BUITENGEWONE EXTRAORDINARY

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

THE UNION OF SOUTH AFRICA

Government Gazette

[Geregistreer by die Hoofposkantoor as 'n Nuusblad.] [Registered at the General Post Office as a Newspaper.]

VOL. CLXXVI.] PRYS 6d. KAAPSTAD, 2 APRIL 1954. CAPE TOWN, 2ND APRIL, 1954. PRICE 6d. [No. 5254.

KANTOOR VAN DIE EERSTE MINISTER.

Onderstaande Goewermentskennisgewing word ter algemene inligting gepubliseer:—

No. 664.] [2 April 1954.

Hierby word bekendgemaak dat dit Sy Eksellensie die Goewerneur-generaal behaag het om sy goedkeuring te heg aan onderstaande Wette, wat hierby ter algemene inligting gepubliseer word:—

OFFICE OF THE PRIME MINISTER.

The following Government Notice is published for general information:—

No. 664.] [2nd April, 1954.

It is hereby notified that His Excellency the Governor-General has been pleased to assent to the following Acts, which are hereby published for general information:—

No. 12, 1954.]

WET

Tot wysiging van die Drankwet, 1928.

(*Afrikaanse teks deur die Goewerneur-generaal geteken.*)
(*Goedgekeur op* 31 *Maart* 1954.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

Wysiging van artikel 13 van Wet 30 van 1928, soos gewysig deur artikel 37 van Wet 41 van 1934.

1. Artikel *dertien* van die Drankwet, 1928 (hierna die Hoofwet genoem) word hiermee gewysig deur in sub-artikel (2) die woord „Goewerneur-generaal", waar dit ookal voorkom, deur die woord „Minister" te vervang.

Wysiging van artikel 14 van Wet 30 van 1928.

2. Artikel *veertien* van die Hoofwet word hiermee gewysig—

(*a*) deur in sub-artikel (1) die woorde „Wanneer die Goewerneur-generaal by die uitoefening van sy bevoegdhede 'n deel van 'n distrik afsonder om 'n nuwe distrik te stig of om 'n deel van 'n ander distrik uit te maak" deur die woorde „Wanneer ingevolge die bepalings van artikel *twee* van die Magistraatshowewet, 1944 (Wet No. 32 van 1944) 'n deel van 'n distrik afgesonder word om 'n nuwe distrik te stig of om 'n deel van 'n ander distrik uit te maak" te vervang; en

(*b*) deur in sub-artikel (2) die woorde „Wanneer die Goewerneur-generaal by die uitoefening van sy bevoegdhede 'n nuwe distrik stig" deur die woorde „Wanneer 'n nuwe distrik ingevolge die bepalings van artikel *twee* van die Magistraatshowewet, 1944 (Wet No. 32 van 1944) gestig word" te vervang.

Wysiging van artikel 17 van Wet 30 van 1928, soos gewysig deur artikel 37 van Wet 41 van 1934.

3. Artikel *sewentien* van die Hoofwet word hiermee gewysig—

(*a*) deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) Elke lid van 'n lisensieraad deur die Minister ingevolge hierdie Wet benoem, beklee sy amp vanaf die datum van sy benoeming tot die laaste dag van Desember van dieselfde jaar of, in die geval van 'n verdaging van die jaarlikse vergadering tot na die een-en-dertigste dag van Desember, tot die sluiting van die jaarlikse vergadering.";

(*b*) deur in sub-artikel (2) die woord „Goewerneur-generaal" deur die woord „Minister" te vervang; en

(*c*) deur aan die end daarvan die volgende sub-artikel by te voeg:

„(3) Ondanks die bepalings van hierdie artikel, of van sub-artikel (2) van artikel *veertien*, kan die Minister te eniger tyd die aanstelling van 'n lid van 'n lisensieraad intrek indien daar volgens oordeel van die Minister gegronde redes om sulks te doen, bestaan.".

Wysiging van artikel 22 van Wet 30 van 1928.

4. Artikel *twee-en-twintig* van die Hoofwet word hiermee gewysig—

(*a*) deur in sub-artikel (1) al die woorde wat paragraaf (*a*) voorafgaan deur die woorde „Die magistraat van 'n distrik kan te eniger tyd na goeddunke, en moet, indien die Minister na 'n appèl na hom aldus gelas, 'n spesiale vergadering van die raad belê ter oorweging van 'n aanvraag by hom ingedien" te vervang; en

(*b*) deur in paragrawe (*a*) en (*b*) van sub-artikel (1) die woord „Minister" deur die woord „magistraat" te vervang.

Wysiging van artikel 33 van Wet 30 van 1928, soos gewysig deur artikel 8 van Wet 41 van 1934.

5. Artikel *drie-en-dertig* van die Hoofwet word hiermee gewysig deur sub-artikel (3) deur die volgende sub-artikel te vervang:

„(3) Die waarde of enige deel van die waarde van die op 'n aanvraag ingestempelde seëls word nie aan die aanvraer terugbetaal nie, behalwe in die geval van 'n aanvraag ingevolge artikel *twee-en-twintig*, ten opsigte waarvan daar terugbetaal word—

No. 12, 1954.]

ACT

To amend the Liquor Act, 1928.

(*Afrikaans text signed by the Governor-General.*)
(*Assented to* 31*st March*, 1954.)

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:—

Amendment of section 13 of Act 30 of 1928, as amended by section 37 of Act 41 of 1934.

1. Section *thirteen* of the Liquor Act, 1928 (hereinafter called the principal Act), is hereby amended by the substitution in sub-section (2) for the word "Governor-General" wherever it occurs of the word "Minister".

Amendment of section 14 of Act 30 of 1928.

2. Section *fourteen* of the principal Act is hereby amended—

(*a*) by the substitution in sub-section (1) for the words "In the event of the Governor-General in the exercise of any power vested in him detaching any portion of a district for the purpose of creating a new district or to form part of another district" of the words "In the event of any portion of a district being detached for the purpose of creating a new district or to form part of another district, under the provisions of section *two* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)"; and

(*b*) by the substitution in sub-section (2) for the words "In the event of the Governor-General in the exercise of any power vested in him creating any new district" of the words "In the event of a new district being created under the provisions of section *two* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944)".

Amendment of section 17 of Act 30 of 1928, as amended by section 37 of Act 41 of 1934.

3. Section *seventeen* of the principal Act is hereby amended—

(*a*) by the substitution for sub-section (1) of the following sub-section:

"(1) Every member of a licensing board appointed by the Minister under this Act shall hold office from the date of his appointment until the last day of December in the same year, or in the event of an adjournment of the annual meeting beyond the thirty-first day of December, until the close of the annual meeting.";

(*b*) by the substitution in sub-section (2) for the word "Governor-General" of the word "Minister"; and

(*c*) by the addition at the end thereof of the following sub-section:

"(3) Notwithstanding anything contained in this section, or in sub-section (2) of section *fourteen*, the Minister may, if in his opinion there are good reasons for doing so, at any time cancel the appointment of any member of a licensing board.".

Amendment of section 22 of Act 30 of 1928.

4. Section *twenty-two* of the principal Act is hereby amended—

(*a*) by the substitution in sub-section (1) for all the words preceding paragraph (*a*) of the words "The magistrate of a district may at any time, if he thinks fit, and shall, if the Minister on appeal to him so directs, convene a special meeting of the board for the consideration of any application made to him"; and

(*b*) by the substitution in paragraphs (*a*) and (*b*) of sub-section (1) for the word "Minister" of the word "magistrate".

Amendment of section 33 of Act 30 of 1928, as amended by section 8 of Act 41 of 1934.

5. Section *thirty-three* of the principal Act is hereby amended by the substitution for sub-section (3) of the following sub-section:

"(3) The value or any part of the value of the stamps impressed upon an application shall not be refunded to the applicant except in the case of an application under section *twenty-two*, in respect of which there shall be refunded—

(*a*) waar die aanvraag deur die betrokke magistraat geweier is en geen appèl teen sodanige weiering ingedien is nie, vyf-en-sewentig persent van daardie waarde; en

(*b*) waar sodanige appèl ingedien is en van die hand gewys is, vyftig persent van daardie waarde.".

Vervanging van artikel 34 van Wet 30 van 1928.

6. Artikel *vier-en-dertig* van die Hoofwet word hiermee deur die volgende artikel vervang:

„Appèl ingevolge artikel 22.

