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Kaapstad,

THE PRESIDENCY

No. 38 22 January 2014

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 42 of 2013: Judicial Matters Amendment Act, 2013

DIE PRESIDENSIE

No. 38 22 Januarie 2014

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No 42 van 2013: Wysigingswet op Geregtelike Aangeleenthede, 2013



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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.
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(Engelse teks deur die President geteken)
(Goedgekeur op 20 Januarie 2014)

WET

Tot wysiging van—

- die Wet op Landdroshowe, 1944, ten einde die Afrikaanse teks met betrekking tot skuldoorsaak waarvoor landdroshowe jurisdiksie het in ooreenstemming met die Engelse teks te bring;
- die jurisdiksie van landdroshowe verder te reël in ooreenstemming met 'n beslissing van die Konstitusionele Hof;
- die Strafproseswet, 1977, ten einde sekere tekstuele verbeterings aan te bring; en die bepalings met betrekking tot die skrapping van sekere kriminele rekords verder te reël;
- die Wet op Prokureurs, 1979, ten einde die samestelling en bevoegdhede van die beheerraad van die Getrouheidsfonds vir Prokureurs verder te reël;
- die Wet op Howe vir Klein Eise, 1984, ten einde die aanstelling van kommissarisse verder te reël;
- die Wet op die Regterlike Dienskommissie, 1994, ten einde die Voorsitter van die Regterlike Gedragskomitee toe te laat om sekere bevoegdhede of werksaamhede aan 'n waarnemende Voorsitter te delegeer; die verkiesing van 'n waarnemende Voorsitter van die Regterlike Gedragskomitee verder te reël; voorsiening te maak vir die verwysing van 'n klagte na die Adjunkhoofregter; te bepaal dat die Minister regulasies met betrekking tot getuiefooeie kan maak; en sekere tekstuele verbeterings aan te bring;
- die Strafwysigingswet, 1997, ten einde persone onder die ouderdom van 18 jaar uit te sluit van die werking van daardie Wet;
- die Wet op Bevordering van Toegang tot Inligting, 2000, ten einde die tydperke waarbinne hofaansoeke gebring moet word, te verleng;
- die “Children’s Act”, 2005, ten einde toe te laat dat inligting in die “National Child Protection Register” beskikbaar gestel word in die geval van aansoeke om die skrapping van sekere kriminele rekords;
- die Wysigingswet op die Strafwet (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, ten einde sekere tekstuele verbeterings aan te bring; toe te laat dat inligting in die Nasionale Register vir Seks-oortreders beskikbaar gestel word in geval van aansoeke om die skrapping van sekere kriminele rekords; en die uitreiking van voorskrifte deur die Nasionale Direkteur van Openbare Vervolging verder te reël;
- die “Child Justice Act”, 2008, ten einde die aanmelding van 'n besering opgedoen of ernstige sielkundige trauma gelyk deur 'n kind terwyl in polisie-aanhouding verder te reël; die hou van voorlopige ondersoeke verder te reël; sekere tekstuele verbeterings aan te bring; die outomatiese hersiening van kinders in sekere sake verder te reël; en die skrapping van rekords van sekere veroordelings van kinders verder te reël; en

- the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, so as to effect certain textual corrections; and to provide for matters connected therewith.

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

Amendment of section 29 of Act 32 of 1944, as substituted by section 7 of Act 31 of 2008

1. Section 29 of the Magistrates' Courts Act, 1944, is hereby amended— 5
- (a) by the substitution in subsection (1) for paragraph (e) of the Afrikaans text of the following paragraph:
- “(e) aksies gebaseer op of wat ontstaan uit 'n kredietooreenkoms soos omskryf in artikel 1 van die ‘National Credit Act, 2005’ (Wet No. 34 van 2005)[, **waar die vordering of die waarde van die goed in geskil nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, te bowe gaan nie**];”;
- and 10
- (b) by the substitution for subsection (1A) of the following subsection:
- “(1A) The Minister may determine different amounts contemplated in subsection (1)(a), (b), (d), [(e),] (f) and (g) in respect of courts for districts and courts for regional divisions.”. 15

Amendment of section 30 of Act 32 of 1944, as amended by section 4 of Act 19 of 1963 and section 11 of Act 53 of 1970

2. Section 30 of the Magistrates' Courts Act, 1944, is hereby amended— 20
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) Subject to the limits of jurisdiction prescribed by this Act, the court may grant against persons and things orders for [**arrest *tanquam suspectus de fuga***,] attachments, interdicts and *mandamenten van spolie*.”; and 25
- (b) by the deletion of subsection (3).

Substitution of section 30bis of Act 32 of 1944, as inserted by section 8 of Act 80 of 1964

3. The following section is hereby substituted for section 30bis of the Magistrates' Courts Act, 1944: 30

“Attachment to found or confirm jurisdiction

30bis. The court may order attachment of [**person or**] property to found or confirm jurisdiction against any person who does not reside in the Republic, in respect of an action within its jurisdiction, where the claim or the value of the matter in dispute amounts to at least [**forty rand**] R2 500, 35 exclusive of any costs in respect of the recovery thereof, and may grant an order allowing service of any process in such action to be effected in such manner as may be stated in such order.”.

Amendment of section 38 of Act 51 of 1977, as substituted by section 99 of Act 75 of 2008 40

4. Section 38 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) Subject to section 4(2) of the Child Justice Act, 2008 (Act No. 75 of 2008), the methods of securing the attendance of an accused who is eighteen years or older in court for the purposes of his or her trial shall be arrest, summons, written notice 45 and indictment in accordance with the relevant provisions of this Act.”.

- die “Reform of Customary Law of Succession and Regulation of Related Matters Act”, 2009, ten einde sekere tekstuele verbeterings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 29 van Wet 32 van 1944, soos vervang deur artikel 7 van Wet 31 van 2008

1. Artikel 29 van die Wet op Landdroshowe, 1944, word hierby gewysig— 5
(a) deur paragraaf (e) van subartikel (1) van die Afrikaanse teks deur die volgende paragraaf te vervang:
“(e) aksies gebaseer op of wat ontstaan uit ’n kredietooreenkoms soos omskryf in artikel 1 van die ‘National Credit Act, 2005’ (Wet No. 34 van 2005)[, **waar die vordering of die waarde van die goed in geskil nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die Staatskoerant bepaal, te bowe gaan nie**];”;
en
(b) deur subartikel (1A) deur die volgende subartikel te vervang:
“(1A) Die Minister kan verskillende bedrae beoog in subartikel (1)(a), (b), (d), [(e),] (f) en (g) bepaal ten opsigte van howe vir distrikte en howe vir streekafdelings.”. 15

Wysiging van artikel 30 van Wet 32 van 1944, soos gewysig deur artikel 4 van Wet 19 van 1963 en artikel 11 van Wet 53 van 1970

2. Artikel 30 van die Wet op Landdroshowe, 1944, word hierby gewysig— 20
(a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) Die hof kan, binne die grense van die bevoegdheid by hierdie Wet aan hom verleen, teen persone en sake bevele vir [**arres tanquam suspectus de fuga,**] beslaglegging, interdikte en mandamente van spolie verleen.”; en
(b) deur subartikel (3) te skrap. 25

Vervanging van artikel 30bis van Wet 32 van 1944, soos ingevoeg deur artikel 8 van Wet 80 van 1964

3. Artikel 30bis van die Wet op Landdroshowe, 1944, word hierby deur die volgende artikel vervang: 30

“**[Inhegtenisneming of beslaglegging] Beslaglegging om jurisdiksie te vestig of bevestig**

30bis. Die hof kan die **[inhegtenisneming van die persoon of]** beslaglegging op eiendom om jurisdiksie te vestig of bevestig, teen ’n persoon wat nie in die Republiek woon nie, ten opsigte van ’n aksie binne sy jurisdiksie beveel, waar die vordering of die waarde van die onderwerp in geskil minstens **[veertig rand] R2 500**, bedra, met uitsluiting van die koste ten opsigte van die invordering daarvan, en kan ’n bevel verleen wat diening van enige stukke in die aksie op die in bedoelde bevel vermelde wyse magtig.”. 35
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Wysiging van artikel 38 van Wet 51 van 1977, soos vervang deur artikel 99 van Wet 75 van 2008

4. Artikel 38 van die Strafproseswet, 1977, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
“(1) Behoudens artikel 4(2) van die ‘Child Justice Act’, 2008 (Wet No. 75 van 2008), is die metodes waarvolgens die aanwesigheid van ’n beskuldigde wat 18 jaar of ouer is in ’n hof vir die doeleindes van sy of haar verhoor verkry word, **[is]** inhegtenisneming, dagvaarding, skriftelike kennisgewing en by akte van beskuldiging ooreenkomstig die betrokke bepalings van hierdie Wet.”. 45

Amendment of section 73 of Act 51 of 1977, as amended by section 2 of Act 86 of 1996 and section 99 of Act 75 of 2008

5. Section 73 of the Criminal Procedure Act, 1977, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) In addition to the provisions of sections 3(g), 38(2), 44(1)(b) and 65 of the Child Justice Act, 2008 (Act No. 75 of 2008), relating to the assistance of an accused who is under the age of eighteen years by his or her parent [or], an appropriate adult or a guardian at criminal proceedings, any accused who, in the opinion of the court, requires the assistance of another person at criminal proceedings, may, with the permission of the court, be so assisted at such proceedings.”.

