INTERIM RATIONALISATION OF JURISDICTION OF HIGH COURTS ACT 41 OF 2001

[ASSENTED TO 29 NOVEMBER 2001] [DATE OF COMMENCEMENT: 5 DECEMBER 2001]

(English text signed by the President)

ACT

To make provision for the interim rationalisation of the areas of jurisdiction of the High Courts; and to provide for matters connected therewith.

Preamble

WHEREAS item 16 (6) *(a)* of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), provides that as soon as practical after the new Constitution took effect all courts, including their structure, composition, functioning and jurisdiction, and all relevant legislation, must be rationalised with a view to establishing a judicial system suited to the requirements of the new Constitution;

AND WHEREAS item 16 (6) *(b)* of Schedule 6 to the Constitution provides that the Cabinet member responsible for the administration of justice, acting after consultation with the Judicial Service Commission, must manage the said rationalisation;

AND WHEREAS item 16 (4) *(a)* of Schedule 6 to the Constitution provides that a provincial or local division of the Supreme Court of South Africa or a supreme court of a homeland or a general division of such a court, becomes a High Court under the new Constitution without any alteration in its area of jurisdiction, subject to any rationalisation contemplated in item 16 (6) of Schedule 6 to the Constitution;

AND WHEREAS the rationalisation process envisaged in item 16 (6) of Schedule 6 to the Constitution is a comprehensive process which will require a considerable period to bring to its conclusion;

AND WHEREAS the interim rationalisation of the areas of jurisdiction of certain High Courts as a matter of urgency will promote the efficiency of, and equity relating to, the administration of justice throughout the whole of the Republic;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

1 Definitions

In this Act, unless the context indicates otherwise-

'Constitution' means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

'district' means any district referred to in section 2 (1) *(a)* of the Magistrates' Courts Act, 1944 (Act 32 of 1944);

'High Court' means any High Court contemplated in section 166 *(c)* of the Constitution;

'Judicial Service Commission' means the Judicial Service Commission contemplated in section 178 (1) of the Constitution;

'Minister' means the Cabinet member responsible for the administration of justice.

2 Minister may alter area of jurisdiction of any High Court

(1) Notwithstanding the provisions of any other law, the Minister may, after consultation with the Judicial Service Commission, by notice in the *Gazette* -

(a) alter the area of jurisdiction for which a High Court has been established by including therein or excising therefrom any district or part thereof;

(b) amend or withdraw any notice issued in terms of this section.

(2) Any notice referred to in subsection (1) must be approved by Parliament before publication thereof in the *Gazette* .

(3) The publication of a notice referred to in subsection (1) does not affect any proceedings which have been instituted but not yet completed at the time of such publication.

3 Transfer of proceedings from one High Court to another

(1) If any civil proceedings have been instituted in any High Court, and it appears to the Court concerned that such proceedings-

(a) should have been instituted in another High Court; or

(b) would be more conveniently or more appropriately heard or determined in another High Court,

the Court may, upon application by any part thereto and after hearing all other parties thereto, order such proceedings to be removed to that other High Court.

(2) An order for removal under subsection (1) must be transmitted to the registrar of the High Court to which the removal is ordered, and upon receipt of such order that Court may hear and determine the proceedings in question.

4 Repeal of laws and saving

(1) Subsections (1) and (4) of section 6 of, and the First Schedule to, the Supreme Court Act, 1959, are hereby repealed.

(2) Notwithstanding the repeal of the laws referred to in subsection (1), the seats and the areas of jurisdiction of the High Courts referred to in the said First Schedule shall, subject to any alteration under section 2, remain as they were immediately before the commencement of this Act.

5 Short title

This Act is called the Interim Rationalisation of Jurisdiction of High Courts Act, 2001.

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