34. 'n Appèl teen die beslissing van 'n magistraat ingevolge artikel *twee-en-twintig* word skriftelik by daardie magistraat ingedien, wat dit onverwyld aan die Minister deurstuur, en die Minister se beslissing insake so 'n appèl word aan die appellant deur die betrokke magistraat oorgedra.".

Wysiging van artikel 35 van Wet 30 van 1928.

7. Artikel *vyf-en-dertig* van die Hoofwet word hiermee gewysig deur in sub-artikel (1) die woorde „ontvangs van die Minister se opdrag, kragtens artiekel *twee-en-twintig*, om 'n spesiale vergadering van die raad te hou ter oorweging van 'n aanvraag om die verlening of vernuwing van 'n lisensie, so spoedig doenlik na die ontvangs van die aanvraag of die opdrag, na die geval mog wees" deur die woorde „die toestaan van 'n aanvraag of die ontvangs van die Minister se opdrag om 'n spesiale vergadering van die raad ingevolge artikel *twee-en-twintig* te hou, so spoedig doenlik na ontvangs van die aanvraag of, in die geval van 'n aanvraag om 'n spesiale vergadering ingevolge artikel *twee-en-twintig*, na die toestaan van die aanvraag om die vergadering of die ontvangs van die Minister se opdrag om die vergadering te hou" te vervang.

Wysiging van artikel 54 van Wet 30 van 1928, soos gewysig deur artikel 14 van Wet 41 van 1934 en artikel 3 van Wet 39 van 1937.

8. Artikel *vier-en-vyftig* van die Hoofwet word hiermee gewysig—

(*a*) deur in sub-artikel (1) na die uitdrukking „wynboerlisensie" die woorde „'n tydelike dranklisensie, 'n nagtelike geleentheids-lisensie" in te voeg;.

(*b*) deur die volgende sub-artikel na sub-artikel (3) in te voeg:

„(3)*bis*. Indien magtiging tot die oprigting of verbouing van 'n gebou ingevolge sub-artikel (3) verleen is, bly 'n skriftelike magtiging wat deur die Minister ingevolge sub-artikel (2) of daardie sub-artikel soos toegepas deur sub-artikel (6) aan die lisensieraad verleen is om die aanvraag vir die magtiging tot sodanige oprigting of verbouing te oorweeg, van krag ten opsigte van enige daaropvolgende aanvraag vir 'n voorwaardelike magtiging ingevolge sub-artikel (2) of daardie sub-artikel soos aldus toegepas ten opsigte van dieselfde gebou, tot tyd en wyl dit deur die Minister by wyse van skriftelike kennisgewing aan die aanvraer en die lisensieraad, nie later nie as negentig dae voor die vergadering van daardie lisensieraad, ingetrek word.";

(*c*) deur die volgende sub-artikel na sub-artikel (5) in te voeg:

„(5)*bis*. 'n Sertifikaat deur die Minister kragtens sub-artikel (5) verleen, ingevolge waarvan 'n lisensie vernuwe is, bly van krag vir die doel van 'n vernuwing van daardie lisensie vir enige tydperk na die een-en-dertigste dag van Desember 1954, tot tyd en wyl die Minister, indien hy oortuig is dat die vereistes vir die verlening van sy sertifikaat kragtens sub-artikel (5) nie meer bestaan nie, by wyse van skriftelike kennisgewing aan die lisensiehouer en die betrokke lisensieraad, nie later nie as negentig dae voor die vergadering van die raad, sy sertifikaat ingetrek het.";

(*d*) deur in sub-artikel (7) die woorde „van tyd tot tyd" te skrap; en

(*e*) deur die volgende sub-artikel na sub-artikel (7) in te voeg:

„(7)*bis*. 'n Magtiging deur die Minister kragtens sub-artikel (7) uitgereik, ingevolge waarvan 'n lisensie vernuwe is, bly van krag vir die doel van enige daaropvolgende vernuwing van daardie lisensie, tot tyd en wyl die Minister, indien hy oortuig is dat die vereistes vir die uitreik van sy magtiging kragtens sub-artikel (7) nie meer bestaan nie, by wyse van skriftelike kennisgewing aan die lisensiehouer en die betrokke lisensieraad, nie later nie as negentig dae voor die vergadering van die raad, sy magtiging ingetrek het.".

(*a*) where the application has been refused by the magistrate concerned, and no appeal has been lodged against such refusal, seventy-five per cent. of such value; and

(*b*) where such appeal has been lodged and has been dismissed, fifty per cent. of such value.".

Substitution of section 34 of Act 30 of 1928.

6. The following section is hereby substituted for section *thirty-four* of the principal Act:

"Appeal under section 22.

34. An appeal under section *twenty-two* against the decision of a magistrate shall be lodged in writing with such magistrate who shall forthwith transmit it to the Minister, and the Minister's decision on any such appeal shall be communicated to the appellant through the magistrate concerned.".

Amendment of section 35 of Act 30 of 1928.

7. Section *thirty-five* of the principal Act is hereby amended by the substitution in sub-section (1) for the words "receiving the Minister's authority granted under section *twenty-two* for the holding of a special meeting of the board for the consideration of any application for the grant or renewal of a licence shall, as soon as may be after the receipt of the application or of the authority, as the case may be" of the words "granting an application for, or receiving the Minister's direction for the holding of a special meeting of the board under section *twenty-two*, shall as soon as may be after the receipt of the application or, in the case of an application for a special meeting under section *twenty-two*, after the granting of the application for the meeting or the receipt of the Minister's direction for the holding of the meeting".

Amendment of section 54 of Act 30 of 1928, as amended by section 14 of Act 41 of 1934 and section 3 of Act 39 of 1937.

8. Section *fifty-four* of the principal Act is hereby amended—

(*a*) by the insertion in sub-section (1) after the expression "wine farmers' licence" of the words "a temporary liquor licence, a late hours occasional licence";

(*b*) by the insertion after sub-section (3) of the following sub-section:

"(3)*bis*. If authority has been granted under sub-section (3) for the erection or conversion of premises, any written authority granted by the Minister under sub-section (2), or under that sub-section as applied by sub-section (6), for the consideration by the licensing board of the application for that authority for such erection or conversion, shall remain in force in respect of any subsequent application for a conditional authority under sub-section (2), or under that sub-section as so applied, in respect of the same premises until it is withdrawn by the Minister by written notice given to the applicant and the licensing board not later than ninety days before the meeting of that licensing board.";

(*c*) by the insertion after sub-section (5) of the following sub-section:

"(5)*bis*. Any certificate granted by the Minister under sub-section (5) in pursuance of which a licence has been renewed, shall remain in force for the purpose of the renewal of that licence in respect of any period after the thirty-first day of December, 1954, until the Minister, if satisfied that the requisites for the grant of his certificate under sub-section (5) are no longer present, has by written notice given to the licensee and to the licensing board concerned not later than ninety days before the meeting of the board, withdrawn his certificate.";

(*d*) by the deletion in sub-section (7) of the words "from time to time"; and

(*e*) by the insertion after sub-section (7) of the following sub-section:

"(7)*bis*. Any authority issued by the Minister under sub-section (7) in pursuance of which a licence has been renewed, shall remain in force for the purpose of any subsequent renewal of that licence until the Minister, if satisfied that the requisites for the issue of his authority under sub-section (7) are no longer present, has by written notice given to the licensee and to the licensing board concerned not later than ninety days before the meeting of the board, withdrawn his authority.".

Wysiging van artikel 55 van Wet 30 van 1928, soos gewysig deur artikel 4 van Wet 39 van 1937.

9. Artikel *vyf-en-vyftig* van die Hoofwet word hiermee gewysig—

(*a*) deur in sub-artikel (2) die woorde „by geleentheid van elke vernuwing" te skrap; en

(*b*) deur die volgende sub-artikel na sub-artikel (2)*ter* in te voeg:

„(2)*quat*. 'n Magtiging deur die Minister kragtens sub-artikel (2) verleen, ingevolge waarvan 'n kantienlisensie vernuwe is, bly van krag vir die doel van die vernuwing van daardie lisensie, op die voorwaardes alreeds deur die Minister kragtens gemelde sub-artikel gestel, vir enige tydperk na die een-en-dertigste dag van Desember 1954, tensy die Minister, nie later nie as negentig dae voor die vergadering van die betrokke lisensieraad, die raad en die lisensiehouer skriftelik van die teendeel in kennis gestel het.".

Wysiging van artikel 99 van Wet 30 van 1928.

