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OFFICE OF THE PRESIDENT

No. 1248.

7 October 1998

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

No. 67 of 1998: Magistrates' Courts Amendment Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1248.

7 Oktober 1998

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

No. 67 van 1998: Wysigingswet op Landdroshowe, 1998.

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.

(English text signed by the President.)
(Assented to 28 September 1998.)

ACT

To amend the Magistrates' Courts Act, 1944, so as to further regulate the summoning of assessors in civil and criminal proceedings; to further regulate the procedure in the event of death, incapacity, absence or recusal of an assessor; to empower the Minister of Justice to make regulations in connection with matters pertaining to assessors; and to provide for matters connected therewith.

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

Amendment of section 34 of Act 32 of 1944

1. The following section is hereby substituted for section 34 of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act):

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“Assessors

34. In any action the court may, upon the application of either party, summon to its assistance one or two persons **[of skill and experience in the matter to which the action relates]** who are suitable and available and who may be willing to sit and act as assessors in an advisory capacity.”

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Substitution of section 93ter of Act 32 of 1944, as substituted by section 10(a) of Act 91 of 1977 and amended by section 1(a) of Act 118 of 1991

2. The following section is hereby substituted for section 93ter of the principal Act:

“Magistrate to be assisted by assessors at certain criminal proceedings

93ter. (1) In this section ‘assessor’ means a person whose name is registered on a roll of assessors, in terms of a regulation referred to in section 93quat.

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(2) A judicial officer shall be assisted by two assessors at the trial of an accused person in respect of any offence referred to in Schedule 2.

(3) The judicial officer presiding at—

(a) any application for bail by an accused person;

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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 28 September 1998.)

WET

Tot wysiging van die Wet op Landdroshowe, 1944, ten einde die aansegging van assessore in siviele en strafregtelike verrigtings verder te reël; die prosedure in die geval van die afsterwe, onbekwaamwording, afwesigheid of rekusering van 'n assessor verder te reël; die bevoegdheid aan die Minister van Justisie te verleen om regulasies uit te vaardig rakende aangeleenthede wat met assessore verband hou; en om vir verbandhoudende aangeleenthede voorsiening te maak.

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

Wysiging van artikel 34 van Wet 32 van 1944

1. Artikel 34 van die Wet op Landdroshowe, 1944 (hierna die Hoofwet genoem),
5 word hierby deur die volgende artikel vervang:

“Assessore

34. Die hof kan in enige aksie op aansoek van een van die partye, die hulp inroep van een of twee persone wat **[in die saak waarop die aksie betrekking het, kundig en ervare en tewens]** geskik en beskikbaar is en bereid is om as assessore in 'n raadgewende hoedanigheid sitting te neem en te dien.”.

Vervanging van artikel 93ter van Wet 32 van 1944, soos vervang deur artikel 10(a) van Wet 91 van 1977 en gewysig deur artikel 1(a) van Wet 118 van 1991

2. Artikel 93ter van die Hoofwet word hierby deur die volgende artikel vervang:

“Landdros by sekere strafregtelike verrigtings deur assessore bygestaan te word

93ter. (1) In hierdie artikel beteken ‘assessor’ 'n persoon wie se naam ingevolge 'n regulasie in artikel 93quat bedoel op 'n rol van assessore geregistreer is.

(2) 'n Regterlike beampte word deur twee assessore bygestaan by die verhoor van 'n beskuldigde persoon ten opsigte van 'n misdryf in Bylae 2 bedoel.

(3) Die regterlike beampte wat voorsit by—
(a) 'n aansoek om borgtog deur 'n beskuldigde persoon;

- (b) the trial of an accused person, other than a trial contemplated in subsection (2); or
- (c) proceedings concerning the imposition of a sentence upon a convicted person,

may, if he or she considers it expedient for the administration of justice—

- (i) in the case of proceedings referred to in paragraphs (a) and (c), summon one or two assessors; and
- (ii) in the case of a trial referred to in paragraph (b), summon two assessors,

to assist him or her at the proceedings concerned.