Amendment of section 271B of Act 51 of 1977, as inserted by section 3 of Act 65 of 2008

6. Section 271B of the Criminal Procedure Act, 1977, is hereby amended—

(a) by the substitution in subsection (1)(a) for the words preceding subparagraph (i) of the following words:

“Where a court has imposed any of the following sentences on, or has made any of the following orders in respect of, a person convicted of an offence, the criminal record of that person, containing the conviction and sentence or order in question, must, subject to paragraph (b) and subsection (2) and section 271D, on the person’s written application, be expunged after a period of 10 years has elapsed after the date of conviction for that offence, unless during that period the person in question has been convicted of an offence and has been sentenced to a period of imprisonment without the option of a fine:”;

(b) by the insertion in subsection (1)(a) after subparagraph (vi) of the following subparagraph:

“(viA) an order in terms of section 290(1)(a) or (b) as that section was before it was repealed by section 99 of the Child Justice Act, 2008 (Act No. 75 of 2008);”;

(c) by the substitution in subsection (1)(a) for subparagraph (vii) of the following subparagraph:

“(vii) a sentence of correctional supervision, referred to in section 276(1)(h) or a sentence referred to in section 276(1)(i); or”.

Amendment of section 271C of Act 51 of 1977, as inserted by section 3 of Act 65 of 2008

7. Section 271C of the Criminal Procedure Act, 1977, is hereby amended—

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

“(c) a contravention of section 5(1), read with section 5(2), [or] section 6(1), read with section 6(2), section 9(3), section 9(3)bis(a), read with section 9(3)(c), section 10(1), read with section 10(4), section 11(1), read with section 11(2)(a), section 12(1), read with section 12(2), section 12(3), section 15(1), read with section 15(3), section 29(1), read with section 29(9) and section 29(12), section 31(1), read with section 31(2), section 35(1), read with section 35(4), section 35(5), section 35(6), section 40(3), section 43bis or section 44, of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);”;

(b) by the insertion in subsection (1) after paragraph (k) of the following paragraph:

“(kA) a contravention of section 14, section 20(2), section 20A(4) or section 26(2) of the Black Labour Act, 1964 (Act No. 67 of 1964);”.

Wysiging van artikel 73 van Wet 51 van 1977, soos gewysig deur artikel 2 van Wet 86 van 1996 en artikel 99 van Wet 75 van 2008

5. Artikel 73 van die Strafproseswet, 1977, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Bykomend tot die bepalings van artikels 3(g), 38(2), 44(1)(b) en 65 van die ‘Child Justice Act’, 2008 (Wet No. 75 van 2008), met betrekking tot die bystand van ’n beskuldigde wat onder die ouderdom van agtien jaar is deur sy of haar ouer [of], ’n gepaste volwassene of ’n voog by strafregtelike verrigtinge, kan ’n beskuldigde wat, na die oordeel van die hof, die bystand van iemand anders by strafregtelike verrigtinge nodig het, met die toestemming van die hof, by bedoelde verrigtinge aldus bygestaan word.”

Wysiging van artikel 271B van Wet 51 van 1977, soos ingevoeg deur artikel 3 van Wet 65 van 2008

6. Artikel 271B van die Strafproseswet, 1977, word hierby gewysig—

(a) deur in subartikel (1)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“Waar ’n hof enige van die volgende vonnisse aan ’n persoon wat aan ’n misdryf skuldig bevind is, opgelê het, of enige van die volgende bevelen ten opsigte van sodanige persoon uitgereik het, moet die kriminele rekord van daardie persoon, wat die betrokke skuldigbevinding en vonnis of bevel bevat, behoudens paragraaf (b) en subartikel (2) en artikel 271D, op die persoon se skriftelike aansoek, geskrap word nadat ’n tydperk van 10 jaar verloop het na die datum van skuldigbevinding aan daardie misdryf, tensy die betrokke persoon gedurende daardie tydperk aan ’n misdryf skuldig bevind is en tot ’n tydperk van gevangenisstraf sonder die keuse van ’n boete gevonnissen is;”

(b) deur die volgende subparagraaf na subparagraaf (vi) in subartikel (1)(a) in te voeg:

“(viA) ’n bevel ingevolge artikel 290(1)(a) of (b) soos daardie artikel was voordat dit deur artikel 99 van die ‘Child Justice Act’, 2008 (Wet No. 75 van 2008), herroep is;” en

(c) deur in subartikel (1)(a) subparagraaf (vii) deur die volgende subparagraaf te vervang:

“(vii) ’n vonnis van korrektiewe toesig bedoel in artikel 276(1)(h) of ’n vonnis bedoel in artikel 276(1)(i); of”

Wysiging van artikel 271C van Wet 51 van 1977, soos ingevoeg deur artikel 3 van Wet 65 van 2008

7. Artikel 271C van die Strafproseswet, 1977, word hierby gewysig—

(a) deur paragraaf (c) in subartikel (1) deur die volgende paragraaf te vervang:

“(c) ’n oortreding van artikel 5(1), gelees met artikel 5(2), [of] artikel 6(1), gelees met artikel 6(2), artikel 9(3), artikel 9(3)bis(a), gelees met artikel 9(3)(c), artikel 10(1), gelees met artikel 10(4), artikel 11(1), gelees met artikel 11(2)(a), artikel 12(1), gelees met artikel 12(2), artikel 12(3), artikel 15(1), gelees met artikel 15(3), artikel 29(1), gelees met artikel 29(9) en artikel 29(12), artikel 31(1), gelees met artikel 31(2), artikel 35(1), gelees met artikel 35(4), artikel 35(5), artikel 35(6), artikel 40(3), artikel 43bis of artikel 44, van die Swartes (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945);” en

(b) deur die volgende paragraaf na paragraaf (k) in subartikel (1) in te voeg:

“(kA) ’n oortreding van artikel 14, artikel 20(2), artikel 20A(4) of artikel 26(2) van die Wet op Swart Arbeid, 1964 (Wet No. 67 van 1964);”

Insertion of sections 271DA and 271DB in Act 51 of 1977

8. The following sections are hereby inserted in the Criminal Procedure Act, 1977, after section 271D:

“Revoking of certificate of expungement erroneously issued

- 271DA.** (1) Where the Director-General: Justice and Constitutional Development, in terms of section 271B(2) or 271C(3), or the Minister, in terms of section 271C(5)(b), has issued a certificate of expungement and it subsequently appears that the applicant did not qualify for the expungement of his or her record, the Director-General must—
- (a) inform the applicant in writing of the information that has come to his or her attention and that he or she or the Minister intends to revoke the certificate of expungement;
 - (b) afford the applicant an opportunity to furnish compelling written reasons to him or her or the Minister, within 90 working days after the applicant has been informed of the intention to revoke, why his or her record should remain expunged;
 - (c) inform the applicant in writing within 30 working days after a decision is made of—
 - (i) his or her or the Minister’s decision; and
 - (ii) the reasons for revoking the certificate of expungement; and
 - (d) inform the head of the Criminal Record Centre of the South African Police Service in writing within 14 working days after the decision was made, to revoke the certificate of expungement and to reinstate the convictions and sentences in question.
- (2) If the applicant fails to furnish compelling written reasons contemplated in subsection (1)(b), the Director-General or the Minister, as the case may be, may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), revoke the certificate of expungement.