10. Artikel *nege-en-negentig* van die Hoofwet word hiermee gewysig deur sub-artikel (1) deur die volgende sub-artikel te vervang:

„(1) (*a*) Wanneer 'n magistraat skriftelik onder sy handtekening sertifiseer dat iemand wat kragtens Deel (C) van hierdie Hoofstuk geen drank mag verkry of besit nie, 'n godsdiensleraar is en te goeder trou vir sakramentele doeleindes die in die sertifikaat vermelde soort en hoeveelheid wyn nodig het, kan 'n houer van 'n botteldranklisensie in enige distrik aan wie die sertifikaat voorgelê word aan daardie persoon die soort en hoeveelheid wyn wat die sertifikaat aangee, verkoop.

(*b*) So 'n sertifikaat kan uitgereik word vir 'n tydperk van hoogstens twaalf maande.

(*c*) Elke lisensiehouer moet op die tydstip waarop hy ingevolge so 'n sertifikaat wyn aflewer, die datum van aflewering, die naam en ligging van die betrokke gelisensieerde gebou en die soort en hoeveelheid wyn wat afgelewer is, met ink op die sertifikaat leesbaar aanteken.".

Kort titel.

11. Hierdie Wet heet die Wysigingswet op die Drankwet, 1954.

Amendment of section 55 of Act 30 of 1928, as amended by section 4 of Act 39 of 1937.

9. Section *fifty-five* of the principal Act is hereby amended—

(*a*) by the deletion in sub-section (2) of the words "on the occasion of each renewal"; and

(*b*) by the insertion after sub-section (2)*ter* of the following sub-section:

"(2)*quat*. Any authority granted by the Minister under sub-section (2) in pursuance of which a bar licence has been renewed shall remain in force for the purpose of the renewal of that licence, on any conditions already imposed by the Minister under the said sub-section, in respect of any period after the thirty-first day of December, 1954, unless the Minister has, not later than ninety days before the meeting of the licensing board concerned, given written notice to the contrary to the board and to the licensee.".

Amendment of section 99 of Act 30 of 1928.

10. Section *ninety-nine* of the principal Act is hereby amended by the substitution for sub-section (1) of the following sub-section:

"(1) (*a*) Whenever any magistrate by writing under his hand certifies that any person who, in terms of Part (C) of this Chapter, is prohibited from obtaining or possessing liquor, is a minister of religion and *bona fide* requires for sacramental purposes wine of the kind and in the quantity stated in the certificate, any holder of a bottle liquor licence in any district to whom such certificate is presented may sell to that person wine of the kind and in the quantity stated in the certificate.

(*b*) Such certificate may be issued for any period not exceeding twelve months.

(*c*) Every licensee shall at the time of delivering any wine upon such a certificate, legibly endorse in ink upon the certificate the date of delivery, the name and situation of the licensed premises concerned and the kind and quantity of wine delivered.".

Short title.

11. This Act shall be called the Liquor Law Amendment Act, 1954.

No. 13, 1954.]

WET

Om voorsiening te maak vir die afskaffing van die Naturellehoëhof, die oordrag van die regsbevoegdheid daarvan aan die Hooggeregshof en vir ander daarmee in verband staande aangeleenthede.

(*Engelse teks deur die Goewerneur-generaal geteken.*)
(*Goedgekeur op* 31 *Maart* 1954.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

Woordbepaling.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

(i) „Hooggeregshof" die provinsiale afdeling of 'n plaaslike afdeling van die Hooggeregshof van Suid-Afrika wat ten opsigte van die geheel of 'n gedeelte van die provinsie Natal, regsbevoegdheid het; (ii)

(ii) „Naturellehoëhof" die Natalse Naturellehoëhof wat kragtens artikel *sewe* van die „Courts Act, 1898" (Wet No. 49 van 1898 (Natal)) ingestel is. (i)

Afskaffing van die Naturellehoëhof.

2. Die Naturellehoëhof word hiermee afgeskaf.

Oordrag van die regsbevoegdheid van die Naturellehoëhof aan die Hooggeregshof.

3. Die regsbevoegdheid wat onmiddellik voor die inwerkingtreding van hierdie Wet berus het by, of uitgeoefen kon word deur die Naturellehoëhof, word hiermee oorgedra aan die Hooggeregshof.

Sake in die Naturellehoëhof aanhangig moet deur Hooggeregshof verhoor word.

4. Alle strafsake wat op die datum van inwerkingtreding van hierdie Wet in die Naturellehoëhof aanhangig is, word hiermee oorgeplaas na die Hooggeregshof, wat bevoeg is om hulle te verhoor en te beslis: Met dien verstande dat 'n saak wat op voormelde datum gedeeltelik verhoor is, verder verhoor en beslis kan word asof hierdie Wet nie aangeneem is nie.

Verhoor van strafsake wat voorheen deur die Naturellehoëhof verhoor is.

5. 'n Strafsaak wat, as dit nie vir die bepalings van hierdie Wet was nie, deur die Naturellehoëhof verhoor sou kon word, kan deur die Hooggeregshof verhoor en beslis word, of, kan na goeddunke van die Prokureur-generaal na die hof van 'n magistraat of streeksmagistraat wat volgens wet regsbevoegdheid besit om die saak te verhoor, verwys word en deur so 'n hof beslis word.

Behoud van bestaande reg van appèl.

6. (1) Die bepalings van hierdie Wet raak nie die reg wat voor die inwerkingtreding daarvan bestaan het om 'n aanhangige appèl voort te sit of om in hoër beroep te gaan teen 'n bevinding of bevel van die Naturellehoëhof nie. So 'n appèl kan aangeteken of voortgesit word asof hierdie Wet nie aangeneem is nie.

(2) Indien dit, as gevolg van die bepalings van hierdie Wet, nie moontlik is om kragtens sub-artikel (1) van artikel *driehonderd nege-en-sestig*, artikel *driehonderd-en-sewentig* of artikel *driehonderd twee-en-sewentig* van die „Wet op de Kriminele Procedure en Bewijslevering, 1917" (Wet No. 31 van 1917), by die Naturellehoëhof of 'n regter daarvan aansoek te doen om verlof om te appelleer of dat 'n besondere aantekening op die prosesstukke gemaak word of dat 'n regspunt voorbehou word nie, kan sodanige aansoek by 'n regter van die Hooggeregshof gedoen word.

(3) Vir doeleindes van die ten uitvoerlegging van 'n bevel of opdrag deur die hof van appèl uitgereik, kragtens artikel *driehonderd vier-en-sewentig* van die „Wet op de Kriminele Procedure en Bewijslevering, 1917" (Wet No. 31 van 1917), in geval van appèl ingevolge sub-artikel (1), word dit geag dat die saak deur die Natalse Provinsiale Afdeling van die Hooggeregshof verhoor is.

Oorplasing van stukke van die Naturellehoëhof na die Hooggeregshof.

7. Die amptenaar wat by die inwerkingtreding van hierdie Wet Griffier van die Naturellehoëhof is, moet binne 'n maand na sodanige inwerkingtreding of binne sodanige verdere tyd-

No. 13, 1954.]

ACT

To provide for the abolition of the Native High Court, the transfer of the jurisdiction thereof to the Supreme Court, and for other incidental matters.

(*English text signed by the Governor-General.*)
(*Assented to* 31*st March*, 1954.)

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:—

Definitions.

1. In this Act, unless the context indicates otherwise—

(i) "Native High Court" means the Natal Native High Court constituted under section *seven* of the Courts Act, 1898 (Act No. 49 of 1898 (Natal)); (ii)

(ii) "Supreme Court" means the provincial or any local division of the Supreme Court of South Africa having jurisdiction in respect of the whole or any part of the Province of Natal. (i)

Abolition of Native High Court.

2. The Native High Court shall be and the same is hereby abolished.

Transfer of jurisdiction of Native High Court to Supreme Court.

3. The jurisdiction which immediately prior to the commencement of this Act was vested in, or capable of being exercised by the Native High Court shall be and the same is hereby transferred to and vested in the Supreme Court.

Pending cases to be heard by Supreme Court.

4. All criminal cases pending in the Native High Court at the date of commencement of this Act shall stand removed to the Supreme Court, which shall have jurisdiction to hear and determine the same: Provided that any case partly heard at that date may be further heard and determined as if this Act had not been passed.

Hearing of criminal cases formerly heard by Native High Court.

5. Any criminal case which, but for this Act, might have been heard by the Native High Court, may be heard and determined by the Supreme Court, or in the discretion of the Attorney-General may be sent to and determined by the court of a magistrate or regional magistrate which has by law jurisdiction to hear such a case.

