



GOVERNMENT GAZETTE

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 196

1997

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 9 of 1997: Magistrates' Courts Amendment Act, 1997.

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Magistrates' Courts Act, 1944 so as to increase the civil jurisdiction of magistrates; to increase the amounts which are the subject matter of administration orders given by magistrates; and to increase the jurisdiction of magistrates in criminal matters.

(Signed by the President on 22 September 1997)

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:-

Substitution of section 29 of Act 32 of 1944, as substituted by section 27 of Act 94 of 1974 and amended by section 6 of Act 11 of 1985.

1. The following section is substituted for section 29 of the Magistrates' Courts Act, 1944 (hereafter referred to as the 'principal Act'):

“Jurisdiction in respect of causes of action

29. (1) Subject to the provisions of this Act, the court, in respect of causes of action, shall have jurisdiction in -

- (a) actions in which is claimed the delivery or transfer of any property, movable or immovable, not exceeding **[R5 000]** NS\$25 000 in value;
- (b) actions of ejectment against the occupier of any premises or land within the district: Provided that, where the right of occupation of any such premises or land is in dispute between the parties, such right does not exceed **[R5 000]** NS\$25 000 in clear value to the occupier;
- (c) actions for the determination of a right of way, notwithstanding the provisions of section 46;
- (d) actions on or arising out of a liquid document or a mortgage bond, where the claim does not exceed **[R10 000]** NS\$100 000;

- (e) actions on or arising out of any credit agreement as defined in section 1 of the Credit Agreements Act, 1980 (Act 75 of 1980), where the claim or the value of the matter in dispute does not exceed **[R10 000]** N\$100 000;
 - (f) actions other than those already mentioned in this subsection, where the claim or the value of the matter in dispute does not exceed **[R5 000]** N\$25 000.
- (2) In subsection (1) 'action' includes a claim in reconvention.”.

Amendment of section 46 of Act 32 of 1944, as amended by section 5 of Act 19 of 1963, section 28 of Act 94 of 1974 and section 7 of Act 11 of 1985

2. Section 46 of the principal Act is amended by the substitution for paragraph (c) of subsection (2) of the following paragraph:

- “(c) in which is sought specific performance without an alternative of payment of damages, except in-
- (i) the rendering of an account in respect of which the claim does not exceed **[R5 000]** N\$25 000;
 - (ii) the delivery or transfer of property, movable or immovable, not exceeding **[R5 000]** N\$25 000 in value; and
 - (iii) the delivery or transfer of property, movable or immovable, exceeding **[R5 000]** N\$25 000 in value, where the consent of the parties has been obtained in terms of section 45;”.

Amendment of section 50 of Act 32 of 1944 as amended by section 6 of Act 19 of 1963

3. Section 50 of the principal Act is amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“Any action in which the amount of the claim exceeds **[two hundred rand]** N\$5 000, exclusive of interest and costs, may, upon application to the court by the defendant, or if there is more than one defendant, by any defendant, be removed to the **[provincial or local division having jurisdiction where the court is held]** High Court, subject to the following provisions:”.

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 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 judgement debtor’s total debts do not exceed [R4 000] N\$50 000, the court may grant an administration order under section 74 in respect of the judgment debtor’s estate.”.

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

5. Section 74 of the principal Act is amended -

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

“(b) states that the total amount of all his or her debts due does not exceed [R4 000] N\$50 000,”; and

(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] the amount referred to in paragraph (b) of subsection (1), but in such a case the court may, if it deems fit, rescind the order.”.

Amendment of section 92 of Act 32 of 1944 as substituted by section 30 of Act 94 of 1974 and amended by section 9 of Act 91 of 1977 and section 1 of Act 14 of 1981

6. Section 92 of the principal Act is amended by the substitution for paragraphs (a) and (b) of subsection (1) of the following paragraphs:

“(a) by imprisonment, may impose a sentence of imprisonment for a period not exceeding [**three**] five years where the court is not the court of a regional division, or not exceeding [**ten**] twenty years, where the court is the court of a regional division;

(b) by a fine, may impose a fine not exceeding [**three thousand rand**] N\$20 000, where the court is not a court of a regional

division, or not exceeding **[ten thousand rand]** N\$100 000, where the court is the court of a regional division;”.

Short title and commencement

7. This Act shall be called the Magistrates' Courts Amendment Act, 1997, and shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.