Delegation of powers and assignment of duties by Director-General

- 271DB.** (1) The Director-General: Justice and Constitutional Development may delegate any power or assign any duty conferred on or assigned to him or her in terms of section 271B(2) or (3) or 271C(3) or (4) to an appropriately qualified official in the employ of the Department of Justice and Constitutional Development at the rank of Deputy Director-General.
- (2) A delegation or assignment in terms of subsection (1)—
- (a) is subject to any limitation, condition and direction which the Director-General may impose;
 - (b) must be in writing; and
 - (c) does not divest the Director-General of the responsibility concerning the exercise of the power or the performance of the duty.
- (3) The Director-General may—
- (a) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this section, subject to any rights that may have accrued to a person as a result of the decision; and
 - (b) at any time, in writing, withdraw a delegation or assignment.”.

Amendment of section 276A of Act 51 of 1977, as inserted by section 42 of Act 122 of 1991 and amended by section 46 of Act 129 of 1993, section 21 of Act 87 of 1997, section 68 of Act 32 of 2007 and section 99 of Act 75 of 2008

9. Section 276A of the Criminal Procedure Act, 1977, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) for a fixed period not exceeding three years, or in the case of a conviction for any offence referred to in the Criminal Law (Sexual

Invoeging van artikels 271DA en 271DB in Wet 51 van 1977

8. Die volgende artikels word hierby na artikel 271D in die Strafproseswet, 1977, ingevoeg:

“Herroeping van verkeerdelik uitgereikte sertifikaat van skrapping

271DA. (1) Waar die Direkteur-generaal: Justisie en Staatskundige Ontwikkeling, ingevolge artikel 271B(2) of 271C(3), of die Minister, ingevolge artikel 271C(5)(b), ’n sertifikaat van skrapping uitgereik het en dit daarna blyk dat die applikant nie vir die skrapping van sy of haar kriminele rekord gekwalifiseer het nie, moet die Direkteur-generaal—

(a) die applikant skriftelik inlig omtrent die inligting wat tot sy of haar aandag gekom het en dat hy of sy of die Minister voornemens is om die sertifikaat van skrapping te herroep;

(b) die applikant die geleentheid bied om binne 90 werksdae nadat hy of sy omtrent die besluit om te herroep, ingelig is, dwingende skriftelike redes aan hom of haar of die Minister aan te voer oor hoekom sy of haar rekord geskrap moet bly;

(c) die applikant binne 30 werksdae nadat ’n besluit geneem is skriftelik inlig omtrent—

(i) sy of haar of die Minister se besluit; en

(ii) die redes vir die herroeping van die sertifikaat van skrapping; en

(d) die hoof van die Kriminele Rekordsentrum van die Suid-Afrikaanse Polisiediens binne 14 werksdae nadat die besluit geneem is, skriftelik inlig dat die sertifikaat van skrapping herroep moet word en dat die betrokke skuldigbevindings en vonnisse heringestel moet word.

(2) Die Direkteur-generaal of die Minister, na gelang van die geval, kan die sertifikaat van skrapping herroep indien die applikant nie dwingende redes aanvoer soos in subartikel (1)(b) bepaal word nie, behoudens die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000).

Delegering van bevoegdhede en toewysing van pligte deur Direkteur-generaal

271DB. (1) Die Direkteur-generaal: Justisie en Staatskundige Ontwikkeling mag enige bevoegdheid of enige plig aan hom of haar verleen of opgedra kragtens artikel 271(B)(2) of (3) of 271C(3) of (4) aan ’n paslik gekwalifiseerde beampte in diens van die Departement van Justisie en Staatskundige Ontwikkeling met die rang van adjunk-direkteur-generaal, delegeer.

(2) ’n Delegering of toewysing ingevolge subartikel (1)—

(a) is onderhewig aan enige beperking, voorwaarde en voorskrif wat die Direkteur-generaal kan oplê;

(b) moet skriftelik wees; en

(c) ontnem nie die Direkteur-generaal van die verantwoordelikheid rakende die uitoefening van die bevoegdheid of die uitvoering van die plig nie.

(3) Die Direkteur-generaal kan—

(a) ’n besluit geneem as gevolg van ’n delegering of toewysing ingevolge hierdie artikel bevestig, wysig of herroep, behoudens die regte wat as gevolg van die besluit ’n persoon mag toegeval het; en

(b) te eniger tyd ’n delegering of toewysing terugtrek.”.

Wysiging van artikel 276A van Wet 51 van 1977, soos ingevoeg deur artikel 42 van Wet 122 van 1991 en gewysig deur artikel 46 van Wet 129 van 1993, artikel 21 van Wet 87 van 1997, artikel 68 van Wet 32 van 2007 en artikel 99 van Wet 75 van 2008

9. Artikel 276A van die Strafproseswet, 1977, word hierby gewysig—

(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) vir ’n bepaalde tydperk wat nie drie jaar te bowe gaan nie, of in die geval van ’n skuldigbevinding aan enige misdryf in die

Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007), for a fixed period not exceeding five years.”; and

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Punishment shall, subject to the provisions of section [75] 77 of the Child Justice Act, 2008, only be imposed under section 276(1)(i)—”.

Amendment of section 309 of Act 51 of 1977, as amended by section 2 of Act 76 of 1977, section 17 of Act 105 of 1982, section 8 of Act 107 of 1990, section 51 of Act 129 of 1993, section 13 of Act 75 of 1995, section 2 of Act 33 of 1997, section 2 of Act 76 of 1997, section 38 of Act 105 of 1997, section 2 of Act 42 of 2003, section 6 of Act 38 of 2007, section 13 of Act 66 of 2008 and section 99 of Act 75 of 2008

10. Section 309 of the Criminal Procedure Act, 1977, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) Subject to section 84 of the Child Justice Act, 2008 (Act No. 75 of 2008), any person convicted of any offence by any lower court (including a person discharged after conviction) may, subject to leave to appeal being granted in terms of section 309B or 309C, appeal against such conviction and against any resultant sentence or order to the High Court having jurisdiction: Provided that if that person was sentenced to imprisonment for life by a regional court under section 51(1) of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), he or she may note such an appeal without having to apply for leave in terms of section 309B: Provided further that the provisions of section 302(1)(b) shall apply in respect of a person who duly notes an appeal against a conviction, sentence or order as contemplated in section 302(1)(a).”.

Amendment of section 309B of Act 51 of 1977, as inserted by section 3 of Act 76 of 1997, substituted by section 3 of Act 42 of 2003 and amended by section 99 of Act 75 of 2008

11. Section 309B of the Criminal Procedure Act, 1977, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) Subject to section 84 of the Child Justice Act, 2008 (Act No. 75 of 2008), any accused, other than a person referred to in the first proviso to section 309(1)(a), who wishes to note an appeal against any conviction or against any resultant sentence or order of a lower court, must apply to that court for leave to appeal against that conviction, sentence or order.”.

Amendment of section 309D of Act 51 of 1977, as inserted by section 3 of Act 76 of 1997, substituted by section 3 of Act 42 of 2003 and amended by section 99 of Act 75 of 2008

12. Section 309D of the Criminal Procedure Act, 1977, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) **[An accused, other]** Other than a child contemplated in the Child Justice Act, 2008 (Act No. 75 of 2008), an accused—
(i) referred to in the first proviso to section 309(1)(a); or
(ii) who is unrepresented at the time he or she is convicted and sentenced, must be informed by the presiding officer of his or her rights in respect of appeal and legal representation and of the correct procedures to give effect to these rights.”.

Wysigingswet op die Straffreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, bedoel, vir 'n vasgestelde tydperk van hoogstens vyf jaar.'; en

(b) deur die woorde wat paragraaf (a) van subartikel (2) voorafgaan deur die volgende woorde te vervang: 5

“Straf word, behoudens die bepalinge van artikel [75] 77 van die ‘Child Justice Act’, 2008 slegs kragtens artikel 276(1)(i) opgelê—”.