Saving of existing rights of appeal.

6. (1) Nothing in this Act contained shall be construed as prejudicing any right existing immediately prior to the commencement of this Act to prosecute any pending appeal or to bring any appeal from any judgment or order of the Native High Court. Any such appeal may be prosecuted or brought as if this Act had not been passed.

(2) If by reason of this Act application for leave to appeal in terms of sub-section (1) of section *three hundred and sixty-nine* of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), or for a special entry to be made on the record in terms of section *three hundred and seventy* of the said Act or for any question of law to be reserved in terms of section *three hundred and seventy-two* of the said Act, cannot be made to the Native High Court or any judge thereof, such application may be made to a judge of the Supreme Court.

(3) For the purpose of carrying into effect any order or direction given by the court of appeal in terms of section *three hundred and seventy-four* of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), in the case of an appeal in terms of sub-section (1), the case shall be deemed to have been tried by the Natal Provincial Division of the Supreme Court.

Transfer of records of Native High Court to Supreme Court.

7. Within one month after the commencement of this Act or within such further period as may be ordered by the Judge President of the Supreme Court, the person holding the office

perk as wat deur die Regter-president van die Hooggeregshof gelas mag word, toesien dat alle stukke wat aan die Naturellehoëhof behoort en alle registers wat daarop betrekking het, oorgeplaas word na die kantoor van die Griffier van die Hooggeregshof, Pietermaritzburg, wat daarna oor daardie stukke en registers toesig het op dieselfde wyse as oor die stukke en registers van die Hooggeregshof; en alle ander boeke, dokumente, offisiële stukke en goedere wat in die bewaring is van die Naturellehoëhof of van enige persoon aan die Naturellehoëhof verbonde, word insgelyks na die Hooggeregshof oorgeplaas en sodanige persoon handel daarmee soos die Regter-president by order mag gelas. Enigiemand wat nalaat om te voldoen aan 'n lasgewing wat ter uitvoering van die bepalings van hierdie artikel gegee is, is skuldig aan minagting van die Hooggeregshof.

Wysiging van artikel 2 van Wet 1 van 1911.

8. Artikel *twee* van die „Afdeling van Appèl Verdere Jurisdiktie Wet, 1911" (Wet No. 1 van 1911) word hiermee gewysig deur die skrapping van die woorde „of van 't Naturellen Hogehof van Natal".

Wysiging van artikel 9 van Wet 27 van 1912.

9. Artikel *nege* van die „Wet op de Rechtspleging, 1912" (Wet No. 27 van 1912) word hiermee gewysig deur die skrapping in paragraaf (b) van sub-artikel (1) van die woorde „het Natalse Naturellehogehof of".

Wysiging van artikel 21 van Wet 27 van 1912.

10. Artikel *een-en-twintig* van die „Wet op de Rechtspleging, 1912" (Wet No. 27 van 1912) word hiermee gewysig deur die skrapping van die woorde „op het Natalse Naturellehogehof of".

Wysiging van artikel 6 van Wet 31 van 1917.

11. Artikel *ses* van die „Wet op de Kriminele Procedure en Bewijslevering, 1917" (Wet No. 31 van 1917), (hieronder die Hoofwet genoem) word hiermee gewysig deur die skrapping van die laaste sin van sub-artikel (1).

Wysiging van artikel 165 van Wet 31 van 1917.

12. Artikel *honderd vyf-en-sestig* van die Hoofwet word hiermee gewysig deur die skrapping van die woorde „behoudens de biezondere bepalingen van Wet No. 49 van 1898, van Natal of wijzigingen daarvan of van andere Wetten waarbij rechtsbevoegdheid verleend wordt aan het Naturellen Hoge Hof van Natal en".

Wysiging van artikel 363 van Wet 31 van 1917, soos gewysig deur artikel 68 van Wet 46 van 1935 en artikel 106 van Wet 31 van 1937.

13. Artikel *driehonderd drie-en-sestig* van die Hoofwet word hiermee gewysig deur die skrapping in sub-artikel (5) van al die woorde na die woord „deed".

Vervanging van artikel 368 van Wet 31 van 1917, soos vervang deur artikel 6 van Wet 37 van 1948, deur 'n nuwe artikel.

14. Artikel *driehonderd agt-en-sestig* van die Hoofwet word hiermee vervang deur die volgende artikel:

„Hof van appèl in geval van Kriminele Vonnissen door hogere hoven.

368. (1) Ten opzichte van appèls en voorbehouden rechtspunten in verband met kriminele zaken door een provinciale of plaatselike afdeling van het Hooggerechtshof, of een biezonder krimineel hof behandeld, is de afdeling van appèl van het Hooggerechtshof het hof van appèl.

(2) Men kan in appèl naar het hof van appèl gaan slechts zoals in artikels *drie honderd negen en zestig* tot en met *drie honderd twee en zeventig* bepaald, en niet van rechtswege.".

Wysiging van artikel 369 van Wet 31 van 1917, soos vervang deur artikel 7 van Wet 37 van 1948.

15. Artikel *driehonderd nege-en-sestig* van die Hoofwet word hiermee gewysig—

(*a*) deur paragraaf (*b*) van sub-artikel (1) te skrap;

(*b*) deur in sub-artikel (4) die woorde ‚of in het geval van een appèl waar de Natalse Provinciale Afdeling het hof van appèl is, aan de Rechter-President', en die woorde ‚of naar gelang van het geval, aan de griffier van het Naturelle Hoge Hof' te skrap; en

(*c*) deur in sub-artikel (5) die woorde ‚of de Rechter-President (naar gelang van het geval)' en die woorde ‚of Rechter-President' te skrap.

Wysiging van artikel 370 van Wet 31 van 1917, soos vervang deur artikel 8 van Wet 37 van 1948.

16. Artikel *driehonderd-en-sewentig* van die Hoofwet word hiermee gewysig—

(*a*) deur sub-artikel (3) te skrap; en

(*b*) deur in sub-artikel (6) die woorde „of in het geval van een appèl waar de Natalse Provinciale Afdeling het hof van appèl is, aan de Rechter-President" te skrap.

of Registrar of the Native High Court at such commencement shall cause all records belonging to the Native High Court, together with all registers relating thereto, to be transferred to the office of the Registrar of the Supreme Court, Pietermaritzburg, who shall thereafter have the charge of such records and registers in like manner as of the records and registers of the Supreme Court; and all other books, documents, papers and chattels in the possession of the Native High Court or of any person attached to the Native High Court, shall be transferred in like manner to the Supreme Court and shall be dealt with by such person as the Judge President may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Supreme Court.

Amendment of section 2 of Act 1 of 1911.

8. Section *two* of the Appellate Division Further Jurisdiction Act, 1911 (Act No. 1 of 1911), is hereby amended by the deletion of the words "or of the Native High Court of Natal,".

Amendment of section 9 of Act 27 of 1912.

9. Section *nine* of the Administration of Justice Act, 1912 (Act No. 27 of 1912), is hereby amended by the deletion in paragraph (*b*) of sub-section (1) of the words "the Natal Native High Court or".

Amendment of section 21 of Act 27 of 1912.

10. Section *twenty-one* of the Administration of Justice Act, 1912 (Act No. 27 of 1912), is hereby amended by the deletion of the words "to the Natal Native High Court or".

Amendment of section 6 of Act 31 of 1917.

11. Section *six* of the Criminal Procedure and Evidence Act, 1917 (Act No.31 of 1917) (hereinafter referred to as the principal Act), is hereby amended by the deletion in sub-section (1) of the last sentence thereof.

Amendment of section 165 of Act 31 of 1917.

12. Section *one hundred and sixty-five* of the principal Act is hereby amended by the deletion of the words "save as is specially provided in Act No. 49 of 1898, of Natal, or any amendment thereof, or any other law conferring jurisdiction on the Native High Court of Natal, or".

Amendment of section 363 of Act 31 of 1917, as amended by section 68 of Act 46 of 1935 and section 106 of Act 31 of 1937.

13. Section *three hundred and sixty-three* of the principal Act is hereby amended by the deletion in sub-section (5) of all the words after "award" where it occurs for the first time.

Substitution of new section for section 368 of Act 31 of 1917, as substituted by section 6 of Act 37 of 1948.

14. The following section is hereby substituted for section *three hundred and sixty-eight* of the principal Act:

"Court of appeal from Superior Court criminal judgments.

