



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Vol. 238

CAPE TOWN, 3 APRIL 1985

No. 9652

KAAPSTAD, 3 APRIL 1985

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 664.

3 April 1985

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

No. 19 of 1985: Magistrates' Courts Amendment Act, 1985.

No. 664.

3 April 1985

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

No. 19 van 1985: Wysigingswet op Landdroshowe, 1985.

Act No. 19, 1985

MAGISTRATES' COURTS AMENDMENT ACT, 1985

have been paid or offered to him, impose upon the said person a fine not exceeding **[one hundred rand] R300**, and in default of payment, imprisonment for a period not exceeding three months, whether or not such person is otherwise subject to the jurisdiction of the court.”.

Amendment of section 65F of Act 32 of 1944, as inserted by section 2 of Act 63 of 1976.

3. Section 65F of the principal Act is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection:

“(4) A director or officer summoned as the representative of a juristic person in such representative capacity may on conviction of contempt of court in terms of this section be sentenced to a fine not exceeding **[R100] R500**, which fine shall be payable by the juristic person and be recoverable by the attachment and sale of property belonging to the juristic person by warrant in terms of section **[337 of the Criminal Procedure Act, 1955 (Act No. 56 of 1955)] 288 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)**, and the court may on good cause shown at any time suspend such sentence or warrant on such conditions, including conditions relating to the payment of the judgment debt and costs in specified instalments or otherwise from present means or from any future income of the judgment debtor, as the court may deem just and reasonable, or set aside the sentence or warrant on payment of the full amount of the said judgment debt and costs.”;

- (b) by the substitution for subsection (5) of the following subsection:

“(5) The provisions of the Criminal Procedure Act, **[1955] 1977**, relating to periodical imprisonment shall *mutatis mutandis* apply to any periodical imprisonment imposed under this section.”.

Amendment of section 65I of Act 32 of 1944, as inserted by section 2 of Act 63 of 1976.

4. Section 65I of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) If upon receipt of the statement referred to in subsection (2) it appears that the judgment debtor's total debts do not exceed **[R4 000] R10 000**, the court may grant an administration order under section 74 in respect of the judgment debtor's estate.”.

Amendment of section 67 of Act 32 of 1944, as amended by section 25 of Act 93 of 1962.

5. Section 67 of the principal Act is hereby amended—

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

“(b) the necessary furniture (other than beds) and household utensils in so far as they do not exceed in value the sum of **[four hundred rand] R1 000**.”;

- (b) by the substitution for paragraph (c) of the following paragraph:

“(c) stock, tools and agricultural implements of a farmer in so far as they do not exceed in value the sum of **[four hundred rand] R1 000**.”;

- (c) by the substitution for paragraph (e) of the following paragraph:

“(e) tools and implements of trade, in so far as they do not exceed in value the sum of **[four hundred rand] R1 000**.”;

- (d) by the substitution for paragraph (f) of the following paragraph:

“(f) professional books, documents or instruments necessarily used by such debtor in his profession, in so far as they do not exceed in value the sum of **[four hundred rand] R1 000**.”;

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- (e) by the substitution for the proviso of the following proviso:

“Provided that the court shall have a discretion in exceptional circumstances and on such conditions as it may determine to increase the sums referred to in paragraphs (b), (c), [(d),] (e) and (f) **[to the extent of not more than twice such sums]**.”

Amendment of section 74 of Act 32 of 1944, as substituted by section 6 of Act 63 of 1976.

6. Section 74 of the principal Act is hereby amended—

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

“(b) states that the total amount of all his debts due does not exceed **[R4 000] R10 000**.”;

- (b) by the substitution for subsection (2) of the following subsection:

“(2) An administration order shall not be invalid merely because at some time or other the total amount of the debtor's debts are found to exceed **[R4 000] R10 000**, but in such a case the court may, if it deems fit, rescind the order.”

Substitution of section 74W of Act 32 of 1944, as inserted by section 6 of Act 63 of 1976.

7. The following section is hereby substituted for section 74W of the principal Act:

“Failure of administrator to carry out certain duty. **74W.** Any administrator who fails to carry out the duty assigned to him by section 74J (7) shall be guilty of an offence and on conviction liable to a fine not exceeding **[R200] R500** or in default of payment to imprisonment for a period not exceeding six months.”

Substitution of section 79 of Act 32 of 1944, as amended by section 13 of Act 19 of 1963 and section 6 of Act 91 of 1977.

