

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**JUDICIAL MATTERS
AMENDMENT BILL**

[B 7—2023]

*(As agreed to by the Portfolio Committee on Justice and Correctional Services
(National Assembly))*

[B 7A—2023]

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AMENDMENTS AGREED TO

JUDICIAL MATTERS AMENDMENT BILL
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CLAUSE 1

1. On page 4, in lines 8 to 11, to delete all the words from “(4)” up to and including “case.”.
2. On page 4, in line 12 to delete all the words from “(5)” up to and including “Development” and to replace with “(4) When the court requires information pertaining to court requires information pertaining to an infrastructure related or operational matter that arose at the court which falls within the responsibility of the Department of Justice and Constitutional Development, the court manager of that court must be subpoenaed to give evidence for this purpose and if he or she is unavailable or unable to respond or provide a satisfactory response, the following officials of the Department of Justice and Constitutional Development may be subpoenaed:
 - (a) the provincial Head of the province in which the court is situated;
 - (b) the Deputy Director-General responsible for court administration; or
 - (c) the Director-General.”.

CLAUSE 3

1. On page 4, in line 44, to delete “R1000” and to replace with the words “an amount determined by the Chief Master, by directive, from time to time”.
2. On page 4, in line 45, to delete “current or”.
3. On page 4, in line 45, to delete “an”.
4. On page 4, in line 45, to insert the words “the type of” after the word “or”.

CLAUSE 10

1. On page 8, in line 31, to delete all the words from “(c)” up to and including “; and”.
2. On page 8, in line 34, to delete “(d)” and replace with “(c)”.

CLAUSE 11

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Amendment of section 342A of Act 51 of 1977, as inserted by section 13 of Act 86 of 1996

11. Section 342A of the Criminal Procedure Act, 1977 is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A court before which criminal proceedings are pending shall investigate any delays in the completion of proceedings which appears to the court to be unreasonable and which could cause substantial prejudice to the prosecution, the accused or his or her legal adviser, the State or a witness: Provided that when the court requires information pertaining to an infrastructure related or operational matter that arose at the court which falls within the responsibility of the Department of Justice and Constitutional Development, the court manager of that court must be subpoenaed to give evidence for this purpose and if he or she is unavailable or unable to respond or provide a satisfactory response, the following officials of the Department of Justice and Constitutional Development may be subpoenaed:

- (a) the provincial Head of the province in which the court is situated;
- (b) the Deputy Director-General responsible for court administration;
- or
- (c) the Director-General.”.

CLAUSE 30

1. Clause rejected.

CLAUSE 36

1. Clause rejected.

LONG TITLE

The long title rejected and replaced with the following:

“To amend—

- the Magistrates Courts Act, 1944, so as to further regulate the—
 - calling of a witness by the court; and
 - use of assessors;
- the Administration of Estates Act, 1965, so as to—
 - make provision for electronic payments;
 - provide for an affidavit by an executor;
 - further regulate liquidation and distribution accounts;
 - provide for the review of Master’s appointments;
 - provide for the powers, duties and functions of the Chief Master;
 - provide for a procedure to review a decision of a Master of the High Court or designated official; and
 - further regulate the making of regulations;
- the Criminal Procedure Act, 1977, so as to—
 - provide for the information that must appear on a summons or a written notice that is endorsed to the effect that the accused may admit his or her guilt in respect of an offence in respect of which an admission of guilt fine may be paid without appearing in court;
 - provide for the capturing of the conviction and sentence of a person who pays an admission of guilt fine by the Criminal Record Centre of the South African Police Service (“CRC”); and
 - provide for the expungement of the criminal record of a person who—
 - is deemed to have been convicted and sentenced in respect of an offence in respect of which an admission of guilt fine has been paid; or
 - appeared in court in terms of a summons or written notice in respect of an offence where it was permissible for the person to admit his or her guilt and who have been convicted and sentenced by the court in respect of the offence in question;

- provide for the procedure and criteria that are to be taken into account to declare offences in respect of which an accused may pay a fine without appearing in court and which will not result in a previous conviction;
- provide for the payment of a fine without appearance in court and previous conviction;
- provide for the expungement of criminal records of persons whose name appears in the records of the CRC after having paid an admission of guilt fine for offences as envisaged in section 57B(1);
- provide for the expungement of the criminal record of a person who—
 - is deemed to have been convicted and sentenced in respect of an offence contemplated in any regulations that have been made in terms of section 27(2) of the Disaster Management Act, 2002, in respect of which an admission of guilt fine has been paid; or
 - appeared in court in terms of a summons or written notice in respect of an offence contemplated in any regulations that have been made in terms of section 27(2) of the Disaster Management Act, 2002, where it was permissible for the person to admit his or her guilt and who have been convicted and sentenced by the court in respect of the offence in question; and
 - further regulate the calling of a witness by the court;
- the Matrimonial Property Act, 1984, so as to repeal an unconstitutional provision;
- the Sheriffs Act, 1986, so as to amend the duration of the term of office of members of the Board for Sheriffs;
- the Intestate Succession Act, 1987, so as to extend the meaning of “spouse”;
- the Maintenance of Surviving Spouses Act, 1990, so as to insert definitions;
- the National Prosecuting Authority Act, 1998, so as to further regulate the due dates of reports by Directors of Public Prosecutions and the National Director of Public Prosecutions;
- the Debt Collectors Act, 1998, so as to further regulate the term of office of members of the Council for Debt Collectors;
- the Domestic Violence Act, 1998, so as to penalise the making of a false declaration;
- the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, so as to give effect to a judgment of the Constitutional Court;
- the Protected Disclosures Act, 2000, so as to effect a technical amendment;
- the Judges Remuneration and Conditions of Employment Act, 2001, so as to further regulate the conditions of employment of judges of the Constitutional Court, the Supreme Court of Appeal and the High Court;
- the Prevention and Combatting of Corrupt Activities Act, 2004, so as to regulate and strengthen the duty of private sector entities to put in place measures against corrupt activities;
- the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to—
 - regulate the designation of public health establishments for purposes of providing post exposure prophylaxis and carrying out compulsory HIV testing;
 - amend the definition of ‘sexual offence’;
 - regulate the designation of sexual offences courts; and
 - regulate the manner in which child pornography must be dealt with and be disposed of;
- the Superior Courts Act, 2013, so as to further regulate—
 - applications for leave to appeal and appeals;
 - the composition of courts of appeal;

- the South African Human Rights Commission Act, 2013, so as to further regulate the powers of the South African Human Rights Commission with respect to its investigations;
- the Legal Aid South Africa Act, 2014, so as to further regulate the—
 - appointment of the Board;
 - substitution of obsolete provisions;
- the International Arbitration Act, 2017, so as to effect a technical correction; and
- repeal the common law crime of defamation, and to provide for matters connected therewith.”.