Wysiging van artikel 309 van Wet 51 van 1977, soos gewysig deur artikel 2 van Wet 76 van 1977, artikel 17 van Wet 105 van 1982, artikel 8 van Wet 107 van 1990, artikel 51 van Wet 129 van 1993, artikel 13 van Wet 75 van 1995, artikel 2 van Wet 33 van 1997, artikel 2 van Wet 76 van 1997, artikel 38 van Wet 105 van 1997, artikel 2 van Wet 42 van 2003, artikel 6 van Wet 38 van 2007, artikel 13 van Wet 66 van 2008 en artikel 99 van Wet 75 van 2008 10

10. Artikel 309 van die Straffproseswet, 1977, word hierby gewysig deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: 15

“(a) Behoudens artikel 84 van die ‘Child Justice Act’, 2008 (Wet No.75 van 2008), kan iemand wat deur 'n laer hof aan 'n misdryf skuldig bevind is (met inbegrip van iemand wat na skuldigbevinding ontslaan is), behoudens verloop om te appelleer wat ingevolge artikel 309B of 309C toegestaan word, teen so 'n skuldigbevinding en teen 'n gevolglike vonnis of bevel na die Hoë Hof appelleer wat regsbevoegdheid het: Met dien verstande dat indien daardie persoon kragtens artikel 51(1) van die Straffwysigingswet, 1997 (Wet No. 105 van 1997), deur 'n streekhof tot lewenslange gevangenisstraf gevonnisd is, hy of sy sodanige appèl mag aanteken sonder om kragtens artikel 309B om toestemming aansoek te doen: [met] Met dien verstande[,] voorts dat die bepalinge van artikel 302(1)(b) van toepassing is ten opsigte van 'n persoon wat 'n appèl behoortlik teen 'n skuldigbevinding, vonnis of bevel soos in artikel 302(1)(a) beoog, aanteken.” 20 25

Wysiging van artikel 309B van Wet 51 van 1977, soos ingevoeg deur artikel 3 van Wet 76 van 1997, vervang deur artikel 3 van Wet 42 van 2003 en gewysig deur artikel 99 van Wet 75 van 2008 30

11. Artikel 309B van die Straffproseswet, 1977, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) Behoudens artikel 84 van die ‘Child Justice Act’, 2008 (Wet No. 75 van 2008), moet 'n beskuldigde, behalwe 'n persoon in die eerste voorbehoudsbepaling van artikel 309(1)(a) bedoel, wat 'n appèl teen 'n skuldigbevinding of 'n gevolglike vonnis of bevel van 'n laer hof wil aanteken, by daardie hof aansoek doen om verloop om teen die skuldigbevinding, vonnis of bevel te appelleer.” 35

Wysiging van artikel 309D van Wet 51 van 1977, soos ingevoeg deur artikel 3 van Wet 76 van 1997, vervang deur artikel 3 van Wet 42 van 2003 en gewysig deur artikel 99 van Wet 75 van 2008 40

12. Artikel 309D van die Straffproseswet, 1977, word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) [**'n Beskuldigde, behalwe**] Met uitsondering van 'n kind beoog in die ‘Child Justice Act’, 2008 (Wet No. 75 van 2008), moet 'n beskuldigde—
(i) in die eerste voorbehoudsbepaling van artikel 309(1)(a) bedoel; of 45
(ii) wat in die stadium wanneer hy of sy skuldig bevind of gevonnisd word, nie verteenwoordig is nie,
deur die voorsittende beambte van sy of haar regte ten opsigte van appèl en regsverteenvoording en van die korrekte prosedures om aan vermelde regte uitvoering te gee, ingelig word.” 50

Amendment of section 28 of Act 53 of 1979, as amended by section 18 of Act 62 of 2000

13. Section 28 of the Attorneys Act, 1979, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The board of control consists of four members of each society, elected by the council of that society.” 5

Substitution of section 29 of Act 53 of 1979

14. The following section is hereby substituted for section 29 of the Attorneys Act, 1979:

“Period of office of members of board of control” 10

29. A member of the board of control holds office for a term of three years and, at the end of his or her term of office, is eligible for re-election for one additional term of office only.”

Insertion of section 46A in Act 53 of 1979

15. The following section is hereby inserted in the Attorneys Act, 1979, after section 46: 15

“Board of control may institute private prosecution”

46A. Notwithstanding the provisions of section 76, the board of control may, by any person authorized thereto in writing by the chairperson, and upon written notice to the society of the province concerned, institute a private prosecution for the misappropriation or theft of property or trust money, and the provisions of section 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and any other law relating to private prosecutions shall apply to such prosecution as if the board of control is a public body.” 20

Amendment of section 48 of Act 53 of 1979 25

16. Section 48 of the Attorneys Act, 1979, is hereby amended by the addition of the following subsection:

“(3) The board of control may delegate to any of its employees the duty to consider any claim against the fund, subject to any conditions that may be imposed by the board of control.” 30

Substitution of certain words in Act 53 of 1979

17. The Attorneys Act, 1979, is hereby amended—

- (a) by the substitution for the words “chairman”, “vice-chairman” and “chairman’s”, wherever they occur, of the words “chairperson”, “vice-chairperson” and “chairperson’s”, respectively; and 35
- (b) by the substitution for the words “he”, “him”, “his”, “himself” and “he or his” wherever they occur, of the words “he or she”, “him or her”, “his or her”, “himself or herself” and “he or his or she or her”, respectively, except where “he or she”, “him or her”, “his or her”, “himself or herself” and “he or his or she or her” occur. 40

Amendment of section 9 of Act 61 of 1984, as amended by section 5 of Act 92 of 1986, section 1 of Act 63 of 1989, section 4 of Act 18 of 1996 and section 4 of Act 26 of 1999

18. Section 9 of the Small Claims Courts Act, 1984, is hereby amended by the insertion in subsection (1) after paragraph (b) of the following paragraph: 45

“(c) A commissioner appointed in terms of paragraph (a) in respect of a specific court shall be deemed to be appointed for any court established under section 2 in that province.”

Wysiging van artikel 28 van Wet 53 of 1979, soos gewysig deur artikel 18 van Wet 62 van 2000

13. Artikel 28 van die Wet op Prokureurs, 1979, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die beheerraad bestaan uit vier lede van elke orde, verkies deur die raad van daardie orde.”. 5

Vervanging van artikel 29 van Wet 53 van 1979

14. Artikel 29 van die Wet op Prokureurs, 1979, word hierby deur die volgende artikel vervang:

“Ampstermyn van lede van beheerraad” 10

29. ’n Lid van die beheerraad beklee sy of haar amp vir ’n termyn van drie jaar en kan aan die einde van daardie termyn slegs vir een verdere termyn heraan gestel word.”.

Invoeging van artikel 46A in Wet 53 van 1979

15. Die volgende artikel word hierby na artikel 46 in die Wet op Prokureurs, 1979, ingevoeg:

“Beheerraad kan privaat vervolging instel

46A. (1) Ondanks die bepalings van artikel 76, kan die beheerraad deur enige persoon skriftelik deur die voorsitter daartoe gemagtig, en by skriftelike kennisgewing aan die orde van die betrokke provinsie, ’n privaat vervolging instel vir die wanbesteding of diefstal van eiendom of trustgeld, en die bepalings van artikel 8 van die Strafproseswet, 1977 (Wet No. 51 van 1977), en enige ander wetsbepaling met betrekking tot privaat vervolgings sal van toepassing wees op daardie vervolging asof die beheerraad ’n openbare liggaam is.” 20
25

Wysiging van artikel 48 van Wet 53 van 1979

16. Artikel 48 van die Wet op Prokureurs, 1979, word hierby gewysig deur die volgende subartikel by te voeg:

“(3) Die beheerraad kan aan enige van sy werknemers die plig delegeer om ’n eis teen die fonds te oorweeg, onderhewig aan enige voorwaardes wat deur die beheerraad opgelê mag word.”. 30

Vervanging van sekere woorde in Wet 53 van 1979

17. Die Wet op Prokureurs, 1979, word hierby gewysig deur die woorde “hy”, “hom”, “syne”, “hyself” en “hy of syne” waar dit ook al voorkom, onderskeidelik deur die woorde “hy of sy”, “hom of haar”, “syne of hare”, “hyself of haarself” en “hy of syne of sy of hare” te vervang, buiten waar “hy of sy”, “hom of haar”, “syne of hare”, “hyself of haarself” en “hy of syne of sy of hare” voorkom. 35

Wysiging van artikel 9 van Wet 61 van 1984, soos gewysig deur artikel 5 van Wet 92 van 1986, artikel 1 van Wet 63 van 1989, artikel 4 van Wet 18 van 1996 en artikel 4 van Wet 26 van 1999 40

18. Artikel 9 van die Wet op Howe vir Klein Eise, 1984, word hierby gewysig deur die volgende paragraaf na paragraaf (b) in subartikel (1) in te voeg:

“(c) ’n Kommissaris aangestel kragtens paragraaf (a) ten opsigte van ’n spesifieke hof, word geag aangestel te wees vir enige hof kragtens artikel 2 in daardie provinsie ingestel.”. 45

Amendment of section 8 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

19. Section 8 of the Judicial Service Commission Act, 1994, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Chairperson may, either generally or in a specific case, delegate any of his or her powers or functions as Chairperson of the Committee to **[the Deputy Chief Justice]** an acting Chairperson as provided for in section 9(4).” 5

Amendment of section 9 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

20. Section 9 of the Judicial Service Commission Act, 1994, is hereby amended by the addition of the following subsection:

“(4) The Deputy Chief Justice must act as Chairperson in the absence of the Chief Justice: Provided that in the absence of both the Chief Justice and the Deputy Chief Justice, the Chief Justice must nominate one of the members of the Committee as acting Chairperson: Provided further that if the Chief Justice does not nominate an acting Chairperson and the Deputy Chief Justice is also absent from the meeting, the members must elect a Chairperson from their number.” 10 15

Amendment of section 14 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

21. Section 14 of the Judicial Service Commission Act, 1994, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person may lodge a complaint about a judge with the Chairperson of the Committee: Provided that the Chairperson may refer the complaint to the Deputy Chief Justice to deal with in terms of the provisions of the Act, and the Deputy Chief Justice assumes the role of the chairperson in respect of that complaint.” 20

Amendment of section 18 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

22. Section 18 of the Judicial Service Commission Act, 1994, is hereby amended by the deletion in subsection (2) of paragraph (b). 25

Amendment of section 19 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

23. Section 19 of the Judicial Service Commission Act, 1994, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Commission must, unless it is acting on a recommendation referred to in section **[16(4)(c)]** 16(4)(b) or 18(4)(a)(iii), (b)(iii) or (c)(iii), before it requests the appointment of a Tribunal, inform the respondent, and, if applicable, the complainant, that it is considering to make that request and invite the respondent, and, if applicable, the complainant, to comment in writing on the fact that the Commission is considering to so request.” 30 35

Amendment of section 34 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

24. Section 34 of the Judicial Service Commission Act, 1994, is hereby amended by the substitution in subsection (1)(a) for the words preceding subparagraph (i) of the following words:

“having been subpoenaed in terms of section **[29]** 30 to appear before a Tribunal, fails without reasonable excuse to—” 40

Wysiging van artikel 8 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

19. Artikel 8 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die Voorsitter kan, hetsy in die algemeen of in ’n bepaalde geval, enige van sy of haar bevoegdhe of werksaamhede as Voorsitter van die Komitee aan [die Adjunkhoofregter] ’n waarnemende Voorsitter soos voor voorsiening gemaak in artikel 9(4), delegeer.” 5

Wysiging van artikel 9 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

20. Artikel 9 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur die volgende subartikel by te voeg:

“(4) Die Adjunkhoofregter moet in die afwesigheid van die Hoofregter as Voorsitter optree: Met dien verstande dat in die afwesigheid van die Hoofregter sowel as die Adjunkhoofregter die Hoofregter een van die lede van die Komitee as waarnemende Voorsitter moet aanwys: Met dien verstande voorts dat indien die Hoofregter nie ’n waarnemende Voorsitter aanwys nie en die Adjunkhoofregter ook van die vergadering afwesig is, die lede ’n Voorsitter uit eie geleedere moet verkies.” 15

Wysiging van artikel 14 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

21. Artikel 14 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Enige persoon kan ’n klagte oor ’n regter by die Voorsitter van die Komitee lê: Met dien verstande dat die Voorsitter die klagte na die Adjunkhoofregter kan verwys om dit ingevolge die bepalings van die Wet te hanteer, en die Adjunkhoofregter die rol van die voorsitter ten opsigte van daardie klagte aanneem.” 25

Wysiging van artikel 18 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

22. Artikel 18 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur paragraaf (b) in subartikel (2) te skrap.

Wysiging van artikel 19 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

23. Artikel 19 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die Kommissie moet, tensy hy optree op ’n aanbeveling bedoel in artikel [16(4)(c)] 16(4)(b) of 18(4)(a)(iii), (b)(iii) of (c)(iii), voordat hy die aanstelling van ’n Tribunaal versoek, die respondent en, indien toepaslik, die klaer, inlig dat hy oorweeg om daardie versoek te rig en die respondent en, indien toepaslik, die klaer, uitnooi om skriftelik kommentaar te lewer op die feit dat die Kommissie oorweeg om aldus te versoek.” 40

Wysiging van artikel 34 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

24. Artikel 34 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur in subartikel (1)(a) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“indien gedagvaar ingevolge artikel [29] 30 om voor ’n Tribunaal te verskyn, sonder redelike verskoning in gebreke bly om—”.

Amendment of section 35 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008

25. Section 35 of the Judicial Service Commission Act, 1994, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Minister—
- (a) must make the regulations required to be made in terms [sections] of section 13 of this Act; [and] 5
 - (b) may make regulations regarding any matter that may be necessary or expedient to prescribe regarding—
 - (i) the finances and financial management and accountability of the Commission and Office of the Registrar of Judges Registrable Interests; 10
 - (ii) the manner in which a judge may apply for written consent of the Minister as contemplated in section 11(1) and (2); and
 - (iii) the administration and functioning of the Commission or Conduct Committee, the Secretariat of the Commission, or any other aspect of this Act; and 15
 - (c) may, in consultation with the Cabinet member responsible for finance, make regulations regarding travelling, subsistence and other expenses and allowances payable to a person who was subpoenaed as a witness and attends a hearing of the Conduct Committee or a Tribunal.”. 15

Amendment of section 51 of Act 105 of 1997, as substituted by section 1 of Act 38 of 2007 20

26. Section 51 of the Criminal Law Amendment Act, 1997, is hereby amended by the substitution for subsections (5) and (6) of the following subsections, respectively:

- “(5) [(a) Subject to paragraph (b), the] The operation of a minimum sentence imposed in terms of this section shall not be suspended as contemplated in section 297(4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 25
- [(b) Not more than half of a minimum sentence imposed in terms of subsection (2) may be suspended as contemplated in section 297(4) of the Criminal Procedure Act, 1977, if the accused person was 16 years of age or older, but under the age of 18 years, at the time of the commission of the offence in question.] 30
- (6) This section does not apply in respect of an accused person who was under the age of [16] 18 years at the time of the commission of an offence contemplated in subsection (1) or (2).”.

Amendment of section 77 of Act 2 of 2000 35

27. Section 77 of the Promotion of Access to Information Act, 2000, is hereby amended by the substitution in subsection (5)(c) for subparagraphs (i) and (ii) of the following subparagraphs, respectively:

- “(i) within [60] 180 days; or
- (ii) if notice to a third party is required by subsection (4)(a)(ii), within [30] 180 days.”. 40

Amendment of section 78 of Act 2 of 2000

28. Section 78 of the Promotion of Access to Information Act, 2000, is hereby amended—

- (a) by the substitution in subsection (2) for the words following paragraph (d) of the following words: 45
“may, by way of an application, within [30] 180 days apply to a court for appropriate relief in terms of section 82.”; and
- (b) by the substitution in subsection (3) for the words following paragraph (c) of the following words: 50
“may, by way of an application, within [30] 180 days apply to a court for appropriate relief in terms of section 82.”.