368. (1) In respect of appeals and questions of law reserved in connection with criminal cases dealt with by a provincial or local division of the Supreme Court, or a special criminal court, the court of appeal shall be the Appellate Division of the Supreme Court.

(2) An appeal shall lie to the court of appeal only as provided in sections *three hundred and sixty-nine* to *three hundred and seventy-two* inclusive and not as of right.".

Amendment of section 369 of Act 31 of 1917, as substituted by section 7 of Act 37 of 1948.

15. Section *three hundred and sixty-nine* of the principal Act is hereby amended—

(*a*) by the deletion in sub-section (1) of paragraph (*b*);

(*b*) by the deletion in sub-section (4) of the words "or, in the case of an appeal where the Natal Provincial Division is the court of appeal to the Judge President" and the words "or to the registrar of the Native High Court (as the case may be)"; and

(*c*) by the deletion in sub-section (5) of the words "or the Judge President (as the case may be)" and the words "or Judge President".

Amendment of section 370 of Act 31 of 1917, as substituted by section 8 of Act 37 of 1948.

16. Section *three hundred and seventy* of the principal Act is hereby amended—

(*a*) by the deletion of sub-section (3); and

(*b*) by the deletion in sub-section (6) of the words "or in the case where the Natal Provincial Division is the Court of appeal to the Judge President,".

Wysiging van artikel 1 van Wet 9 van 1921.

17. (1) Artikel *een* van die „Wet op het Naturellen Hogehof van Natal, 1921" (Wet No. 9 van 1921), word hiermee gewysig deur die woorde „vijf-en-zestig" deur die woord „zeventig" te vervang.

(2) Dit word geag dat sub-artikel (1) op die eerste dag van Januarie, 1954 in werking getree het.

Wysiging van artikel 2 van Wet 11 van 1927.

18. Artikel *twee* van die Wet op Verdere Wysiging van Regsbedeling, 1927 (Wet No. 11 van 1927), word hiermee gewysig deur paragraaf (*d*) te skrap.

Wysiging van artikel 7 van Wet 54 van 1949.

19. Artikel *sewe* van die Algemene Regswysigingswet, 1949 (Wet No. 54 van 1949), word hiermee gewysig deur in paragraaf (ii) van sub-artikel (1) al die woorde na „hooggeregshowe" te skrap.

Wysiging van artikel 23 van Wet 32 van 1952.

20. Artikel *drie-en-twintig* van die Algemene Regswysigingswet, 1952 (Wet No. 32 van 1952), word hiermee gewysig deur die woorde „asook die adjunkbalju van die Naturellehoëhof van Natal" en die woorde „naamlik ook die balju van genoemde Naturellehoëhof," te skrap.

Herroeping van Wette en voorbehoud van pensioenvoordele.

21. Die Wette in die Bylae hiervan vermeld word hiermee herroep in die mate in die vierde kolom van die Bylae vermeld: Met dien verstande dat sodanige herroeping nie die pensioen of ander voordeel raak waarop 'n persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet, 'n regter van die Naturellehoëhof was, kragtens een of ander toepaslike pensioenwet geregtig mag wees nie.

Voorbehoud van magte van die Hooggeregshof.

22. Die bepalings van hierdie Wet beperk op generlei wyse die magte wat deur enige ander wet aan die Hooggeregshof verleen word nie.

Diens van regter van die Naturellehoëhof wat as regter van die Hooggeregshof aangestel word, word vir verlof- of pensioendoeleindes geag diens by die Hooggeregshof te wees.

23. (1) Indien 'n persoon wat onmiddellik voor die inwerkingtreding van hierdie Wet, 'n regter van die Naturellehoëhof was, onmiddellik na sodanige inwerkingtreding as 'n regter van 'n afdeling van die Hooggeregshof van Suid-Afrika aangestel word, word die dienstydperk van so 'n persoon by die Naturellehoëhof, vir doeleindes van 'n pensioen ingevolge die „Rechters' Salarissen en Pensioen Wet, 1912", of vir die doeleindes van afwesigheid met verlof, geag diens as 'n regter van die Hooggeregshof te wees.

Reg van persoon aangestel as regter op pensioen of ander voordeel verval.

(2) Indien 'n persoon wat by sy uitdienstreding geregtig is om ingevolge artikel *vyf* van die Finansiële Reëlingswet, 1929 (Wet No. 27 van 1929), sodanige pensioen of ander uitdienstredingsvoordele te ontvang as wat hy kragtens 'n in daardie artikel bedoelde wetsbepaling op geregtig mag wees, as 'n regter van 'n afdeling van die Hooggeregshof van Suid-Afrika ooreenkomstig die bepalings van sub-artikel (1) aangestel word, verval sodanige reg op 'n pensioen of ander uitdienstredingsvoordele, asook enige reg wat 'n sodanige persoon mag hê om by uitdienstreding 'n verlofgratifikasie te ontvang; Met dien verstande dat die bedrae wat deur en ten opsigte van so 'n persoon in die Unie-staatsdienspensioenfonds gestig kragtens artikel *drie* van die Regeringsdiens Pensioenwet, 1936 (Wet No. 32 van 1936), gestort is, met rente teen die koers van vier persent per jaar op dubbel die bedrae ten opsigte van so 'n persoon gestort, bereken volgens die datums waarop daardie bedrae betaalbaar geword het, uit die fonds in die Gekonsolideerde Inkomstefonds gestort word: Met dien verstande verder dat so 'n persoon geregtig is op die afkoopwaarde van sy bydraes tot die Unie-weduweespensioenfonds gestig kragtens artikel *agt-en-sewentig* van die „Staatsdienst Wet, 1923" (Wet No. 27 van 1923).

Kort titel en datum van inwerkingtreding.

24. Hierdie Wet heet die Wet op die Afskaffing van die Naturellehoëhof, 1954, en tree in werking op 'n datum wat deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* bekendgemaak word, behalwe wat betref artikel *sewentien* wat op datum van afkondiging van hierdie Wet in werking tree.

Amendment of section 1 of Act 9 of 1921.

17. (1) Section *one* of the Natal Native High Court Act, 1921 (Act No. 9 of 1921), is hereby amended by the substitution for the word "sixty-five" of the word "seventy".

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1954.

Amendment of section 2 of Act 11 of 1927.

18. Section *two* of the Administration of Justice (Further Amendment) Act, 1927 (Act No. 11 of 1927), is hereby amended by the deletion of paragraph (*d*).

Amendment of section 7 of Act 54 of 1949.

19. Section *seven* of the General Law Amendment Act, 1949 (Act No. 54 of 1949), is hereby amended by the deletion in paragraph (ii) of sub-section (1) of all the words after "Courts".

Amendment of section 23 of Act 32 of 1952.

20. Section *twenty-three* of the General Law Amendment Act, 1952 (Act No. 32 of 1952), is hereby amended by the deletion of the words "or of the deputy bailiff of the Native High Court of Natal", the words "or acting deputy bailiff" and the words "or the bailiff of the said Native High Court, as the case may be,".

Repeal of laws, and saving of pension rights.

21. The Laws specified in the Schedule hereto are hereby repealed to the extent set out in the fourth column of that Schedule: Provided that such repeal shall not be construed as in any way affecting the right which any person who, immediately prior to the commencement of this Act was a judge of the Native High Court, may have to receive a pension or other benefit under any pensions law applicable.

Saving of powers of Supreme Court.

22. Nothing contained in this Act shall be construed in any way to limit the powers of the Supreme Court as conferred by any other law.

Service as judge of Native High Court of person appointed as judge of Supreme Court deemed to be service with Supreme Court for pension or leave purpose.

23. (1) If any person who immediately before the commencement of this Act was a judge of the Native High Court, is immediately after such commencement appointed a judge of any division of the Supreme Court of South Africa, the period of service of such person as a judge of the Native High Court shall for the purposes of a pension under the provision of the Judges' Salaries and Pensions Act, 1912, or for the purposes of absence on leave, be deemed to be service as a judge of the Supreme Court.

Pension or other benefit payable to person appointed as judge to lapse.

