



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Verkoopprijs • Selling price
(AVB uitgesluit/GST excluded)

Plaaslik **45c** Local
Buitelands 60c Other countries
Posvry • Post free

Vol. 255

KAAPSTAD, 10 SEPTEMBER 1986

CAPE TOWN, 10 SEPTEMBER 1986

No. 10427

KANTOOR VAN DIE STAATSPRESIDENT

No. 1865.

10 September 1986

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

No. 92 van 1986: Wysigingswet op Howe vir Klein Eise, 1986.

STATE PRESIDENT'S OFFICE

No. 1865.

10 September 1986

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

No. 92 of 1986: Small Claims Courts Amendment Act, 1986.

Wet No. 92, 1986

WYSIGINGSWET OP HOWE VIR KLEIN EISE, 1986

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 Howe vir Klein Eise, 1984, ten einde voorsiening te maak vir die instelling van 'n hof vir klein eise ook vir meer as een landdrosdistrik of vir 'n deel van so 'n distrik; die verlening van die bevoegdheid aan die Minister van Justisie of aan 'n landdros om vir 'n distrik 'n hof vir klein eise in te stel vir die beregting van 'n besondere eis of eise; die hof vir klein eise te onthef van die verpligting om van die dienste van 'n tolk gebruik te maak; die bepalings betreffende die verskyningsbevoegdheid van sekere persone te wysig; die Minister van Justisie te magtig om die monetêre perk ten opsigte van sekere skuldoorsake aan te pas; en 'n verbetering in die Engelse teks aan te bring; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 September 1986.)

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

Vervanging van
artikel 2 van
Wet 61 van 1984.

1. Artikel 2 van die Wet op Howe vir Klein Eise, 1984 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang:

"Instelling
van howe.

2. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

(a) vir 'n **[distrik]** gebied bestaande uit een of meer distrikte of 'n deel van 'n distrik 'n hof vir die beregting van eise ingevolge hierdie Wet instel, 10
wat 'n hof vir klein eise heet;

(aA) die setel van so 'n hof bepaal; en

(b) een of meer plekke in die **[distrik]** betrokke gebied vir die hou van sittings van so 'n hof bepaal. 15

(2) Indien dit na die oordeel van die Minister of 'n landdros van 'n distrik deur hom daartoe gemagtig, raadsaam is, kan die Minister of so 'n landdros ondanks die bepalings van subartikel (1)—

(a) vir daardie distrik 'n hof vir die beregting van enige besondere eis of eise ingevolge hierdie Wet instel; en 20

(b) die plek in daardie distrik vir die hou van sittings van so 'n hof bepaal."

Wysiging van
artikel 5 van
Wet 61 van 1984.

2. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang: 25

"(2) Indien getuienis afgelê word in 'n taal waarmee een van die partye na die mening van die hof nie genoegsaam

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GENERAL EXPLANATORY NOTE:

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

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Small Claims Courts Act, 1984, so as to provide for the establishment of a small claims court also for more than one magisterial district or for a part of such a district; the granting of the power to the Minister of Justice or to a magistrate to establish a small claims court for a district for the adjudication of a particular claim or claims; to relieve the small claims court of the obligation of making use of the services of an interpreter; to amend the provisions relating to the right of appearance of certain persons; to empower the Minister of Justice to adjust the monetary limit in respect of certain causes of action; and to effect an improvement in the English text; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 3 September 1986.)*

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

1. The following section is hereby substituted for section 2 of the Small Claims Courts Act, 1984 (hereinafter referred to as the principal Act):

Substitution of
section 2 of
Act 61 of 1984.

“Establish-
ment of
courts.

2. (1) The Minister may by notice in the *Gazette*—

(a) establish for any **[district]** area consisting of one or more districts or a part of a district a court for the adjudication of claims in terms of this Act, called a small claims court;

(aA) determine the seat of such a court; and

(b) determine one or more places in **[that district]** the area concerned for the holding of sessions of such a court.

(2) If it is in the opinion of the Minister or a magistrate of a district authorized thereto by him expedient, the Minister or such magistrate may, notwithstanding the provisions of subsection (1)—

(a) establish for that district a court for the adjudication of any particular claim or claims in terms of this Act; and

(b) determine the place in that district for the holding of sessions of such a court.”

2. Section 5 of the principal Act is hereby amended by the 25 substitution for subsection (2) of the following subsection:

Amendment of
section 5 of
Act 61 of 1984.

“(2) If evidence is given in a language with which one of the parties is in the opinion of the court not sufficiently con-

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vertroud is nie, **[moet]** kan die hof 'n bevoegde tolk inroep om die getuienis te vertolk in 'n taal waarmee daardie party genoegsaam vertrouwd blyk te wees, ongeag of die taal waarin die getuienis afgelê word een van die amptelike tale is."