(4) (a) In considering whether summoning assessors under subsection (3) would be expedient for the administration of justice, the judicial officer shall take into account—

- (i) the cultural and social environment of the accused person;
- (ii) the educational background of the accused person;
- (iii) the nature and the seriousness of the offence in respect of which the accused person is applying for bail, or stands accused of, or has been convicted;
- (iv) the extent or probable extent of the punishment to which the accused person will be exposed upon conviction, or is exposed, as the case may be;
- (v) the views, if any, of the accused person regarding the summoning of assessors in respect of the proceedings concerned;
- (vi) any particular interest which the community in general, or any specific community, may have in the adjudication of the matter concerned; or
- (vii) any other matter or circumstance which he or she may deem to be indicative of the desirability of summoning an assessor or assessors.

(b) The judicial officer may question the accused person in relation to the matters referred to in paragraph (a), or obtain such information from his or her legal representative.

(5) Every assessor shall, upon registration on the roll of assessors referred to in subsection (1), in writing take an oath or make an affirmation subscribed by him or her before the magistrate of the district concerned in the form set out below, namely—

‘I (full name) do hereby swear/solemnly affirm that whenever I may be called upon to perform the functions of an assessor in terms of section 93*ter* of the Magistrates’ Courts Act, 1944, I shall to the best of my ability make a considered finding or decision, or give a considered opinion, as the case may be, according to the evidence tendered in the matter.’

(6) Whenever a judicial officer is assisted by assessors at a trial referred to in subsection (2) of (3)(b), the assessors shall only commence with their functions as assessors after the plea in the matter has been recorded.

(7) An assessor shall be a member of the court, subject to the following provisions:

- (a) An assessor shall, at the consideration of a bail application or in determining an appropriate sentence, assist the judicial officer in an advisory capacity only.
- (b) At any trial referred to in subsection (2) or (3)(b)—
 - (i) any matter of law arising for decision at the proceedings concerned; and
 - (ii) any question arising thereat as to whether a matter for decision is a matter of fact or a matter of law, shall be decided by the judicial officer.
- (c) The judicial officer shall adjourn the proceedings regarding any matter or question referred to in paragraph (b) and shall sit alone for the hearing of such proceedings and the decision of such matter or question.
- (d) Whenever the judicial officer makes a decision in terms of paragraph (b) the judicial officer shall give his or her reasons for that decision.