(2) If any person who, on his retirement, is entitled in terms of section *five* of the Financial Adjustments Act, 1929 (Act No. 27 of 1929), to receive such pension or other retiring benefits as he may be entitled to under any law referred to in that section, is appointed in accordance with the provisions of sub-section (1), as a judge of any division of the Supreme Court of South Africa, such right to a pension or other retiring benefit and any right to a leave gratuity to which any such person may, on retirement, be entitled, shall lapse: Provided that the amounts paid by and in respect of any such person to the Union Public Service Pension Fund established under section *three* of the Government Service Pensions Act, 1936 (Act No. 32 of 1936), shall be paid out of that Fund to the Consolidated Revenue Fund, together with interest at the rate of four per cent. per annum on twice the amounts paid in respect of that person, calculated according to the dates upon which those amounts became payable: Provided further that any such person shall be entitled to the surrender value of his contributions to the Union Widows' Pension Fund established under section *seventy-eight* of the Public Service Act, 1923 (Act No. 27 of 1923).

Short title and date of commencement.

24. This Act shall be called the Native High Court Abolition Act, 1954, and shall come into operation on a date to be notified by the Governor-General by proclamation in the *Gazette*, save as to section *seventeen* which shall come into operation on the date of promulgation of this Act.

Bylae.

(Artikel 21.)

Provinsie of Unie.	No. en jaar van Wet.	Titel of onderwerp van Wet.	In hoeverre herroep.
Natal.	Wet No. 49 van 1898.	„The Courts Act, 1898".	Die geheel.
Natal.	Wet No. 47 van 1901.	„An Act to amend the Courts Act, 1898".	Soveel as wat nog nie herroep is nie.
Natal.	Wet No. 30 van 1910.	„An Act to amend the Courts Act, 1898".	Die geheel.
Unie.	Wet No. 9 van 1921.	Wet op de „Naturellen Hogehof van Natal, 1921".	Soveel as wat nog nie herroep is nie.
Unie.	Wet No. 39 van 1926.	„Kriminele en Magistraatshoven Procedure (Wijzigings) Wet, 1926".	Artikel 44.
Unie.	Wet No. 27 van 1929.	Finansiële Reëlingswet, 1929.	Artikel 5.
Unie.	Wet No. 46 van 1935.	Algemene Regswysigingswet, 1935.	Artikel 77.
Unie.	Wet No. 57 van 1946.	Finansiewet, 1946.	Artikel 21.
Unie.	Wet No. 36 van 1948.	Wysigingswet op Regtersalarisse en -pensioene, 1948.	Artikel 4.
Unie.	Wet No. 54 van 1949.	Algemene Regswysigingswet, 1949.	Artikel 6 (*c*).
Unie.	Wet No. 46 van 1950.	Wysigingswet op die Natalse Naturellehoëhof, 1950.	Die geheel.
Unie.	Wet No. 50 van 1952.	Finansiewet, 1952.	Artikel 9.
Unie.	Wet No. 45 van 1953.	Finansiewet, 1953.	Artikel 13.

Schedule.

(Section 21.)

Province or Union.	No. and Year of Law.	Long or Short Title or Subject of Law.	Extent of Repeal.
Natal.	Law No. 49 of 1898.	The Courts Act, 1898.	The whole.
Natal.	Law No. 47 of 1901.	An Act to amend the Courts Act, 1898.	So much as is unrepealed.
Natal.	Law No. 30 of 1910.	An Act to amend the Courts Act, 1898.	The whole.
Union.	Act No. 9 of 1921.	Natal Native High Court Act, 1921.	So much as is unrepealed.
Union.	Act No. 39 of 1926.	The Criminal and Magistrates' Courts Procedure Amendment Act, 1926.	Section 44.
Union.	Act No. 27 of 1929.	Financial Adjustments Act, 1929.	Section 5.
Union.	Act No. 46 of 1935.	General Law Amendment Act, 1935.	Section 77.
Union.	Act No. 57 of 1946.	Finance Act, 1946.	Section 21.
Union.	Act No. 36 of 1948.	Judges' Salaries and Pensions Amendment Act, 1948.	Section 4.
Union.	Act No. 54 of 1949.	General Law Amendment Act, 1949.	Section 6 (*c*).
Union.	Act No. 46 of 1950.	Natal Native High Court Amendment Act, 1950.	The whole.
Union.	Act No. 50 of 1952.	Finance Act, 1952.	Section 9.
Union.	Act No. 45 of 1953.	Finance Act, 1953.	Section 13.

No. 14, 1954.]

WET

Tot wysiging van die Magistraatshowewet, 1944.

(*Afrikaanse teks deur die Goewerneur-generaal geteken.*)
(*Goedgekeur op* 31 *Maart* 1954.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, soos volg:—

Wysiging van artikel 65 van Wet 32 van 1944, soos gewysig deur artikel 15 van Wet 40 van 1952.

1. Artikel *vyf-en-sestig* van die Magistraatshowewet, 1944 (hierna die Hoofwet genoem) word hiermee gewysig—

(*a*) deur sub-artikel (5) met die volgende nuwe sub-artikel te vervang:

„(5) (*a*) Ingeval die vonnisskuldenaar versuim om by die ondersoek te verskyn op die in die kennisgewing vermelde datum, of op 'n later datum waarna die ondersoek deur die hof uitgestel is, kan die hof, op aansoek van die vonnisskuldeiser, magtiging verleen vir die uitreiking van 'n lasbrief vir sy arres: Met dien verstande dat die tenuitvoerlegging van so 'n lasbrief te eniger tyd opgeskort kan word op versoek van die vonnisskuldeiser of deur die hof op goeie gronde: Met dien verstande voorts dat indien die vonnisskuldenaar versuim om by die ondersoek te verskyn op enige datum waarna bedoelde ondersoek deur die hof uitgestel is, na so 'n lasbrief kragtens enige bepaling van hierdie sub-artikel opgeskort is, die genoemde lasbrief deur die vonnisskuldeiser sonder 'n verdere hofbevel weer uitgereik kan word.

(*b*) Die lasbrief vir die arres van die vonnisskuldenaar word deur die vonnisskuldeiser opgestel, en deur die vonnisskuldeiser of sy prokureur en die klerk van die hof geteken en deur die geregsbode uitgevoer.";

(*b*) deur in sub-artikel (6) na die woord „verskyn" die woorde „of wanneer die vonnisskuldenaar op 'n kragtens sub-artikel (5) uitgereikte lasbrief voor die hof gebring word" in te voeg; deur in genoemde sub-artikel na die woord „*camera*" die woorde „behoudens die bepalings van paragraaf (*b*)" in te voeg; en deur die volgende nuwe paragraaf aan die end van die voormelde sub-artikel by te voeg, waardeur die bestaande sub-artikel paragraaf (*a*) word:

„(*b*) Die hof kan die ondersoek te eniger tyd in die teenwoordigheid van die vonnisskuldenaar uitstel na sodanige later datum as wat die hof mag bepaal en in daardie geval indien die vonnisskuldenaar kragtens 'n ingevolge sub-artikel (5) uitgereikte lasbrief voor die hof gebring is, kan die hof terselfdertyd die lasbrief opskort op voorwaarde dat die vonnisskuldenaar by die ondersoek op die aldus bepaalde datum verskyn, of, indien die ondersoek vir nie meer dan vier dae uitgestel word nie, kan die hof op versoek van die vonnisskuldeiser en indien die hof oortuig word dat die omstandighede sodanige optrede regverdig, by wyse van 'n op die genoemde lasbrief geëndosseerde order die vonnisskuldenaar in die bewaring van die geregsbode stel ten einde op die bedoelde datum voor die hof gebring te word."; en

(*c*) deur sub-artikel (9) deur die volgende nuwe sub-artikel te vervang:

„(9) (*a*) Indien die vonnisskuldenaar versuim om te voldoen aan 'n order kragtens paragraaf (*d*)

No. 14, 1954.]

ACT

To amend the Magistrates' Courts Act, 1944.

(*Afrikaans text signed by the Governor-General.*)
(*Assented to* 31*st March*, 1954.)

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:—

1. Section *sixty-five* of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act), is hereby amended— Amendment of section 65 of Act 32 of 1944, as amended by section 15 of Act 40 of 1952.

(*a*) by the substitution for sub-section (5) of the following new sub-section:

"(5) (*a*) If the judgment debtor fails to appear at the enquiry on the date specified in the notice or on any later date to which the enquiry has been postponed by the court, the court may upon the application of the judgment creditor, authorise the issue of a warrant for his arrest: Provided that the execution of any such warrant may at any time be suspended at the request of the judgment creditor or by the court for good cause: Provided further that if the judgment debtor fails to appear at the enquiry on any date to which such enquiry has been postponed by the court after any such warrant has been suspended under any provision of this sub-section, the said warrant may be re-issued by the judgment creditor without a further order of court.

