed without undue prejudice, embarrassment or inconvenience to the prosecution or any co-accused or any witness in attendance or subpoenaed to attend, authorize the absence of that accused from the examination for a period fixed by the court and subject to such conditions as it deems fit to impose.

Court may  
order pre-  
paratory  
examination  
to be pro-  
ceeded with  
in absence of  
accused.

65*bis*. (1) If after a preparatory examination has commenced, an accused—

(a) absconds; or

(b) conducts himself in such a manner that his removal from the court is desirable and is ordered by the court; or

(c) is granted leave of absence under section *sixty-five*; or

(d) is absent for any other reason,

the court may direct that the preparatory examination be proceeded with in his absence, and thereafter the said examination shall, except to the extent to which a special procedure is in this Chapter directed to be observed in the case of an absent accused, be proceeded with in all respects as if that absent accused were present.

(2) A direction referred to in sub-section (1) shall not be made if the court is of opinion that a postponement of the examination can be granted without undue prejudice, inconvenience or embarrassment to

the prosecution or any co-accused or any witness in attendance or subpoenaed to attend.

(3) A preparatory examination in regard to which a direction is made that it be proceeded with in the absence of an accused, shall in respect of that accused, unless he is discharged under the provisions of sub-section (3) of section *sixty-eight*, be postponed if he is not in attendance at the stage at which the provisions of section *sixty-six* come into operation and be proceeded with, subject to the provisions of sub-sections (4) and (5), from that stage when the accused is again in attendance.

(4) If an accused in respect of whom the court has directed that a preparatory examination be proceeded with in his absence again attends at such examination, the evidence recorded in his absence shall not be required to be read over to him but, if he was not represented during his absence, the court shall briefly inform him of the nature and purport of that evidence and permit him to inspect the record and to make or cause copies thereof to be made at all reasonable times under the supervision of the clerk of the court.

(5) If an accused in whose absence a preparatory examination was directed to be proceeded with again attends the examination, the court may, unless such accused was legally represented during his absence, upon the application of that accused or his representative recall for further examination any witness who testified at the examination during that accused's absence.

Preparatory examination may be concluded against accused present.

*65ter.* Whenever a court has in the course of a preparatory examination against two or more accused made a direction under sub-section (1) of section *sixty-five bis* and is unable to conclude the said examination in respect of an absent accused by reason of the provisions of sub-section (3) of the said section, the preparatory examination may be concluded against the accused then present in all respects as if he were the only accused appearing thereat."

Amendment of section 66 of Act 56 of 1955.

48. Section *sixty-six* of the Criminal Procedure Act, 1955, is hereby amended by the deletion in sub-section (1) of the words "in the presence of the accused" and the insertion in the said sub-section after the words "ask the accused" of the words "then present".

Provisions of sections 46, 47 and 48 to apply also with reference to any pending preparatory examination.

49. The provisions of sections *forty-six*, *forty-seven* and *forty-eight* of this Act shall apply also with reference to any preparatory examination commenced before but not concluded at the commencement of the said sections, and shall be deemed to have been applicable from the commencement of such examination: Provided that the application of the said provisions shall not have the effect of invalidating anything validly done at such examination before the commencement of the said sections.

Amendment of section 156 of Act 56 of 1955.

50. Section *one hundred and fifty-six* of the Criminal Procedure Act, 1955, is hereby amended by the substitution in sub-section (1) for the word "Every" of the words "Subject to the provisions of section *one hundred and fifty-six ter*, every".

Insertion of sections 156*bis* and 156*ter* in Act 56 of 1955.

51. The following sections are hereby inserted in the Criminal Procedure Act, 1955, after section *one hundred and fifty-six*:

"Court may grant leave of absence from trial.

*156bis.* If two or more accused, after a preparatory examination, are charged jointly at a trial before a court of any regional division established under section *two* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or at a trial without a jury before a superior court, with any offence, whether the same or different offences, referred to in section *one hundred and eleven* or sub-section (1) of section *one hundred and twelve*, and the court is, at any time

after the commencement of the trial, satisfied upon application made in person by any such accused or his representative—

- (a) that the physical condition of that accused is such that he is unable to attend or that it is undesirable that he should attend the trial; or
- (b) that circumstances in connection with the illness or death of a member of that accused's family have arisen which make his presence elsewhere necessary or expedient,

the court may, if in its opinion the trial cannot be postponed without undue prejudice, embarrassment or inconvenience to the prosecution or any co-accused or any witness in attendance or subpoenaed to attend, authorize the absence of that accused from the trial for a period fixed by the court and subject to such conditions as it deems fit to impose.