- (b) die verhoor van 'n beskuldigde persoon, anders as 'n verhoor in subartikel (2) beoog; of
- (c) verrigtings betreffende die oplegging van 'n vonnis aan 'n beskuldigde persoon,
- 5 kan, indien hy of sy dit dienstig vir die regspleging ag—
- (i) in die geval van verrigtings in paragrawe (a) en (c) bedoel, een of twee assessore; en
- (ii) in die geval van 'n verhoor in paragraaf (b) bedoel, twee assessore,
- 10 aansê om hom of haar by die verrigtings by te staan.
- (4) (a) By die oorweging of die aansegging van assessore kragtens subartikel (3) dienstig vir die regspleging sal wees, neem die regterlike beampte in ag—
- (i) die kulturele en sosiale omgewing van die beskuldigde persoon;
- 15 (ii) die opvoedkundige agtergrond van die beskuldigde persoon;
- (iii) die aard en die erns van die misdryf ten opsigte waarvan die beskuldigde persoon aansoek doen om borgtog, of waarvan hy of sy aangekla word of waaraan hy of sy skuldig bevind is;
- (iv) die omvang of waarskynlike omvang van die straf waaraan die
- 20 beskuldigde persoon by skuldigbevinding sal blootstaan of, na gelang van die geval, blootstaan;
- (v) die standpunte, indien enige, van die beskuldigde persoon betreffende die aansegging van assessore ten opsigte van die betrokke verrigtings;
- (vi) enige besondere belang wat die gemeenskap in die algemeen, of 'n
- 25 bepaalde gemeenskap, by die beregting van die aangeleentheid mag hê; of
- (vii) enige ander aangeleentheid of omstandigheid wat na sy of haar oordeel op die wenslikheid van die aansegging van 'n assessor of assessore mag dui.
- 30 (b) Die regterlike beampte kan die beskuldigde persoon ondervra in verband met die aangeleenthede in paragraaf (a) bedoel, of sodanige inligting van sy of haar regsvertegenwoordiger bekom.
- (5) Elke assessor moet, by registrasie op die rol van assessore in subartikel (1) bedoel, skriftelik 'n eed of plegtige verklaring aflê wat deur
- 35 hom of haar onderteken moet word, voor die landdros van die betrokke distrik in die onderstaande vorm, naamlik—
- 'Ek (volle name) verklaar hiermee onder eed/plegtig en opreg dat wanneer ook al daar van my verlang word om die werksaamhede van 'n assessor te verrig ingevolge artikel
- 40 93ter van die Wet op Landdroshowe, 1944, ek na die beste van my vermoë 'n oorwoë bevinding of beslissing sal maak, of 'n oorwoë mening sal gee, na gelang van die geval, ooreenkomstig die getuienis wat in die aangeleentheid aangebied is.'
- (6) Wanneer ook al 'n regterlike beampte deur assessore bygestaan word by 'n verhoor in subartikel (2) of (3)(b) bedoel, begin die assessore se werksaamhede as assessore slegs nadat die pleit ten opsigte van die aangeleentheid aangeteken is.
- (7) 'n Assessor is 'n lid van die hof, behoudens die volgende bepalings:
- (a) By die oorweging van 'n aansoek om borgtog of die bepaling van 'n
- 50 gepaste vonnis, staan 'n assessor die regterlike beampte slegs in 'n raadgevende hoedanigheid by.
- (b) By 'n verhoor in subartikel (2) of (3)(b) bedoel—
- (i) word 'n regspunt wat vir beslissing by die betrokke verrigtings opkom; en
- 55 (ii) word 'n vraag wat daarby opkom of die aangeleentheid vir beslissing 'n feitpunt of 'n regspunt is, deur die regterlike beampte beslis.
- (c) Die regterlike beampte verdaag die verrigtings betreffende 'n aangeleentheid of vraag in paragraaf (b) bedoel en hou alleen sitting vir die verhoor van sodanige verrigtings en die beslissing van die aangeleentheid of vraag.
- 60 (d) Wanneer die regterlike beampte 'n beslissing ingevolge paragraaf (b) gee, moet die regterlike beampte sy of haar redes vir so 'n beslissing aanvoer.
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- (e) Upon all matters of fact the finding or decision of the majority of the members of the court shall be the finding or decision of the court.
- (8) Whenever a judicial officer is assisted by assessors at a trial referred to in subsection (2) or (3)(b), the judicial officer shall, after the conclusion of the arguments by the prosecutor and the accused person, but before judgment is passed in the matter, explain to the assessors any specific rule of evidence or any other matter that is relevant in respect of the evidence tendered to the court.
- (9) The record of any proceedings where a judicial officer has been assisted by assessors—
- (a) regarding the evidence adduced at the proceedings, shall include any explanation or instruction given to the assessors by the judicial officer in respect of any applicable rule of evidence or any other matter; and
- (b) regarding the judgment, shall indicate clearly whether the findings in respect of each material aspect of the evidence—
- (i) are the unanimous findings of the members of the court; and
- (ii) in the event of any member of the court making a finding different to that of the other members, set out the reasons for such different finding.
- (10) (a) A judicial officer who is assisted by an assessor may, on application by the prosecutor or the accused person, order the recusal of the assessor from the proceedings if the judicial officer is satisfied that—
- (i) the assessor has a personal interest in the proceedings concerned;
- (ii) there are reasonable grounds for believing that there is likely to be a conflict of interests as a result of the assessor's participation in the proceedings concerned; or
- (iii) there are reasonable grounds for believing that there is a likelihood of bias on the part of the assessor.
- (b) An assessor may recuse himself or herself from the proceedings for the reasons contemplated in paragraph (a).
- (c) The prosecutor and the accused person shall—
- (i) before the recusal of an assessor is ordered in terms of paragraph (a); or
- (ii) in so far as it is practicable, before the recusal of an assessor in terms of paragraph (b),
- be given an opportunity to address arguments to the judicial officer on the desirability of such recusal.
- (d) The assessor concerned shall be given an opportunity to respond to any arguments referred to in paragraph (c), and the judicial officer may put such questions regarding the matter to the assessor as he or she may deem fit.
- (e) The judicial officer shall give reasons for an order referred to in paragraph (a).
- (11) (a) If an assessor—
- (i) dies;
- (ii) in the opinion of the presiding officer becomes unable to act as an assessor;
- (iii) is for any reason absent; or
- (iv) has been ordered to recuse himself or herself or has recused himself or herself in terms of subsection (10),
- at any stage before the completion of the proceedings concerned, the presiding judicial officer may, in the interests of justice and after due consideration of the arguments put forward by the accused person and the prosecutor—
- (aa) direct that the proceedings continue before the remaining member or members of the court;
- (bb) direct that the proceedings start afresh; or
- (cc) in the circumstances contemplated in subparagraph (iii), postpone the proceedings in order to obtain the assessor's presence:

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- (e) Op alle feitepunte is die bevinding of beslissing van die meerderheid van die lede van die hof die bevinding of beslissing van die hof.
- (8) Wanneer ook al 'n regterlike beampte deur assessore bygestaan word by 'n verhoor in subartikel (2) of (3)(b) bedoel, moet die regterlike beampte na die afsluiting van die betoë van die aanklaer en die beskuldigde persoon, maar voor uitspraak in die saak gelewer word, enige bepaalde reël van die bewysreg of enige ander aangeleentheid wat tersaaklik is met betrekking tot die getuienis wat aan die hof aangebied is, aan die assessore verduidelik.
- (9) Die oorkonde van verrigtings waar 'n regterlike beampte deur assessore bygestaan is—
- (a) moet, betreffende die getuienis wat by die verrigtings aangevoer is, enige verduideliking of instruksie insluit wat deur die regterlike beampte aan die assessore gegee is met betrekking tot 'n toepaslike reël van die bewysreg of enige ander aangeleentheid; en
- (b) moet, betreffende die uitspraak, duidelik aandui of die bevindings ten opsigte van elke wesenlike aspek van die getuienis—
- (i) die eenparige bevindings van die lede van die hof is; en
- (ii) in die geval waar 'n lid van die hof se bevinding verskil van 'n bevinding van die ander lede, redes vir so 'n verskillende bevinding uiteensit.
- (10) (a) 'n Regterlike beampte wat deur 'n assessor bygestaan word, kan, op aansoek van die aanklaer of die beskuldigde persoon, die rekusering van die assessor van die verrigtings gelas indien die regterlike beampte tevrede is dat—
- (i) die assessor 'n persoonlike belang by die betrokke verrigtings het;
- (ii) daar redelike gronde is om te vermoed dat daar waarskynlik 'n botsing van belange sal ontstaan as gevolg van die assessor se deelname aan die betrokke verrigtings; of
- (iii) daar redelike gronde is om te vermoed dat daar waarskynlik vooroordeel aan die kant van die assessor kan wees.
- (b) 'n Assessor kan homself of haarself van verrigtings rekuseer om die redes in paragraaf (a) beoog.
- (c) Die aanklaer en die beskuldigde persoon moet—
- (i) voor die rekusering van 'n assessor ingevolge paragraaf (a) gelas word; of
- (ii) in die mate waarin dit haalbaar is, voor die rekusering van 'n assessor ingevolge paragraaf (b), 'n geleentheid gebied word om betoë aan die regterlike beampte te rig insake die wenslikheid van sodanige rekusering.
- (d) Die betrokke assessor moet 'n geleentheid gebied word om te antwoord op enige betoë in paragraaf (c) bedoel, en die regterlike beampte kan die vrae wat hy of sy gepas vind aan die assessor stel.
- (e) Die regterlike beampte moet redes aanvoer vir 'n bevel in paragraaf (a) bedoel.
- (11) (a) Indien 'n assessor—
- (i) te sterwe kom;
- (ii) na die mening van die voorsittende regterlike beampte ombekwaam raak om as assessor op te tree;
- (iii) om enige rede afwesig is; of
- (iv) gelas is om homself of haarself te rekuseer of homself of haarself gerekuseer het ingevolge subartikel (10), te eniger tyd voor die afhandeling van die betrokke verrigtings, kan die voorsittende regterlike beampte, in die belang van geregtigheid en na behoorlike oorweging van die betoë deur die beskuldigde persoon en die aanklaer voorgehou—
- (aa) gelas dat die verrigtings voor die oorblywende lid of lede van die hof voortgesit word;
- (bb) gelas dat die verrigtings van nuuts af begin; of
- (cc) in die omstandighede in subparagraaf (iii) beoog, die verrigtings uitstel ten einde die assessor se teenwoordigheid te bekom:

Provided that if the accused person has legal representation and the prosecutor and the accused person consent thereto, the proceedings shall, in the circumstances contemplated in subparagraphs (i), (ii) or (iv), continue before the remaining member or members of the court.

(b) If, at proceedings which are continued in terms of this subsection, the judicial officer is assisted by the remaining assessor, the finding or decision of the judicial officer shall, in respect of any matter where there is a difference of opinion between the judicial officer and the assessor, be the finding or decision of the court.

(c) The judicial officer shall give reasons for any direction referred to in paragraph (a), and for any finding or decision referred to in paragraph (b).

(12) (a) A judicial officer assisted by assessors at a trial referred to in subsection (2) or (3)(b), where an accused person is convicted and sentenced, shall—

- (i) if the accused person is not assisted by a legal adviser; and
- (ii) if the judicial officer is of the opinion that the assessors concerned have clearly made an incorrect finding in a material respect which probably led to a wrongful conviction of the accused person,

record the reasons for his or her opinion and transmit them, together with the record of the proceedings, to the registrar of the High Court having jurisdiction, and such registrar shall, as soon as is practicable, submit the said reasons and the record to a judge in chambers for review, who shall have the same powers in respect of such proceedings as if the record thereof had been submitted to him or her in terms of section 303 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(b) When a judicial officer acts in terms of paragraph (a), he or she shall inform the accused person accordingly and, if the accused person is in custody, the provisions of the Criminal Procedure Act, 1977, relating to the granting of bail pending an appeal shall be applicable.

(c) The provisions of paragraph (a)—

- (i) shall not be applicable in respect of a matter which is subject to review in terms of section 302 of the Criminal Procedure Act, 1977; and
- (ii) shall be suspended in respect of an accused person who has appealed against a conviction or sentence and has not abandoned the appeal, and shall cease to apply with reference to such an accused person when judgment on appeal is given.”.

Insertion of section 93quat in Act 32 of 1944

3. The following section is hereby inserted in the principal Act:

“Regulations pertaining to assessors

93quat. (1) The Minister has the power, from time to time, to determine the criteria for the qualification of persons to serve as assessors in terms of section 93ter, including the criteria for the disqualification of persons to serve as such assessors.

(2) The Minister may make regulations regarding—

- (a) the procedure to be followed at, and criteria to be applied for, the designation and registration of persons from the community, who are suitable and available to serve as assessors in terms of section 93ter, on a roll of assessors for each district and regional division;
- (b) the method to be followed in respect of the allocation of assessors in respect of proceedings referred to in section 93ter;
- (c) a code of conduct for such assessors, and mechanisms for the enforcement of the code of conduct, including the liability of an assessor if any provision of the code of conduct is contravened by him or her;

Met dien verstande dat indien die beskuldigde persoon 'n regsverteenvoordiger het en die aanklaer en die beskuldigde persoon daartoe toestem, die verrigtings in die omstandighede in subparagrafe (i), (ii) of (iv) beoog, voor die oorblywende lid of lede van die hof voortgesit word.