8. The following section is hereby substituted for section 79 of the principal Act:

“Person who has made a *nulla bona* return not to incur debts. **79.** Any person shall be guilty of an offence and liable to a fine not exceeding **[one hundred rand] R300** if after a return of *nulla bona* has been made in respect of a judgment against him and before satisfaction of the said judgment, he obtains credit to an amount or amounts exceeding one hundred rand in the aggregate without previously informing all persons from whom he so obtains credit that there is an unsatisfied judgment against him and that a return of *nulla bona* has been made in respect thereof.”

Substitution of section 106 of Act 32 of 1944, as substituted by section 8 of Act 63 of 1976.

9. The following section is hereby substituted for section 106 of the principal Act:

“Penalty for disobedience of order of court. **106.** Any person wilfully disobeying or neglecting to comply with any order of a court or with a notice lawfully endorsed on a summons for rent prohibiting the removal of any furniture or effects, shall be guilty of contempt of court and shall, upon conviction, be liable to a fine not exceeding **[R200] R500** or, in default of payment, to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine: Provided that for the purposes of this section the word ‘order’ shall not include an order referred to in section 65, 65E, 65G, 65I, 65J, 65K, 72, 74 or 74J.”

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Substitution of section 106A of Act 32 of 1944, as inserted by section 8 of Act 63 of 1976.

10. The following section is hereby substituted for section 106A of the principal Act:

"Offence by garnishee.

106A. Any garnishee who, by reason of an emoluments attachment order having been served on him in respect of the emoluments of a judgment debtor 5 not occupying a position of trust in which he handles or has at his disposal moneys, securities or other articles of value, dismisses or otherwise terminates the service of such judgment debtor, shall be guilty of an offence and on conviction liable to a fine not exceeding **[R100] R300** or, in default of payment, to imprisonment 10 for a period not exceeding three months."

Substitution of section 106B of Act 32 of 1944, as inserted by section 8 of Act 63 of 1976.

11. The following section is hereby substituted for section 106B of the principal Act: 15

"Offence by employer.

106B. Any employer who, having been requested by an employee to furnish a written statement containing full particulars of such employee's emoluments, fails or neglects to do so within a reasonable time, or who wilfully or negligently furnishes incor- 20 rect relevant particulars, shall be guilty of an offence and on conviction liable to a fine not exceeding **[R100] R300** or, in default of payment, to imprisonment for a period not exceeding three 25 months."

Substitution of section 107 of Act 32 of 1944, as substituted by section 19 of Act 53 of 1970.

12. The following section is hereby substituted for section 107 of the principal Act:

"Offences relating to execution.

107. Any person who—

(1) obstructs a messenger or deputy-messenger in the execution of his duties; 30

(2) being aware that goods have been placed under arrest, interdict or attachment by the court, makes away with or disposes of those goods in any manner not authorized by law, or knowingly permits those goods, if in his poss- 35 session or under his control, to be made away with or disposed of in any such manner;

(3) being a judgment debtor and being required by a messenger or deputy-messenger to point out property to satisfy a warrant issued in 40 execution of judgment against such person, either—

(a) falsely declares to that messenger or deputy-messenger that he possesses no property 45 or not sufficient property to satisfy the warrant; or

(b) although owning such property neglects or refuses to point out the same; or

(4) being a judgment debtor refuses or neglects to comply with any requirement of a mess- 50 enger or deputy-messenger in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution,

shall be guilty of an offence and liable upon conviction to a fine not exceeding **[two hundred rand] R500** or, in default of payment, to imprisonment 55 for a period not exceeding six months or to such imprisonment without the option of a fine."

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Amendment of section 108 of Act 32 of 1944, as amended by section 23 of Act 19 of 1963.

13. Section 108 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If any person, whether in custody or not, wilfully insults a judicial officer during his sitting or a clerk or messenger or other officer during his attendance at such sitting, or wilfully interrupts the proceedings of the court or otherwise misbehaves himself in the place where such court is held, he shall (in addition to his liability to being removed and detained as in subsection (3) of section 5 provided) be liable to be sentenced summarily or upon summons to a fine not exceeding **[one hundred rand] R500** or in default of payment to imprisonment for a period not exceeding **[three] six** months or to such imprisonment without the option of a fine. In this subsection the word ‘court’ includes a preparatory examination held under the law relating to criminal procedure.”

Short title.

14. This Act shall be called the Magistrates' Courts Amendment Act, 1985.