When trial may proceed in the absence of an accused and procedure to be observed.

**156ter.** (1) If an accused at a trial referred to in section *one hundred and fifty-six bis*—

- (a) absconds; or
- (b) is removed from the court as provided in sub-section (1) of section *one hundred and fifty-six*; or
- (c) is granted leave of absence under section *one hundred and fifty-six bis*; or

(d) is absent for any other reason, the court before which the trial takes place may at any time during the trial direct that the trial be proceeded with in the absence of that accused if he has pleaded to the charge or if it appears by the return of the proper officer or by other sufficient proof that a copy of the charge and, in the case of a superior court, of the notice of trial have been duly served.

(2) A direction referred to in sub-section (1) shall not be made if the court is of opinion that a postponement of the trial can be granted without undue prejudice, embarrassment or inconvenience to the prosecution or any co-accused or any witness in attendance or subpoenaed to attend.

(3) When the accused are called upon to plead to the charge, the court shall order a plea of not guilty to be entered on behalf of an absent accused in respect of whom the court has directed that the trial be proceeded with in his absence, and a plea so entered shall for all purposes have the same effect as if it had been actually pleaded.

(4) If an accused in respect of whom a court has made a direction under sub-section (1) attends or again attends the trial, he may, unless he was legally represented during his absence, examine any witness who gave evidence during his absence, and inspect the record of the proceedings or require the court to have such record read over to him.

(5) If the examination referred to in sub-section (4) takes place after the close of the evidence for the prosecution or any co-accused, the prosecution or such co-accused may, in respect of any issue raised by the examination, lead evidence in rebuttal of any evidence relating to the issue so raised.

(6) (a) When the evidence in respect of all the accused present has been closed and the evidence in respect of any absent accused has not been closed, the court shall, subject to the provisions of paragraph (b), postpone the proceedings until such absent accused is in attendance and, if necessary, further postpone the proceedings until the evidence in respect of that accused has been closed.

(b) If it appears to the court that the presence of such an absent accused cannot reasonably be obtained, the court may direct that the proceedings in respect of the accused present be concluded as if his trial had been separated from the

trial of the absent accused at the stage at which that accused became absent from the trial and when such absent accused is again in attendance, his trial shall continue from that stage of the proceedings at which he became absent and the court shall not be required to be differently constituted merely by reason of such separation.

- (c) When the evidence in respect of all the accused at the trial has been closed and any accused is absent when the verdict is to be delivered, the verdict may be delivered in respect of all the accused or be withheld until all the accused are present or be delivered in respect of any accused present and withheld in respect of the absent accused until he is again in attendance."

Amendment of  
section 189 of  
Act 56 of 1955.

52. Section *one hundred and eighty-nine* of the Criminal Procedure Act, 1955, is hereby amended by the addition at the end of sub-section (4) of the following proviso:

"Provided that if the evidence is that of a witness who was previously examined at a preparatory examination in the absence of the accused, and the magistrate who presided at that preparatory examination is the magistrate who is presiding at the subsequent trial, the accused may, subject to the right to cross-examine that witness, consent to such evidence being read or used at such trial."

Amendment of  
section 193 of  
Act 56 of 1955.

53. Section *one hundred and ninety-three* of the Criminal Procedure Act, 1955, is hereby amended—

- (a) by the insertion in sub-section (1) after the word "charged" of the words "or that he did commit an offence under section *thirty-six* of the General Law Amendment Act, 1955 (Act No. 62 of 1955)" and the insertion after the word "theft" where it occurs the second time of the words "or of a contravention of the said section *thirty-six*"; and
- (b) by the insertion in sub-section (2) after the word "stolen" where it occurs the second time of the words "or that the accused acquired or received into his possession stolen goods in contravention of sub-section (1) of section *thirty-seven* of the General Law Amendment Act, 1955 (Act No. 62 of 1955)" and the insertion after the word "stolen" where it occurs the fourth time of the words "or of a contravention of the said sub-section (1) of section *thirty-seven*, as the case may be".

Amendment of  
section 195 of  
Act 56 of 1955.

