

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**JURISDICTION OF REGIONAL
COURTS AMENDMENT BILL**

[B 48—2007]

*(As agreed to by the Portfolio Committee on Justice and Constitutional
Development (National Assembly))*

[B 48A—2007]

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AMENDMENTS AGREED TO

JURISDICTION OF REGIONAL COURTS AMENDMENT BILL

[B 48—2007]

NEW CLAUSE

1. That the following be a New Clause:

Amendment of section 1 of Act 32 of 1944, as amended by section 1 of Act 53 of 1970, section 1 of Act 4 of 1991 and section 1 of Act 66 of 1998

1. Section 1 of the Magistrates' Courts Act, 1944, is hereby amended by the substitution for the definition of "court" of the following definition:

“ ‘court’ means a magistrate’s court for any district or for any regional division;”.

CLAUSE 1

1. On page 2, in line 6, to omit “Magistrates” and to substitute “Magistrates’ ”.
2. On page 3, from line 34, to omit paragraph (i) and to substitute:

(i) appoint one or more places in each regional division for the holding of a court for **[such regional division]** the adjudication of offences contemplated in section 89(2);

(iA) appoint one or more places within each regional division for the holding of a court for the adjudication of civil disputes contemplated in—

 - (i) section 29(1); or
 - (ii) section 29(1B); or
 - (iii) section 29(1) and (1B),

and prescribe the local limits within which such courts shall have jurisdiction, and may include within those limits any portion of an adjoining regional division;

CLAUSE 3

1. On page 4, from line 17, to omit subsections (6) and (7) and to substitute:

“(6) Only a magistrate of a regional division whose name appears on the list referred to in subsection (7), may adjudicate on civil disputes as contemplated in section 29(1) and 29(1B).

(7) The Magistrates Commission must enter the names of magistrates of regional divisions on a list of magistrates for the adjudication of civil disputes contemplated in section 29(1) and 29(1B).

(8) The Magistrates Commission may only enter the name of a magistrate on the list in terms of subsection (7) if—

(a) the head of the South African Judicial Education Institute has issued a duly signed certificate that the magistrate has successfully completed an appropriate training course in the adjudication of civil disputes; or

(b) the Magistrates Commission is satisfied that, before the establishment of the Institute referred to in paragraph (a), the magistrate has successfully completed an appropriate training course in the adjudication of civil disputes; or

(c) the Magistrates Commission is satisfied that the magistrate, on account of previous experience—

(i) as a magistrate presiding over the adjudication of civil disputes; or

(ii) as a legal practitioner with at least five years’ experience in the administration of justice,

has suitable knowledge of, and expertise in, civil litigation matters to preside over the adjudication of civil disputes contemplated in section 29(1) and 29(1B).”.

NEW CLAUSE

1. That the following be a New Clause:

Insertion of section 13A in Act 32 of 1944

5. The following section is hereby inserted into the Magistrates’ Act, 1944:

“Registrar of regional division

13A. (1) The Director General of the Department of Justice and Constitutional Development must appoint for each regional division a registrar and so many assistant registrars as may be necessary.

(2) Any clerk of the court and any assistant clerk of the court may also be appointed as the registrar or an assistant registrar of a regional division.

(3) A refusal by a registrar or assistant registrar to do any act which he or she is by any law empowered to do shall be subject to review by the court of the regional division in question on application either *ex parte* or on notice, as the circumstances may require.

(4) Any reference in any law to a “clerk of the court” is, in so far as that law relates to a court of a regional division, deemed to be a reference to the registrar or assistant registrar of that regional division.”.

CLAUSE 4

1. On page 4, in line 26, to omit “Magistrates” and to substitute “Magistrates’ ”.
2. On page 4, in lines 29 and 30, to omit “for a district or a court for a regional division”.
3. On page 4, in line 31, to omit “in question”.
4. On page 5, in line 1, to omit “or” and to substitute “for”.

CLAUSE 5

1. On page 5, in lines 17 and 18, to omit “for any district or a court for any regional division”.
2. On page 5, in line 23, after “district” to insert “or regional division”.
3. On page 5, in line 49, after “marriage” to insert “or a civil union”.
4. On page 6, after line 5, to insert:

(1C) Jurisdiction conferred on a court for a regional division in terms of this section shall be subject to a notice having been issued under section 2(1)(iA) in respect of the place for the holding, and the extent of the civil adjudication, of such court.

CLAUSE 7

1. On page 6, in line 37, after “(Act No. 32 of 1944)” to insert “and”.
2. On page 6, after line 37, to insert:
 - (c) the place or places of sitting of such court must be deemed to have been designated in terms of a notice contemplated in section 2(1)(iA)(ii).
3. On page 6, after line 41, to insert the following:

(5) Any reference in any law to a Divorce Court established in terms of section 10 of the Administration Amendment Act, 1929 (Act No. 9 of 1929), is deemed to be a reference to a court of a regional division.

(6) (a) The Rules Board for Courts of Law established by section 2 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), must, within six months after the commencement of this Act, review and amend the existing rules of the magistrates’ courts and the rules referred to in subsection (4), in order to ensure that courts of regional divisions can exercise the jurisdiction conferred on them under the Magistrates’ Courts Act, 1944, as amended by this Act, effectively and efficiently.

(b) Any rules made or amended as a result of the amendments to the Magistrates’ Courts Act, 1944, by this Act, must be aimed at enhancing access to the courts by, amongst others and as far as is reasonably possible—

- (i) providing for simplified and expeditious procedures;
 - (ii) providing for clerks or registrars to assist litigants;
 - (iii) limiting the costs associated with the litigation processes;
- and

- (iv) retaining or improving the measures introduced by the rules referred to in subsection (4) in order to facilitate and promote access to the courts referred to in subsection (1).
- (c) The rules referred to in paragraph (a) must be submitted to Parliament.

CLAUSE 9

1. On page 6, in line 56, to omit “section 1” and to substitute “section 2”.

SCHEDULE

1. On page 8, after line 38, to insert the following:

Act No. 99 of 1998	Maintenance Act	<p>1. The substitution for section 3 of the following section:</p> <p>“Maintenance courts</p> <p>3. Every magistrate’s court <u>for a district, established in terms of section 2(1)(e) of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), [shall] is</u> within its area of jurisdiction [be] a maintenance court for the purposes of this Act.”.</p>
Act No. 116 of 1998	Domestic Violence Act	<p>1. The amendment of section 1 by the substitution for the definition of “court” of the following definition:</p> <p>“ ‘court’ means any <u>magistrate’s court for a district contemplated in the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944) [or any family court established in terms of an Act of Parliament] .’</u>”.</p>