

## ADJUSTMENT OF FINES ACT 101 OF 1991

[ASSENTED TO 27 JUNE 1991]

[DATE OF COMMENCEMENT: 3 JULY 1991]

*(English text signed by the State President)*

### ACT

**To provide that the maximum fine as an alternative to which a period of imprisonment may be imposed in respect of offences in terms of certain laws, shall be in the same ratio with regard to the period of imprisonment as the ratio of the fine as against imprisonment where the court is not a court of a regional division, as contemplated in section 92 (1) of the Magistrates' Courts Act, 1944; and to provide for matters connected therewith.**

#### 1 Calculation of maximum fine

(1) (a) If any law provides that any person on conviction of an offence may be sentenced to pay a fine the maximum amount of which is not prescribed or, in the alternative, to undergo a prescribed maximum period of imprisonment, and there is no indication to the contrary, the amount of the maximum fine which may be imposed shall, subject to section 4, be an amount which in relation to the said period of imprisonment is in the same ratio as the ratio between the amount of the fine which the Minister of Justice may from time to time determine in terms of section 92 (1) (b) of the Magistrates' Courts Act, 1944 (Act 32 of 1944 ), and the period of imprisonment as determined in section 92 (1) (a) of the said Act, where the court is not a court of a regional division.

(b) For the purposes of paragraph (a) a fine as well as imprisonment may be imposed.

(2) If any law (irrespective of whether such law came into operation prior to or after the commencement of this Act) provides that any person may upon conviction of an offence be sentenced to pay a fine of a prescribed maximum amount or a maximum amount which may be determined by a Minister or, in the alternative, to undergo a prescribed maximum period of imprisonment, or be sentenced to such a fine and such imprisonment, the amount of the maximum fine which may be imposed shall, notwithstanding the said penalty clause, but subject to section 4, be an amount calculated in accordance with the ratio referred to in subsection (1) (a): Provided that this provision shall not apply if the maximum amount of the fine prescribed in the law or determined by the Minister exceeds the maximum amount calculated in accordance with the ratio referred to in subsection (1) (a).

#### 2 Calculation of fine in case of fraction of year

Subject to the provisions of section 281 of the Criminal Procedure Act, 1977 (Act 51 of 1977 ), in the application of this Act-

- (a) a reference in any law to a period of imprisonment of less than 31 days shall be construed as a reference to a period of imprisonment of one month;
- (b) the maximum amount of a fine which may be imposed as an alternative to a maximum period of imprisonment amounting to a fraction of a year, and which does not amount to a multiple of R50, shall be rounded off to an amount equal to the nearest higher multiple of R50.

#### 3 Act applies to penalties contained in empowering provision

This Act shall *mutatis mutandis* apply to a provision in any law authorizing the promulgation of another law, which provision confers the power to prescribe a penalty

contemplated in section 1 in respect of any contravention of the law so authorized.

#### **4 Savings**

This Act shall not apply in respect of a provision providing-

- (a) for the imposition of a fine in the case of an offence or omission which continues; or
- (b) that the court may impose such fine as it may in its discretion deem fit.

#### **5 Short title**

This Act shall be called the Adjustment of Fines Act, 1991.