(*b*) The warrant for the judgment debtor's arrest shall be prepared by the judgment creditor and shall be signed by the judgment creditor or his attorney and the clerk of the court and shall be executed by the messenger of the court.";

by the insertion in sub-section (6) after the word "shall" where it occurs for the first time of the words "subject to the provisions of paragraph (*b*)"; by the insertion in the said sub-section after the word "enquiry" of the words "or when the judgment debtor is brought before the court on a warrant issued in terms of sub-section (5)", and by the addition at the end of the said sub-section of the following new paragraph, the existing sub-section becoming paragraph (*a*):

"(*b*) The court may at any time in the presence of the judgment debtor, postpone the enquiry to such date as the court may determine and in that event if the judgment debtor has been brought before the court on a warrant issued in terms of sub-section (5), the court may at the same time suspend the warrant on condition that the judgment debtor appears at the enquiry on the date so determined or, if the enquiry is postponed for not more than four days, the court may, on the application of the judgment creditor and if it is satisfied that the circumstances warrant such action, by order endorsed on the said warrant commit the judgment debtor to the custody of the messenger of the court for the purpose of being brought before the court on the said date."; and

(*c*) by the substitution for sub-section (9) of the following new sub-section:

"(9) (*a*) If the judgment debtor fails to comply with an order made in terms of paragraph (*d*) of sub-

van sub-artikel (7) uitgevaardig, kan die vonnisskuldeiser, uit die hof van die distrik wat die order uitgevaardig het of uit die hof van die distrik waar die vonnisskuldenaar op daardie tydstip woon, besigheid dryf of in diens is, 'n kennisgewing uitreik waarby die vonnisskuldenaar aangesê word om op 'n datum in die kennisgewing vermeld, voor die hof in kamerhof te verskyn om redes aan te voer waarom hy nie weens minagting van die hof ter gevangesetting verwys sal word nie.

(*b*) Sodanige kennisgewing word deur die vonnisskuldeiser opgestel en deur die vonnisskuldeiser of sy prokureur en die klerk van die hof onderteken en word minstens sewe dae voor die verhoordatum daarin vermeld op die in sub-artikel (3) bepaalde wyse bestel.

(*c*) Wanneer dit uit die relaas op sodanige kennisgewing blyk dat die bestelling elders bewerkstellig is dan binne die distrik van die hof waaruit die kennisgewing uitgereik is, word die verrigtinge, tensy die vonnisskuldenaar verskyn, gestaak totdat die hof oortuig is dat daar aan die vonnisskuldenaar 'n bedrag betaal of aangebied is wat aan hom betaalbaar sou gewees het indien hy as 'n getuie gedagvaar was.

(*d*) Indien die vonnisskuldenaar versuim om op so 'n kennisgewing te verskyn, of die hof nie oortuig nie dat hy weens omstandighede buite sy beheer nie in staat was om aan die order uitgevaardig kragtens paragraaf (*d*) van sub-artikel (7), te voldoen nie, kan die hof, op aansoek van die vonnisskuldeiser, 'n order uitvaardig vir sy gevangesetting vir 'n tydperk van hoogstens dertig dae en magtiging verleen vir die uitreiking van 'n lasbrief vir sy arres en aanhouding in 'n tronk in die lasbrief vermeld: Met dien verstande dat die hof te eniger tyd op sodanige voorwaardes as wat dit redelik en billik ag, die tenuitvoerlegging van sodanige order of lasbrief kan opskort of die order of lasbrief tot niet kan maak.

(*e*) So 'n lasbrief word deur die vonnisskuldeiser opgestel, word deur die vonnisskuldeiser of sy prokureur en die klerk van die hof geteken en word deur die geregsbode uitgevoer.

(*f*) Indien die tenuitvoerlegging van so 'n lasbrief opgeskort is en die vonnisskuldenaar gedurende die tydperk van opskorting al die in die order vermelde voorwaardes nagekom het, dan word die order vir die gevangesetting van die vonnisskuldenaar nie uitgevoer nie.

(*g*) Indien die uitvoering van so 'n lasbrief opgeskort is en die vonnisskuldenaar nagelaat het om die in die order vermelde voorwaardes na te kom, kan die hof, op aansoek van die vonnisskuldeiser na kennisgewing aan die vonnisskuldenaar, gelas dat die order vir gevangesetting ten uitvoer gebring word: Met dien verstande dat die hof, indien dit tot bevrediging van die hof deur die vonnisskuldenaar bewys word dat hy weens omstandighede buite sy beheer nie in staat was om enige voorwaarde van die opskorting na te kom nie, na goeddunke 'n order kan uitvaardig waardeur die tenuitvoerlegging van die lasbrief verder opgeskort word op sodanige voorwaardes as wat die hof redelik en billik ag.

(*h*) Die bepalings van paragrawe (*a*), (*b*) en (*c*) is *mutatis mutandis* op die in paragraaf (*g*) bedoelde kennisgewing van toepassing."; en

(*d*) deur aan die end van genoemde artikel die volgende nuwe artikel by te voeg:

„(11) In enige verrigtinge ingevolge hierdie artikel vir die gevangesetting van 'n vonnisskuldenaar vir minagting van die hof of vir die tot niet doen of opskorting van 'n order of lasbrief of vir die tenuitvoerlegging van 'n order of lasbrief weens die nie-nakoming deur die vonnisskuldenaar van 'n voorwaarde in die opskortingsorder vermeld, kan die hof sodanige order betreffende koste as wat regverdig mag wees, uitvaardig.".

section (7), the judgment creditor may issue out of either the court which made the said order or the court of the district in which the judgment debtor is for the time being residing, carrying on business or employed, a notice calling upon the judgment debtor to appear before the court in chambers on a date specified therein to show cause why he should not be committed for contempt of court.

(*b*) Such notice shall be prepared by the judgment creditor, shall be signed by the judgment creditor or his attorney and the clerk of the court and shall be served in the manner set out in sub-section (3) at least seven days before the date of hearing specified therein.

(*c*) Where it appears from the return of such notice that service was effected elsewhere than within the district of the court from which such notice was issued, then unless the judgment debtor appears, the proceedings shall be stayed until the court is satisfied that the judgment debtor has been paid or tendered the sum which would have been payable to him if he had been subpoenaed as a witness.

(*d*) If the judgment debtor fails to appear on the said notice or to satisfy the court that he has been unable through circumstances beyond his control to comply with the order made in terms of paragraph (*d*) of sub-section (7), the court may, upon the application of the judgment creditor, make an order for the committal of the judgment debtor for a period not exceeding thirty days and may authorise the issue of a warrant for his arrest and detention in any gaol named in such warrant: Provided that the court may at any time suspend the execution of or altogether discharge any such order or warrant upon such conditions as may appear to the court to be fair and reasonable.

(*e*) Such warrant shall be prepared by the judgment creditor, shall be signed by the judgment creditor or his attorney and the clerk of the court and shall be executed by the messenger of the court.

(*f*) If the execution of any such warrant has been suspended and the judgment debtor has during the period of suspension, observed all the conditions specified in the order, the order for the committal of the judgment debtor shall not be enforced.

(*g*) If the execution of any such warrant has been suspended and the judgment debtor has failed to fulfil the conditions specified in the order, the court may, on the application of the judgment creditor after notice to the judgment debtor, direct that the order of committal be carried into effect: Provided that the court may in its discretion, if it be proved to its satisfaction by the judgment debtor that he has been unable through circumstances beyond his control to perform any condition of such suspension, grant an order further suspending the execution of the warrant on such conditions as may appear to the court to be fair and reasonable.

(*h*) The provisions of paragraphs (*a*), (*b*) and (*c*) shall apply *mutatis mutandis* to the notice referred to in paragraph (*g*)."; and

(*d*) by the addition at the end of the said section of the following new sub-section:

"(11) In any proceedings under this section for the committal of a judgment debtor for contempt of court or for the discharge or suspension of any order or warrant or for the putting into operation of an order or warrant by reason of the judgment debtor's failure to comply with any condition specified in the order of suspension, the court may make such order as to costs as may be just.".

Wysiging van artikel 74 van Wet 32 van 1944, soos gewysig deur artikel 19 van Wet 40 van 1952.