Wysiging van artikel 35 van Wet 9 van 1994, soos ingevoeg deur artikel 9 van Wet 20 van 2008

25. Artikel 35 van die Wet op die Regterlike Dienskommissie, 1994, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Die Minister— 5
- (a) moet die regulasies uitvaardig wat ingevolge artikel 13 van hierdie Wet nodig is om uitgevaardig te word; **[en]**
 - (b) kan regulasies uitvaardig betreffende enige aangeleentheid wat nodig of dienstig mag wees om voor te skryf betreffende— 10
 - (i) die finansies en finansiële bestuur en verantwoordingspligtigheid van die Kommissie en Kantoor van die Registrateur van Regters se Registreerbare Belange;
 - (ii) die wyse waarop ’n regter kan aansoek doen om skriftelike toestemming van die Minister soos beoog in artikel 11(1) en (2); en
 - (iii) die administrasie en funksionering van die Kommissie of Gedragskomitee, die Sekretariaat van die Kommissie, of enige ander aspek van hierdie Wet; en 15
 - (c) kan, in oorleg met die Kabinetslid verantwoordelik vir finansies, regulasies uitvaardig betreffende reis-, verblyf- en ander uitgawes en toelaes betaalbaar aan ’n persoon wat as getuie gedagvaar is en ’n verhoor van die Gedragskomitee of ’n Tribunaal bywoon.”. 20

Wysiging van artikel 51 van Wet 105 van 1997, soos vervang deur artikel 1 van Wet 38 van 2007

26. Artikel 51 van die Strafwysigingswet, 1997, word hierby gewysig deur subartikels (5) en (6) onderskeidelik deur die volgende subartikels te vervang: 25

- “(5) **[(a)]** Die tenuitvoerlegging van ’n minimum vonnis ingevolge hierdie artikel opgelê, word, **behoudens paragraaf (b),** nie opgeskort soos in artikel 297(4) van die Strafwysigingswet, 1977 (Wet No. 51 van 1977), beoog nie.
- [(b) Nie meer nie as die helfte van ’n vonnis ingevolge subartikel (2) opgelê, kan opgeskort word soos in artikel 297(4) van die Strafwysigingswet, 1977 (Wet 51 van 1977) beoog, indien die beskuldigde persoon 16 jaar oud of ouer, maar jonger as 18 jaar, was ten tyde van die pleging van die betrokke misdryf.]** 30
- (6) Hierdie artikel is nie van toepassing nie ten opsigte van ’n beskuldigde persoon wat ten tyde van die pleeg van ’n misdryf beoog in subartikel (1) of (2) onder die ouderdom van **[16] 18** jaar was.”. 35

Wysiging van artikel 77 van Wet 2 van 2000

27. Artikel 77 van die Wet op Bevordering van Toegang tot Inligting, 2000, word hierby gewysig deur in subparagrafe (5)(c) subparagrafe (i) en (ii) onderskeidelik deur die volgende subparagrafe te vervang:

- “(i) binne **[60] 180** dae; of 40
- (ii) indien kennisgewing aan ’n derde party deur subartikel (4)(a)(ii) vereis word, binne **[30] 180** dae.”.

Wysiging van artikel 78 van Wet 2 van 2000

28. Artikel 78 van die Wet op Bevordering van Toegang tot Inligting, 2000, word hierby gewysig— 45

- (a) deur die woorde wat op paragraaf (d) van subartikel (2) volg deur die volgende woorde te vervang:
“kan, by wyse van ’n aansoek, binne **[30] 180** dae by ’n hof vir ’n gepaste bevel ingevolge artikel 82 aansoek doen.”; en
- (b) deur in subartikel (3) die woorde wat op paragraaf (c) volg deur die volgende woorde te vervang: 50
“kan, by wyse van ’n aansoek, binne **[30] 180** dae by ’n hof vir ’n gepaste bevel ingevolge artikel 82 aansoek doen.”.

Amendment of section 82 of Act 2 of 2000

29. Section 82 of the Promotion of Access to Information Act, 2000, is hereby amended by the deletion of the word “or” at the end of paragraph (c), the insertion of the expression “; or” after the word “costs” in paragraph (d) and the addition of the following paragraph:

“(e) condoning non-compliance with the 180 day period within which to bring an application, where the interests of justice so require.”.

Insertion of section 128A in Act 38 of 2005

30. The following section is hereby inserted in the Children’s Act, 2005, after section 128:

“Enquiries for purposes of expungement applications in terms of Criminal Procedure Act

128A. (1) For the purposes of section 271B of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), the Director-General: Justice and Constitutional Development may enquire from the Director-General whether or not the particulars of a person have been included or recorded in the Register or whether or not that person’s particulars and any information relating to that person have been removed from the Register in terms of section 128.

(2) Subject to section 127, the Director-General must respond to the enquiry contemplated in subsection (1) in writing within 21 working days and indicate whether or not the particulars of the person concerned have been included or recorded in the Register or whether or not that person’s particulars and any information relating to that person have been removed from the Register in terms of section 128.”.

Amendment of Table of Contents of Act 38 of 2005

31. The Table of Contents of the Children’s Act, 2005, is hereby amended by the insertion after item 128 of the following item:

“**128A.** Enquiries for purposes of expungement applications in terms of Criminal Procedure Act”.

Insertion of section 44A in Act 32 of 2007

32. The following section is hereby inserted in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, after section 44:

“Enquiries for purposes of expungement applications in terms of Criminal Procedure Act, 1977

44A. (1) For the purposes of section 271B of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), the Director-General: Justice and Constitutional Development may enquire from the Registrar whether or not the particulars of a person are contained in the Register and whether or not that person’s particulars have been removed from the Register in terms of section 51(1) or (3)(c), as the case may be.

(2) Subject to section 52, the Registrar must respond to the enquiry contemplated in subsection (1) in writing within 21 working days and must indicate whether or not the particulars of the person concerned are contained in the Register or whether or not that person’s particulars have been removed from the Register in terms of section 51(1) or (3)(c), as the case may be.”.

Amendment of section 66 of Act 32 of 2007

33. Section 66 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the deletion in subsection (2)(a) of subparagraph (ix).

Wysiging van artikel 82 van Wet 2 van 2000

29. Artikel 82 van die Wet op Bevordering van Toegang tot Inligting, 2000, word hierby gewysig deur die woord “of” aan die einde van paragraaf (c) te skrap, die uitdrukking “; of” na die woord “koste” in paragraaf (d) in te voeg en die volgende paragraaf by te voeg:

“(e) nienakoming van die 180-dae-tydperk waarbinne ’n aansoek gebring moet word, kondoneer indien die belang van regspleging dit vereis.”.

Invoeging van artikel 128A in Wet 38 van 2005

30. Die volgende artikel word hierby na artikel 128 in die isiZulu-tekst van die “Children’s Act”, 2005, ingevoeg:

“Imibuzo eqondene nezicelo zokusula icala ngokwe-Criminal procedure Act

128A. (1) Ngokwesigaba sama-271B se-Criminal procedure Act, 1977

(Act No. 51 of 1977), uMqondisi-Jikelele: WezoBulungiswa nokuThuthukiswa koMthethosisekelo angabuza uMqondisi-Jikelele ukuthi ngabe imininingwane yomuntu ifakiwe noma irekhodiwe kuRejista noma ngabe leyo mininingwane yalowo muntu isusiwe kuRejista ngokwesigaba se-128.

(2) Ngokwesigaba se-127, uMqondisi-Jikelele kufanele aphendule imibuzo evezwe esigatshaneni soku-(1) ngencwadi zingakapheli izinsuku zokusebenza ezingama-21 futhi aveze ukuthi ngabe imininingwane yalowo muntu ifakiwe noma irekhodiwe kwiRejista noma ngabe imininingwane yalowo muntu isusiwe kuRejista ngokwemigomo yesigaba se-128.”.

Wysiging van Inhoudsopgawe van Wet 38 van 2005

31. Die Inhoudsopgawe van die isiZulu-tekst van die “Children’s Act”, 2005, word hierby gewysig deur die volgende item na item 128 in te voeg:

“**128A.** Imibuzo eqondene nezicelo zokusulwa kwecala ngokwemigomo ye-Criminala Procedure Act”.

Invoeging van artikel 44A in Wet 32 van 2007

32. Die volgende artikel word hierby na artikel 44 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, ingevoeg:

“Navrae vir doeleindes van skrappingaansoeke kragtens Strafproseswet, 1977

44A. (1) By die toepassing van artikel 271(B) van die Strafproseswet, 1977 (Wet No. 51 van 1977), kan die Direkteur-generaal: Justisie en Staatkundige Ontwikkeling by die Registrateur verneem of die besonderhede van ’n persoon in die Register opgeteken is al dan nie en of daardie persoon se besonderhede ingevolge artikel 51(1) of (3)(c), van die Register verwyder is, na gelang van die geval.

(2) Behoudens artikel 52, moet die Registrateur binne 21 werksdae skriftelik antwoord op die vraag in subartikel (1) bedoel en moet aandui of die besonderhede van die betrokke persoon in die Register opgeteken is al dan nie, of hetsy daardie persoon se besonderhede ingevolge artikel 51(1) of (3)(c), van die Register verwyder is al dan nie, na gelang van die geval.”.

Wysiging van artikel 66 van Wet 32 van 2007

33. Artikel 66 van die Wysigingswet op die Strafreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, word hierby gewysig deur subparagraaf (ix) in subartikel (2)(a) te skrap.

