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**REPUBLIC OF SOUTH AFRICA**

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**MAGISTRATES' COURTS  
AMENDMENT ACT**

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**REPUBLIEK VAN SUID-AFRIKA**

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**WYSIGINGSWET OP  
LANDDROSHOWE**

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**No 19, 2010**

**GENERAL EXPLANATORY NOTE:**

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

                         Words underlined with a solid line indicate insertions in existing enactments.

# ACT

To amend the Magistrates' Courts Act, 1944, so as to regulate anew the qualifications required for the appointment of a person as a magistrate, additional magistrate and magistrate of a regional division; to further regulate the inclusion of magistrates of regional divisions on the list of magistrates who may adjudicate on civil disputes; to authorise the Minister to determine the conditions relating to the authorisation of a person to serve process of court or other documents on behalf of a public body; and to provide for matters connected therewith.

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

**Amendment of section 9 of Act 32 of 1944, as substituted by section 2 of Act 8 of 1967 and amended by section 4 of Act 53 of 1970, section 8 of Act 102 of 1972, section 11 of Act 29 of 1974, section 24 of Act 94 of 1974, section 1 of Act 28 of 1981, section 2 of Act 34 of 1986, section 17 of Act 90 of 1993, section 3 of Act 104 of 1996, section 3 of Act 66 of 1998, section 1 of Act 62 of 2000, section 1 of Act 28 of 2003 and section 1 of Act 22 of 2005** 5

**1.** Section 9 of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act), is hereby amended— 10

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

“(a) Subject to the Magistrates Act, 1993, and **[the provisions of paragraph (b) of this subsection and of]** section 10 of this Act, the Minister may appoint for any district or sub-district a magistrate, one or more additional magistrates or one or more assistant magistrates and for every regional division a magistrate or magistrates.”; and 15

(b) by the deletion of paragraph (b) of subsection (1).

**Substitution of section 10 of Act 32 of 1944, as substituted by section 4 of Act 66 of 1998** 20

**2.** The following section is hereby substituted for section 10 of the principal Act:

**“Qualifications for appointment of judicial officers**

**10.** Subject to the provisions of the Magistrates Act, 1993 (Act No. 90 of 1993), any appropriately qualified woman or man who is a fit and proper person may be appointed as a magistrate, an additional magistrate or a magistrate of a regional division.” 25

**ALGEMENE VERDUIDELIKENDE NOTA:**

[ ]      Woorde in vet druk tussen vierkantige hake dui skrappings uit  
bestaande verordenings aan.

\_\_\_\_\_      Woorde met 'n volstreep daaronder dui invoegings in bestaande  
verordenings aan.

**WET**

Tot wysiging van die Wet op Landdroshowe, 1944, ten einde opnuut voorsiening te maak vir die kwalifikasies wat vereis word vir die aanstelling van 'n persoon as 'n landdros, addisionele landdros en landdros van 'n streekafdeling; die insluiting van landdroste van streekafdelings op die lys van landdroste wat siviele gedinge mag bereg, verder te reël; die Minister te magtig om die voorwaardes te bepaal ten opsigte van die magtiging van 'n persoon om prosesstukke of ander dokumente namens 'n openbare liggaam te beteken; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

**D**IE Parlement van die Republiek van Suid-Afrika verorden, soos volg:—

Wysiging van artikel 9 van Wet 32 van 1944, soos vervang deur artikel 2 van Wet 8 van 1967 en gewysig deur artikel 4 van Wet 53 van 1970, artikel 8 van Wet 102 van 1972, artikel 11 van Wet 29 van 1974, artikel 24 van Wet 94 van 1974, artikel 1 van Wet 28 van 1981, artikel 2 van Wet 34 van 1986, artikel 17 van Wet 90 van 1993, artikel 3 van Wet 104 van 1996, artikel 3 van Wet 66 van 1998, artikel 1 van Wet 62 van 2000, artikel 1 van Wet 28 van 2003 en artikel 1 van Wet 22 van 2005 5

1. Artikel 9 van die Wet op Landdroshowe, 1944 (hierna die Hoofwet genoem), word hierby gewysig— 10

- (a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: 10  
 “(a) Behoudens die Wet op Landdroste, 1993, en [**die bepalings van paragraaf (b) van hierdie subartikel en van**] artikel 10 van hierdie Wet, kan die Minister vir enige distrik of subdistrik 'n magistraat, een of meer addisionele magistratre of een of meer assistent-magistratre, en vir elke streekafdeling 'n magistraat of magistratre aanstel.”; en 15  
 (b) deur in subartikel (1) paragraaf (b) te skrap.