5 (b) Indien, by verrigtings wat ingevolge hierdie subartikel voortgesit word, die regterlike beampte deur die oorblywende assessor bygestaan word, is die bevinding of beslissing van die regterlike beampte, ten opsigte van enige aangeleentheid waar daar 'n meningsverskil tussen die assessor en die regterlike beampte bestaan, die bevinding of beslissing van die hof.

10 (c) Die regterlike beampte moet redes aanvoer vir 'n lasgewing in paragraaf (a) bedoel, en vir 'n bevinding of beslissing in paragraaf (b) bedoel.

15 (12) (a) 'n Regterlike beampte wat deur assessore bygestaan word by 'n verhoor in subartikel (2) of (3)(b) bedoel, moet, wanneer 'n beskuldigde persoon skuldig bevind en gevonniss word—

(i) indien die beskuldigde persoon nie deur 'n regsverteenvoordiger bygestaan word nie; en

20 (ii) indien die regterlike beampte van mening is dat die betrokke assessor klaarblyklik 'n verkeerde bevinding ten opsigte van 'n wesenlike aspek uitbring het, wat waarskynlik 'n foutiewe skuldigbevinding van die beskuldigde persoon meebring het,

die redes vir sy of haar mening op skrif stel en dit tesame met die oorkonde van die verrigtings stuur aan die griffier van die Hoë Hof wat regsbevoegdheid het, en bedoelde griffier lê die stukke so spoedig doenlik vir hersiening aan 'n regter in kamers voor, wat dieselfde bevoegdheede ten opsigte van daardie verrigtings het asof die oorkonde daarvan ingevolge artikel 303 van die Strafproseswet, 1977 (Wet No. 51 van 1977), aan hom of haar voorgelê is.

25 (b) Wanneer 'n regterlike beampte ingevolge subartikel (a) optree, stel hy of sy die beskuldigde persoon dienooreenkomstig in kennis en, indien die beskuldigde persoon in bewaring is, is die bepalings van die Strafproseswet, 1977, insake die verlening van borgtog hangende appèl van toepassing.

30 (c) Die bepalings van paragraaf (a)—

35 (i) is nie van toepassing ten opsigte van 'n aangeleentheid wat ingevolge artikel 302 van die Strafproseswet, 1977, aan hersiening onderworpe is nie; en

40 (ii) word opgeskort ten opsigte van 'n beskuldigde persoon wat teen 'n skuldigbevinding of vonnis appèl aangeteken het en nie die appèl laat vaar het nie, en hou op om met betrekking tot so 'n beskuldigde van toepassing te wees wanneer uitspraak op appèl gelewer word.”

Invoeging van artikel 93quat in Wet 32 van 1944

3. Die volgende artikel word hierby in die Hoofwet ingevoeg:

“Regulasies betreffende assessore

45 **93quat.** (1) Die Minister is bevoeg om, van tyd tot tyd, die kriteria te bepaal vir die kwalifikasie van persone om ingevolge artikel 93ter as assessore te dien, met inbegrip van die kriteria vir die diskwalifikasie van persone om as sodanige assessore te dien.

50 (2) Die Minister kan regulasies uitvaardig betreffende—

(a) die prosedure wat gevolg moet word by, en die kriteria wat toegepas moet word vir, die aanwysing en registrasie van persone vanuit die gemeenskap, wat geskik en beskikbaar is om ingevolge artikel 93ter as assessore te dien, op 'n rol van assessore vir elke distrik en streekafdeling;

55 (b) die metode wat gevolg moet word ten opsigte van die aanwysing van assessore by verrigtings in artikel 93ter bedoel;

60 (c) 'n gedragskode vir sodanige assessore, en meganismes vir die afdwinging van die gedragskode, met inbegrip van die aanspreeklikheid van 'n assessor indien 'n bepaling van die gedragskode deur hom of haar oortree word;