54. Section *one hundred and ninety-five* of the Criminal Procedure Act, 1955, is hereby amended—

- (a) by the insertion in sub-section (1) after the words "with such female" of the words "or, if the person so charged is a coloured person as defined in the law relating to immorality between white persons and coloured persons, of the statutory offence of unlawful carnal intercourse with a white female person or of the statutory offence of committing any immoral or indecent act with such female person; or, if the person so charged is a white person as defined in the law relating to immorality between white persons and coloured persons, of the statutory offence of unlawful carnal intercourse with a coloured female person or of the statutory offence of committing any immoral or indecent act with such female person";
- (b) by the insertion in sub-section (3) after the words "with such female" of the words "or, if the person so charged is a coloured person as defined in the law relating to immorality between white persons and coloured persons, of the statutory offence of committing any immoral or indecent act with a white female person or a white male person, as the case may be; or if the person so charged is a white person as defined



in the law relating to immorality between white persons and coloured persons, of the statutory offence of committing any immoral or indecent act with a coloured female person or a coloured male person, as the case may be,"; and

(c) by the substitution for sub-section (4) of the following sub-section:

"(4) (a) Any person charged with the statutory offence of unlawful carnal intercourse with another person may be found guilty of the statutory offence of committing an immoral or indecent act with such other person; or of the statutory offence of enticing, soliciting or importuning such other person to have unlawful carnal intercourse; or of the statutory offence of enticing, soliciting or importuning such other person to commit an immoral or indecent act; or of the statutory offence of conspiring with such other person to have unlawful carnal intercourse, if such be the facts proved.

(b) Any person charged with any statutory offence referred to in paragraph (a) may be found guilty of indecent assault or assault, if such be the facts proved."

Substitution of section 200 of Act 56 of 1955.

55. The following section is hereby substituted for section *two hundred* of the Criminal Procedure Act, 1955:

"Persons 200. Any person charged with theft may be found guilty of receiving stolen goods knowing them to have been stolen, or of a contravention of section *thirty-six* of the General Law Amendment Act, 1955 (Act No. 62 of 1955), or of a contravention of sub-section (1) of section *thirty-seven* of that Act or of a contravention of sub-section (1) of section *one* of the General Law Amendment Act, 1956 (Act No. 50 of 1956), if such be the facts proved."

Amendment of section 243 of Act 56 of 1955.

56. Section *two hundred and forty-three* of the Criminal Procedure Act, 1955, is hereby amended by the insertion in sub-section (1) after the word "*sixty-five*" of the word "*bis*".

Amendment of section 328 of Act 56 of 1955.

57. Section *three hundred and twenty-eight* of the Criminal Procedure Act, 1955, is hereby amended by the deletion of the word "both" and the substitution for the words "such offence" of the words "the respective offences".

Amendment of section 342 of Act 56 of 1955.

58. Section *three hundred and forty-two* of the Criminal Procedure Act, 1955, is hereby amended by the deletion in sub-section (3) of the expression "or (2)" where it occurs for the last time.

Amendment of section 345 of Act 56 of 1955.

59. Section *three hundred and forty-five* of the Criminal Procedure Act, 1955, is hereby amended by the addition of the following sub-section, the existing section becoming sub-section (1):

"(2) Whenever any medical practitioner certifies in writing that any person sentenced under sub-section (1) is not in a fit state to undergo the sentence or any part thereof, the person appointed by the court to execute the sentence shall submit the certificate immediately to the court which passed the sentence or to a court having like jurisdiction which may thereupon, if it is satisfied that such person is not in a fit state to undergo such sentence or any part thereof, amend such sentence as it deems fit: Provided that if such medical practitioner is not a district surgeon or a person with like authority, the court may, if the circumstances so permit, require the district surgeon or a person with like authority, to certify in writing whether or not the person concerned is in a fit state to undergo such sentence or any part thereof."

Short title.

60. (1) This Act shall be called the General Law Amendment Act, 1957.

(2) Section *one* shall come into operation on the first day of January, 1958.

(3) Section *three* shall come into operation on the first day of January, 1962.

(4) Section *four*, paragraph (a) of section *fifteen*, sections *sixteen*, *seventeen*, *twenty*, *twenty-one* and *forty-one* shall not come into operation until a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Schedule.

Province of Union.	No. and year of law.	Title or subject matter.	Extent of repeal.
Natal ..	Law No. 12 of 1884.	"To render a Writing necessary for Actions in respect of certain Contracts".	So much as is un-repealed.
Transvaal.	Proclamation No. 8 of 1902.	Transfer Duty Proclamation, 1902.	Section <i>thirty</i> .
Orange Free State.	Ordinance No. 12 of 1906.	Transfer Duty Ordinance, 1906.	Section <i>forty-nine</i> .