Vervanging van artikel 10 van Wet 32 van 1944, soos vervang deur artikel 4 van Wet 66 van 1998

2. Artikel 10 van die Hoofwet word hierby deur die volgende artikel vervang: 20

**“Kwalifikasies vir aanstelling van regterlike amptenare**

**10.** Behoudens die bepalings van die Wet op Landdroste, 1993 (Wet No. 90 van 1993), kan enige toepaslik gekwalifiseerde vrou of man wat 'n geskikte en gepaste persoon is as 'n magistraat, 'n addisionele magistraat of 'n magistraat van 'n streekafdeling aangestel word.”. 25

**Amendment of section 12 of Act 32 of 1944, as amended by section 9 of Act 40 of 1952, section 25 of Act 94 of 1974, section 5 of Act 66 of 1998 and section 4 of Act 31 of 2008**

3. Section 12 of the principal Act is hereby amended by the substitution for subsections (6), (7) and (8) of the following subsections, respectively: 5

“(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]** or 29(1B), in accordance with the criteria set out in subsection (8). 10

(7) The Magistrates Commission must enter the names of magistrates of regional divisions on a list of magistrates **[for the adjudication of]** who may adjudicate on civil disputes contemplated in— 10

(a) section 29(1) **[and]** or 29(1B); or

(b) both sections 29(1) and 29(1B). 15

(8) The Magistrates Commission may only enter the name of a magistrate on the list in terms of subsection (7) if one or more places have been appointed in terms of section 2(1)(iA) within the regional division in respect of which the magistrate in question had been appointed for the adjudication of civil disputes, and— 15

(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 20

(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 25

(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],** 30

has suitable knowledge of, and expertise in, civil litigation matters to preside over the adjudication of civil disputes contemplated in section 29 (1) **[and]** or 29(1B) or both sections 29(1) and 29(1B).” 25

**Amendment of section 15 of Act 32 of 1944, as amended by section 11 of Act 40 of 1952, section 2 of Act 19 of 1963, section 29 of Act 70 of 1968, section 26 of Act 94 of 1974, section 1 of Act 59 of 1982, section 64 of Act 90 of 1986 and section 4 of Act 18 of 1996** 35

4. Section 15 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection: 40

“(2A) The Minister may, by notice in the *Gazette*, determine the conditions of authorisation of a person referred to in subsection (2)(a) or any other matter relating to that authorisation.” 40

**Short title**

5. This Act is called the Magistrates’ Courts Amendment Act, 2010. 45

**Wysiging van artikel 12 van Wet 32 van 1944, soos gewysig deur artikel 9 van Wet 40 van 1952, artikel 25 van Wet 94 van 1974, artikel 5 van Wet 66 van 1988 en artikel 4 van Wet 31 van 2008**

3. Artikel 12 van die Hoofwet word hierby gewysig deur subartikels (6), (7) en (8) onderskeidelik deur die volgende subartikels te vervang: 5

“(6) Slegs ’n magistraat van ’n streekafdeling wie se naam op die lys bedoel in subartikel (7) verskyn, kan siviele gedinge beoog in artikel 29(1) [en] of 29(1B), ooreenkomstig die kriteria in subartikel (8) vermeld, bereg.

(7) Die Landdrostekommissie moet die name van magistratre van streekafdelings plaas op ’n lys van magistratre [**vir die beregting van**] wat siviele gedinge beoog in— 10

(a) artikel 29(1) [en] of 29(1B); of

(b) beide artikels 29(1) en 29(1B),

mag bereg.

(8) Die Landdrostekommissie mag slegs die naam van ’n magistraat ingevolge subartikel (7) op die lys plaas indien een of meer plekke ingevolge artikel 2(1)(iA) bepaal is vir die beregting van siviele gedinge in die streekafdeling ten opsigte waarvan die betrokke magistraat aangestel is, en— 15

(a) die hoof van die Suid-Afrikaanse Regterlike Opleidingsinstituut ’n behoorlik ondertekende sertifikaat uitgereik het dat die magistraat ’n toepaslike opleidingskursus in die beregting van siviele gedinge suksesvol voltooi het; of 20

(b) die Landdrostekommissie tevrede is dat, voor die stigting van die Instituut bedoel in paragraaf (a), die magistraat ’n toepaslike opleidingskursus in die beregting van siviele gedinge suksesvol voltooi het; of

(c) die Landdrostekommissie tevrede is dat die magistraat, op grond van vorige ondervinding[— 25

(i) as ’n magistraat wat voorgesit het by die beregting van siviele gedinge; of

(ii) as ’n regspraktisyn met ten minste vyf jaar ondervinding van die regspleging], 30

geskikte kennis van, en kundigheid oor, siviele gedingvoering-aangeleenthede het om voor te sit by die beregting van siviele gedinge beoog in artikel 29(1) [en] of 29(1B) of beide artikels 29(1) en 29(1B).”.

**Wysiging van artikel 15 van Wet 32 van 1944, soos gewysig deur artikel 11 van Wet 40 van 1952, artikel 2 van Wet 19 van 1963, artikel 29 van Wet 70 van 1968, artikel 26 van Wet 94 van 1974, artikel 1 van Wet 59 van 1982, artikel 64 van Wet 90 van 1986 en artikel 4 van Wet 18 van 1996** 35

4. Artikel 15 van die Hoofwet word hierby gewysig deur na subartikel (2) die volgende subartikel in te voeg:

“(2A) Die Minister kan, by kennisgewing in die *Staatskoerant*, die voorwaardes vir magtiging van ’n persoon in subartikel (2)(a) bedoel, of enige ander aangeleentheid wat met sodanige magtiging verband hou, bepaal.”. 40

**Kort titel**

5. Hierdie Wet heet die Wysigingswet op Landdroshowe, 2010.