- (d) the establishment of a mechanism to deal with any grievance or complaint by or against an assessor;
- (e) training of assessors;
- (f) the payment of allowances to assessors;
- (g) any other matter which the Minister deems expedient to prescribe in order to regulate the service of assessors in the courts. 5
- (3) Any regulation made under this section which may result in expenditure for the State, shall be made in consultation with the Minister of Finance. 10
- (4) A regulation made under subsection (1)(c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding three months.
- (5) Any regulation made under this section shall be tabled in Parliament before publication thereof in the *Gazette*.”. 15

Insertion of Schedule 2 in Act 32 of 1944

4. The following Schedule is hereby inserted in the principal Act, the existing Schedule becoming Schedule 1:

“Schedule 2

Offences in respect of which judicial officers must be assisted by two assessors in terms of section 93ter(2): 20

1. Murder.
2. Rape.
3. Robbery, where serious bodily harm has been inflicted on the victim.
4. Assault, where serious bodily harm has been inflicted on the victim.
5. Indecent assault.” 25

Transitional provision

5. Proceedings in which an assessor or assessors were summoned in terms of section 93ter of the principal Act, and which are pending at the commencement of section 2 of this Act, shall be continued and concluded as if this Act had not been passed: Provided that the provisions of section 93ter (8) to (12) of the principal Act, as amended by this Act, shall at all relevant times be applicable in respect of such pending proceedings. 30

Short title

6. (1) This Act is called the Magistrates' Courts Amendment Act, 1998, and shall take effect on a date fixed by the President by proclamation in the *Gazette*. 35

(2) Different dates may be so fixed in respect of—

- (a) different items contained in Schedule 2 to the principal Act; and
- (b) different areas in the Republic.

- (d) die instel van 'n meganisme om met 'n grief of klagte van of teen 'n assessor te handel;
- (e) opleiding van assessore;
- (f) die betaling van toelae aan assessore;
- 5 (g) enige ander aangeleentheid wat die Minister dienstig ag ten einde die diens van assessore in die howe te reël.
- (3) 'n Regulasie kragtens hierdie artikel wat uitgawes vir die Staat kan meebring, word in oorleg met die Minister van Finansies uitgevaardig.
- 10 (4) 'n Regulasie kragtens subartikel (1)(c) uitgevaardig, kan voorsiening maak dat 'n persoon wat 'n bepaling daarvan oortree of versuim om daaraan te voldoen aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete of met gevangenisstraf van hoogstens drie maande.
- 15 (5) 'n Regulasie kragtens hierdie artikel uitgevaardig, word in die Parlement ter tafel gelê alvorens dit in die *Staatskoerant* gepubliseer word.”.

Invoeging van Bylae 2 in Wet 32 van 1944

4. Die volgende Bylae word hierby in die Hoofwet ingevoeg, terwyl die bestaande Bylae Bylae 1 word:

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“Bylae 2

Misdrywe ten opsigte waarvan regterlike beamptes ingevolge artikel 93ter(2) deur twee assessore bygestaan moet word:

- 25 1. Moord.
2. Verkragting.
3. Roof, indien die slagoffer 'n ernstige liggaamlike besering toegedien is.
4. Aanranding, indien die slagoffer 'n ernstige liggaamlike besering toegedien is.
5. Onsedelike aanranding.”.

30 Oorgangsbepaling

5. Verrigtings waarby die bystand van 'n assessor of assessore aangesê is ingevolge artikel 93ter van die Hoofwet, en wat by die inwerkingtreding van artikel 2 van hierdie Wet hangende is, word voortgesit en afgehandel asof hierdie Wet nie aangeneem is nie: Met dien verstande dat die bepalings van artikel 93ter (8) tot (12) van die Hoofwet, 35 soos gewysig deur hierdie Wet, te alle tersaaklike tye ten opsigte van sodanige verrigtings van toepassing is.

Kort titel

6. (1) Hierdie Wet heet die Wysigingswet op Landdroshowe, 1998, en tree in werking op 'n datum deur die President by kennisgewing in die *Staatskoerant* bepaal.
- 40 (2) Verskillende datums kan aldus bepaal word ten opsigte van—
- (a) verskillende items in Bylae 2 van die Hoofwet vervat; en
- (b) verskillende gebiede in die Republiek.