2. Artikel *vier-en-sewentig* van die Hoofwet word hiermee gewysig—

(*a*) deur in sub-artikel (1) die woorde na die woorde „of andersins" waar hulle vir die tweede keer voorkom, deur die woorde „Die hof is bevoeg om so 'n bevel te verleen al is enige van of al die skuldeisers buite die jurisdiksie van die hof of al gaan die skulde van die skuldenaar die bedrag van tweehonderd pond te bowe, mits die skulde van die skuldenaar nie die bedrag van eenduisend pond te bowe gaan nie." te vervang;

(*b*) deur in sub-artikel (4) die woorde „in kamers" te skrap;

(*c*) deur in paragraaf (*b*) van sub-artikel (8) die uitdrukking „sub-artikel (9)" deur die uitdrukking „sub-artikels (9) en (11)" te vervang;

(*d*) deur in sub-artikel (13) die woorde „onder 'n kontrak" te skrap; en

(*e*) deur sub-artikel (15) deur die volgende nuwe sub-artikel te vervang:

„(15) Te eniger tyd na 'n order kragtens sub-artikel (1) verleen is, kan die hof, op aansoek van die skuldenaar of enige belanghebbende party, die verrigtinge heropen en die skuldenaar aansê om te verskyn vir sodanige verdere ondervraging as wat die hof nodig ag en die hof kan daarna, vir gegronde redes, die bevel opskort, wysig of ter syde stel.".

Invoeging van artikel 93*ter* in Wet 32 van 1944.

3. Die volgende nuwe artikel word hiermee na artikel *drie-en-negentig bis* van die Hoofwet ingevoeg:

„Magistraat kan deur assessore bygestaan word.

93*ter*. (1) Ingeval van 'n summiere verhoor of van die verhoor van 'n deur die prokureur-generaal terugverwese saak kan die presiderende regterlike amptenaar, voor daar enige getuienis voorgelê is, met goedkeuring van die Minister, een of twee persone, wat na sy mening in die regspleging ervare is of bedrewe is in een of ander onderwerp wat by die verhoor ter oorweging geopper mag word, aansê om hom by te staan, en om met hom as assessor of assessore by die verhoor sitting te neem.

(2) Indien in 'n deur die prokureur-generaal terugverwese saak die presiderende regterlike amptenaar enige assessor of assessore aansê om hom by te staan, dan moet die verhoor, nieteenstaande andersluidende bepalings in sub-artikel (2) van artikel *tweehonderd agt-en-twintig* van die ‚Wet op de Kriminele Procedure en Bewijslevering, 1917' (Wet No. 31 van 1917), vervat, van nuuts af voor daardie regterlike amptenaar en assessor of assessore begin.

(3) Die gemelde regterlike amptenaar moet, voor die verhoor, van die persoon of persone wat hy aldus aangesê het om hom by te staan 'n eed afneem dat hy of hulle 'n ware uitspraak sal gee, ooreenkomstig die getuienis op die geskilpunte wat verhoor word, en daarna is hy of hulle 'n lid of lede van die hof behoudens die volgende bepalings:

(*a*) 'n regspunt wat vir beslissing by so 'n verhoor opkom, en enige vraag wat daar opkom of die vraag vir beslissing 'n feitepunt of 'n regspunt is, word deur die presiderende regterlike amptenaar beslis en 'n assessor het geen seggenskap by so 'n beslissing nie;

(*b*) die presiderende regterlike amptenaar kan die argument oor so 'n punt of vraag as wat in paragraaf (*a*) vermeld word verdaag, en kan alleen sit vir die verhoor van so 'n argument en die beslissing omtrent so 'n punt of vraag;

(*c*) wanneer die gemelde regterlike amptenaar 'n beslissing ingevolge paragraaf (*a*) gee, moet hy sy redes vir so 'n beslissing aanvoer;

(*d*) op alle feitepunte is die beslissing of bevinding van die meerderheid van die lede van die hof die beslissing of bevinding van die hof, behalwe wanneer slegs een assessor met die presiderende regterlike amptenaar sit, in welke geval die beslissing of bevinding van so 'n regterlike amptenaar die beslissing of bevinding van die hof is, ingeval daar 'n verskil van mening bestaan;

(*e*) die hof is verplig om redes aan te voer vir sy beslissing of bevinding op enige saak ingevolge paragraaf (*d*);

Amendment of section 74 of Act 32 of 1944, as amended by section 19 of Act 40 of 1952.

2. Section *seventy-four* of the principal Act is hereby amended—

(*a*) by the substitution in sub-section (1) for the words after the words "or otherwise" where they occur for the second time, of the words "The court shall have jurisdiction to make such an order notwithstanding that any or all of the creditors are outside the jurisdiction of the court or that the debts of the debtor exceed the sum of two hundred pounds, provided the debts of the debtor do not exceed the sum of one thousand pounds.";

(*b*) by the deletion in sub-section (4) of the words "in chambers";

(*c*) by the substitution in paragraph (*b*) of sub-section (8) for the expression "sub-section (9)" of the expression "sub-sections (9) and (11)";

(*d*) by the deletion in sub-section (13) of the words "under a contract"; and

(*e*) by the substitution for sub-section (15) of the following new sub-section:

"(15) The court may, at any time after an order under sub-section (1) has been made, on the application of the debtor or any interested party, reopen the proceedings and call upon the debtor to appear for such further examination as the court may deem necessary and it may thereafter for good cause suspend, vary or rescind such order.".

Insertion of section 93*ter* in Act 32 of 1944.

3. The following new section is hereby inserted after section *ninety-three bis* of the principal Act:

"Magistrate may be assisted by assessors.

93*ter*. (1) In the case of any summary trial or any trial on remittal by the Attorney-General the presiding judicial officer may, before any evidence has been led, with the approval of the Minister summon to his assistance any person who has or any two persons who have, in his opinion, experience in the administration of justice or skill in any matter which may have to be considered at the trial, to sit with him at the trial as assessor or assessors.

(2) If in a case remitted by the Attorney-General the presiding judicial officer summons to his assistance any assessor or assessors to sit with him, then the trial shall, notwithstanding anything to the contrary contained in sub-section (2) of section *two hundred and twenty-eight* of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), be commenced *de novo* before such judicial officer and assessor or assessors.

(3) Before the trial the said judicial officer shall administer an oath to the person or persons whom he has so called to his assistance that he or they will give a true verdict, according to the evidence upon the issues to be tried, and thereupon he or they shall be a member or members of the court subject to the following provisions:

(*a*) any matter of law arising for decision at such trial, and 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 presiding judicial officer and no assessor shall have a voice in any such decision;

(*b*) the presiding judicial officer may adjourn the argument upon any such matter or question as is mentioned in paragraph (*a*) and may sit alone for the hearing of such argument and the decision of such matter or question;

(*c*) whenever the said judicial officer shall give a decision in terms of paragraph (*a*) he shall give his reasons for that decision;

(*d*) upon all matters of fact the decision or finding of the majority of the members of the court shall be the decision or finding of the court, except when only one assessor sits with the presiding judicial officer in which case the decision or finding of such judicial officer shall be the decision or finding of the court if there is a difference of opinion;

(*e*) it shall be incumbent on the court to give reasons for its decision or finding on any matter made under paragraph (*d*);

(*f*) ingeval van skuldigbevinding word die kwessie van die straf wat opgelê moet word geag, vir die doeleindes van paragraaf (*a*), 'n regspunt te wees.

(4) Indien so 'n assessor nie 'n persoon in voltydse diens van die Staat is nie, is hy geregtig op vergoeding van alle redelike uitgawes wat hy noodsaaklik aangegaan het in verband met sy bywoning van die verhoor en op sodanige besoldiging vir sy dienste as assessor as wat in die reëls voorgeskryf word: Met dien verstande dat totdat sodanige besoldiging aldus voorgeskryf is, elke sodanige assessor geregtig is op die gelde wat in die reëls ten opsigte van assessore wat in 'n siviele saak optree, voorgeskryf word.".

Kort titel.

4. Hierdie Wet heet die Wysigingswet op Magistraatshowe, 1954.

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(*f*) in the event of a conviction the question of the punishment to be inflicted shall be deemed, for the purposes of paragraph (*a*), to be a question of law.

(4) If any such assessor is not a person employed in a full-time capacity in the service of the State he shall be entitled to a refund of any reasonable expenditure which he may have necessarily incurred in connection with his attendance at the trial and to such remuneration for his services as assessor as is prescribed in the rules: Provided that until such remuneration has been so prescribed every such assessor shall be entitled to the fees prescribed in the rules in respect of assessors acting in civil cases.".

4. This Act shall be called the Magistrates' Courts Amendment Act, 1954. **Short title.**

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