Amendment of Index to Act 32 of 2007

34. The Index to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, is hereby amended by the insertion after item 44 of the following item:

“**44A.** Enquiries for purposes of expungement applications in terms of Criminal Procedure Act, 1977”.

Amendment of section 28 of Act 75 of 2008

35. Section 28 of the Child Justice Act, 2008, is hereby amended by the substitution in subsection (2)(b) for the words preceding subparagraph (i) of the following words:

“In the event of a report being made as referred to in paragraph (a), that report must, in the prescribed manner, as soon as is reasonably possible, be submitted to the **[National]** Provincial Commissioner of Police concerned and a copy of the report must be submitted simultaneously to the National Commissioner of Police, indicating—”.

Amendment of section 43 of Act 75 of 2008

36. Section 43 of the Child Justice Act, 2008, is hereby amended—

(a) by the deletion in subsection (1) of the word “and” at the end of paragraph (a), the insertion of the expression “; and” after the word “place” in paragraph (b) and the addition of the following paragraph:

“(c) must be presided over by a magistrate of the district within which the child is alleged to have committed the offence.”; and

(b) by the addition of the following subsection:

“(4) Section 90 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), applies with the changes required by the context to subsection (1)(c).”.

Amendment of section 65 of Act 75 of 2008

37. Section 65 of the Child Justice Act, 2008, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The parent of a child, an appropriate adult or a guardian who has been warned by an inquiry **[or a guardian]** magistrate to attend proceedings in terms of section 49(2), must attend the proceedings, unless he or she has been exempted in terms of subsection (5).”.

Substitution of section 75 of Act 75 of 2008

38. The following section is hereby substituted for section 75 of the Child Justice Act, 2008:

“Sentences involving of correctional supervision

75. A child justice court that convicts a child of an offence may impose a sentence **[involving]** of correctional supervision[—

(a) **in the case of a child who is 14 years or older, in terms of section 276(1)(h) or (i) of the Criminal Procedure Act; or**

(b) **in the case of a child who is under the age of 14 years, in terms of] envisaged in section 276(1)(h) of the Criminal Procedure Act.”.**

Wysiging van Indeks tot Wet 32 van 2007

34. Die Inhoudsopgawe tot die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, word hierby gewysig deur die volgende opskrif na die opskrif van artikel 44 in te voeg:

“**44A.** Navrae vir doeleindes van skrappingaansoeke kragtens Strafbroseswet, 1977”.

Wysiging van artikel 28 van Wet 75 van 2008

35. Artikel 28 van die Setswana-teks van die “Child Justice Act”, 2008, word hierby gewysig deur in subartikel (2)(b) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:

“Fa repoto e dirilwe go ya ka mokgwa o o tthalositsweng mo temana (a), repoto e tshwanetse gore ka mokgwa o o tlhomamisitsweng, ka bonako jo bo kgonagalang go romelwa go Mokomišenara yo o maleba wa Mapodisa wa **[Bosetšhaba]** Porofense le go rebola kgatišo ya repoto eo ka gangwe fela go Mokomišenara wa Bosetšhaba Mapodisa, go tlhagisa—”.

Wysiging van artikel 43 van Wet 75 van 2008

36. Artikel 43 van die van die Setswana-teks van die “Child Justice Act”, 2008, word hierby gewysig—

(a) deur in subartikel (1) die woord “le” aan die einde van paragraaf (a) te skrap, die uitdrukking “; le” na die woord “lefelolo” in paragraaf (b) in te voeg en die volgende paragraaf by te voeg:

“(c) e tshwanetse go okamelwa ke magisterata wa kgaolo moo ngwana a belaelwang gore o tlhodile tatofatso gona.”; le

(b) deur die volgende subartikel by te voeg:
“(4) Kgaolo 90 ya “*Magistrates’ Courts Act*”, 1944 (Molao No. 32 wa 1944), o dirisiwa ka diphetogo tse di tlhokegang tsa bokao jwa kgaolotlaleletso (1)(c).”.

Wysiging van artikel 65 van Wet 75 van 2008

37. Artikel 65 van die Setswana-teks van die “Child Justice Act”, 2008, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Motsadi wa ngwana, mogolo yo o maleba, kgotsa moemedi yo o boleletsweng go tlhagelela gape **[kgotsa moemedi]** ke kgotlatshekelo kgotsa ke magiseterata go tla gape ditsamaisong go ya ka mabaka a kgaolo 49(2), o tshwanetse go tsenela ditsamaiso, ntle le fa a ileditswe go ya ka mabaka a kgaolotlaleletso (5).”.

Vervanging van artikel 75 van Wet 75 van 2008

38. Artikel 75 van die Setswana-teks van die “Child Justice Act”, 2008 word hierby deur die volgende artikel vervang:

“**Dikotlhao tse di [akaretsang] go lebelelwa ke molebeledi wa kgolegelo**

75. Kgotlatshekelo ya bosiamisi jwa bana e e atlholang ngwana tebang le tatofatso, e ka ntsha katlholo e e **[akaretsang]** go lebelelwa ke molebeledi wa kgolegelo[—

(a) **mabapi le ngwana wa bogolo jwa dingwaga di le 14 kgotsa go feta, go ya ka mabaka a kgaolo 276(1)(h) kgotsa (i) ya *Criminal Procedure Act*; kgotsa**

(b) **mabapi le ngwana wa bogolo jwa dingwaga di le 14, go ya ka mabaka a] tshitsintsweng mo kgaolo 276(1)(h) ya *Criminal Procedure Act*.**”.

Amendment of section 85 of Act 75 of 2008

39. Section 85 of the Child Justice Act, 2008, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The provisions of Chapter 30 of the Criminal Procedure Act dealing with the review of criminal proceedings in the lower courts apply in respect of all children convicted in terms of this Act: Provided that if a child **[was, at the time of the commission of the alleged offence—**
- (a) **under the age of 16 years; or**
 - (b) **16 years or older but under the age of 18 years, and]** has been sentenced to any form of imprisonment **[that was not wholly suspended,]** or any sentence of compulsory residence in a child and youth care centre providing a programme provided for in section 191(2)(j) of the Children’s Act, the sentence is subject to review in terms of section 304 of the Criminal Procedure Act by a judge of the High Court having jurisdiction, irrespective of—
- (a) the duration of the sentence;
 - (b) the period the judicial officer who sentenced the child in question has held the substantive rank of magistrate or regional magistrate;
 - (c) whether the child in question was represented by a legal representative; or
 - (d) whether the child in question appeared before a district court or a regional court sitting as a child justice court.”.

Amendment of section 87 of Act 75 of 2008

40. Section 87 of the Child Justice Act, 2008, is hereby amended by the addition of the following subsections:

- “(7) Where the Director-General: Justice and Constitutional Development, in terms of subsection (2), or the Minister, in terms of subsection (3), has issued a certificate of expungement and it subsequently appears that the applicant did not qualify for the expungement of his or her criminal record, the Director-General must—
- (a) inform the applicant in writing of the information that has come to his or her attention and that he or she or the Minister intends to revoke the certificate of expungement;
 - (b) afford the applicant an opportunity to furnish compelling written reasons to him or her or the Minister within 90 working days after he or she is informed of the intention to revoke, why his or her record should remain expunged;
 - (c) inform the applicant in writing within 30 working days after a decision is made of—
 - (i) his or her or the Minister’s decision; and
 - (ii) the reasons for revoking the certificate of expungement; and
 - (d) inform the head of the Criminal Record Centre of the South African Police Service, in writing within 14 working days after the decision was made, to revoke the certificate of expungement and to reinstate the convictions and sentences in question.
- (8) If the applicant fails to furnish compelling reasons contemplated in subsection (1)(b), the Director-General or Minister, as the case may be, may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000), revoke the certificate of expungement.
- (9) (a) The Director-General: Justice and Constitutional Development may delegate any power or assign any duty conferred upon or assigned to him or her in terms of subsection (2) to an appropriately qualified official in the employ of the Department of Justice and Constitutional Development at the rank of Deputy Director-General.
- (b) A delegation or assignment in terms of paragraph (a)—
 - (i) is subject to any limitation, condition and direction which the Director-General may impose;
 - (ii) must be in writing; and
 - (iii) does not divest the Director-General of the responsibility concerning the exercise of the power or the performance of the duty.

Wysiging van artikel 85 van Wet 75 van 2008

39. Artikel 85 van die Setswana-teks van die “Child Justice Act”, 2008, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Ditaelo tsa Kgaolo 30 tsa *Criminal Procedure Act* tse di lebaganeng le tshekatsheko ya ditsamaiso tsa bosenyi mo dikgotlatshekelo tse di kwa tlase di ama bana botlhe ba ba otlhailweng mabapi le Molao ono: Fa fela ka **[nako ya go tlhodiwa ga tatofatso e e belaelwang ngwana, one a le**
- (a) **ka fa tlase ga dingwaga di le 16; kgotsa**
- (b) **dingwaga di le 16 kgotsa go feta mme fela ka fa tlase ga dingwaga di le 18, mme]** a otlhailwe ka mofuta mongwe le mongwe wa kgolegelo **[eo e sa khutswafatswang ka botlalo,]** kgotsa katlholo ngwe le ngwe ya go dula ka kgaopetso mo legae la bana le legae la tlhokomelo ya bašwa, le go tlamela ka porograma e e tlhalositsweng mo kgaolo 191(2)(j) ya Molao wa Bana, katlholo e ka sekasekwa go tsamaelana le mabaka a kgaolo 304 ya *Criminal Procedure Act* ke moatlhodi wa Kgotlatshekelo e kwa Godimo, e e na leng matla a taolo, go sa kgathaletsege—
- (a) boleele jwa paka ya kgolegelo;
- (b) paka eo motlankedi wa bosiamisi yo o otlhaileng ngwana a na leng yona mo maemong a bomagiseterata kgotsa magiseterata wa sedika;
- (c) le fa ngwana yo o amegang a ne a buelwa ke mmueledi wa molao; kgotsa
- (d) le fa ngwana yo o amegang a ne a tlhageletse mo kgotlatshekelong ya sedika kgotsa ya kgaolo e e ne e ntse jaaka kgotlatshekelo ya bosiamisi jwa bana.”.

Wysiging van artikel 87 van Wet 75 van 2008

40. Artikel 87 van die Setswana-teks van die “Child Justice Act”, 2008, word hierby gewysig deur die volgende subartikels by te voeg:

- “(7) Fa Mokaedi-Kakaretso: wa Bosiamisi le Tlhabololo ya Molaotheo, go tsamaelana le kgaolotlaleletso (2), kgotsa Tona, go ya ka mabaka a kgaolotlaleletso (3), a ntshitse setefikeiti sa go phimola melato, mme go bonagala ekete kopo ya mokopi ya go phimolelwa melato ga ea atlega kgotsa rekoto ya gagwe ya bosenyi, Mokaedi-Kakaretso o tshwanetse go—
- (a) itsise mokopi ka lekwalo ka tshedimisetso ea e amogetseng le gore ena kgotsa Tona ba ikaeletse go kgaphelathoko setifikeiti sa go phimola melato;
- (b) abela mokopi tšhono ya go mo kwalela kgotsa go kwalela Tona, mo nakong ya matsatsi a le 90 a tiro morago ga go itsisiwe ka maikaelelo a go gogela morago go phimolwa ga rekoto ya gagwe ya melato, mabaka a a tiileng a gore ke ka ntlha ya eng fa rekoto ya gagwe tshwanetse go nna e phimotswe;
- (c) go itsise mokopi ka lekwalo mo nakong ya matsatsi a le 30 a tiro morago ga go tsewa ga tshwetso ya—
- (i) tshwetso ya gagwe kgotsa ya Tona; le
- (ii) mabaka a kgaphelothoko ya setifikeiti sa go phimola melato; le
- (d) go itsise molaodi wa Setheo sa Direkoto tsa Bosenyi ya Ditirelo tsa Sepodisa sa Aforika Borwa ka lekwalo, mo nakong ya matsatsi a le 14 a tiro morago ga go diriwa ga tshwetso ya go kgaphelathoko setifikeiti sa go phimola melato le go busetsa-gape dikotlhao le dikatlholo tse di neng di phimotswe.
- (8) Fa mokopi a palelwa ke go tlamela ka mabaka a utlwagalang go ya ka tlhaloso ya kgaolotlaleletso (1)(b), Mokaedi-Kakaretso kgotsa Tona, le fa e le ka mokgwa ofe, go tsamaelana le *Promotion of Administrative Justice Act*, 2000 (Molao No. 2 wa 2000), go kgaphelathoko setifikeiti sa go phimola molato.
- (9) (a) Mokaedi-Kakaretso: wa Bosiamisi le Tlhabololo ya Molaotheo a ka laela thata ngwe le ngwe kgotsa tiro ngwe le ngwe e a abetsweng go ya ka mabaka a kgaolotlaleletso (2) go motlankedi yo o nang le bokgoni jo bo maleba yo o thapilweng ke Lefapha la Bosiamisi le Tlhabololo ya Molaotheo wa maemo a Motlatsa-Mokaedi Kakaretso.
- (b) Taelo kgotsa tiro go ya ka mabaka a temana (a)—
- (i) go ya ka tekanyetso, lebaka le taelo ngwe le ngwe e e ka tlhomamisiwang ke Mokaedi-Kakaretso;
- (ii) e tshwanetse go kwadiwa fa fatshe; le
- (iii) ga e amoge mokaedi-Kakaretso maikarabelo a gagwe mabapi a tiragatso ya thata kgotsa tiragatso ya tiro.

- (c) The Director-General may—
- (i) confirm, vary or revoke any decision taken in consequence of a delegation or assignment in terms of this subsection, subject to any rights that may have accrued to a person as a result of the decision; and
 - (ii) at any time, in writing, withdraw a delegation or assignment.

5

Substitution of section 100 of Act 75 of 2008

41. The following section is hereby substituted for section 100 in the Setswana text of the Child Justice Act, 2008:

“Setlhogo se se khutshwane le tshimologo

100. Molao ono, o bidiwa [**Child Justice Act**] Molao wa Bosiamisi wa Ngwana, 2008, mme o simolola go tsengwa tirisong ka kgwedi ya Moranang ngwaga wa 2010, kgotsa letlha lengwe le lengwe pele ga foo, le le beilweng ke Moporesidente ka go itsise batho semmuso mo Kuranteng ya Molao.”.

10

Amendment of section 3 of Act 11 of 2009

15

42. Section 3 of the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, is hereby amended by the substitution in subsections (2) and (3) for the expression “2008” wherever it occurs, of the expression “2009”.

Short title and commencement

43. (1) This Act is called the Judicial Matters Amendment Act, 2013. 20
(2) Sections 10 and 11 are deemed to have come into operation on 1 April 2010 and section 42 is deemed to have come into operation on 20 September 2010.

- (c) Mokaedi-Kakaretso a ka—
- (i) atlanegisa, fetola, kgotsa phimola tshwetso ngwe le ngwe e e dirilweng ka ntlha ya taelo kgotsa tiro go ya ka mabaka a kgaolotlaleletso eno, tshwanelo ngwe le ngwe e e amogetsweng ke motho ka ntlha ya tshwetso; e bile
 - (ii) nako ngwe le ngwe a ka go gogela morago taelo kgotsa tiro ka lekwalo.” 5

Wysiging van artikel 100 van Wet 75 van 2008

41. Artikel 100 van die Setswana-teks van die “Child Justice Act”, 2008, word hierby deur die volgende subartikel vervang:

“Setlhogo se se khutshwane le tshimologo

100. Molao ono, o bidiwa [**Child Justice Act**] Molao wa Bosiamisi wa Ngwana, 2008, mme o simolola go tsengwa tirisong ka kgwedi ya Moranang ngwaga wa 2010, kgotsa letlha lengwe le lengwe pele ga foo, le le beilweng ke Moporesidente ka go itsise batho semmuso mo Kuranteng ya Molao.”. 10

Wysiging van artikel 3 van Wet 11 van 2009 15

42. Artikel 3 van die Siswati-teks van die “Reform of Customary Law of Succession and Regulation of Related Matters Act”, 2009, word hierby gewysig deur in subartikels (2) en (3) die uitdrukking “2008”, waar dit ook al voorkom, deur die uitdrukking “2009” te vervang.”.

Kort titel en inwerkingtreding 20

43. (1) Hierdie Wet heet die Wysigingswet op Geregtelike Aangeleenthede, 2013.
(2) Artikels 10 en 11 word geag op 1 April 2010 in werking te getree het en artikel 48 word geag op 20 September 2010 in werking te getree het.