Wysiging van
artikel 6 van
Wet 61 van 1984.

3. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die bepalings van die reëls is die stukke van 'n hof op die voorgeskrewe tye en teen betaling van die voorgeskrewe gelde ter insae beskikbaar deur die publiek onder toesig van die klerk van die hof, en daardie stukke 10 moet by die landdrossetel van die distrik **[waarvoor]** waarin die setel van die hof [ingestel] geleë is, bewaar word vir die tydperk wat die Direkteur-generaal: Justisie bepaal."

Wysiging van
artikel 7 van
Wet 61 van 1984.

4. Artikel 7 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te ver- 15
vang:

"(2) 'n Party by 'n aksie moet persoonlik voor die hof verskyn en mag nie, behoudens die bepalings van **[subartikels]** subartikel **[(3) en]** (4), tydens die verrig- 20
tinge deur iemand **[bygestaan of]** verteenwoordig word nie."; en

(b) deur subartikel (3) te skrap.

Wysiging van
artikel 9 van
Wet 61 van 1984.

5. Artikel 9 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (1) deur die volgende 25
paragraaf te vervang:

"(a) Behoudens die bepalings van hierdie artikel kan die Minister vir 'n **[distrik]** hof een of meer kom-
missaris aanstel."

(b) deur die volgende subartikel na subartikel (1) in te 30
voeg:

"(1A) 'n Landdros wat 'n hof kragtens artikel 2 (2) 30
instel, kan, behoudens die bepalings van hierdie arti-
kel, 'n kommissaris vir sodanige hof aanstel."

(c) deur subartikel (6) deur die volgende subartikel te ver- 35
vang:

"(6) Iemand wat ingevolge subartikel (1) of subarti-
kel (1A) aangestel is, moet voordat hy met sy werk-
saamhede as kommissaris begin, 'n eed of 'n plegtige
verklaring in die onderstaande vorm aflê en onderte- 40
ken:

Ek, A.B., verklaar hierby onder eed/plegtig en
opreg dat wanneer ek ook al die werksaamhede
van 'n kommissaris in 'n hof moet verrig, ek aan
alle persone op gelyke voet reg sal laat geskied
sonder vrees, begunstiging of vooroordeel en, na 45
gelang die omstandighede van 'n bepaalde saak
vereis, ooreenkomstig die reg en gebruike van die
Republiek van Suid-Afrika."; en

(d) deur subartikel (7) deur die volgende subartikel te ver- 50
vang:

"(7) So 'n eed of plegtige verklaring moet in die ope
hof voor die mees senior beskikbare landdros van die
[betrokke] distrik waarin die setel van die betrokke hof
geleë is, afgelê word, en hy moet daaronder 'n aantekening
aanbring ten effekte dat dit voor hom afgelê is, 55
en die datum van aflegging daarvan meld, en dit onder-
teken."

Wysiging van
artikel 11 van
Wet 61 van 1984.

6. Artikel 11 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te ver- 60
vang:

"(1) Die landdros van die distrik **[waarvoor]** waarin
die setel van daardie hof [ingestel] geleë is, moet vir 'n

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versant, a competent interpreter **[shall]** may be called by the court to interpret that evidence into a language with which that party appears to be sufficiently conversant, irrespective of whether the language in which the evidence is given is one of the official languages.”

3. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 6 of Act 61 of 1984.

“(1) Subject to the provisions of the rules, the documents of a court shall be available for inspection by the public under the supervision of the clerk of the court at the prescribed times and upon payment of the prescribed fees, and those documents shall be preserved at the seat of the magistracy of the district **[for which]** in which the seat of that court **[was established]** is situated for such period as the Director-General: Justice may determine.”

4. Section 7 of the principal Act is hereby amended— Amendment of section 7 of Act 61 of 1984.
(a) by the substitution for subsection (2) of the following subsection:

“(2) A party to an action shall appear in person before the court and, subject to the provisions of **[subsections] subsection **[(3) and]** (4)**, shall not be **[assisted or]** represented by any person during the proceedings.”; and
(b) by the deletion of subsection (3).

5. Section 9 of the principal Act is hereby amended— Amendment of section 9 of Act 61 of 1984.
(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Subject to the provisions of this section, the Minister may appoint one or more commissioners for any **[district] court**.”;

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

“(1A) A magistrate who establishes a court in terms of section 2 (2), may, subject to the provisions of this section, appoint a commissioner for such a court.”;

(c) by the substitution for subsection (6) of the following subsection:

“(6) A person appointed under subsection (1) or subsection (1A) shall, before commencing with his functions as a commissioner, take an oath or make an affirmation subscribed by him in the form set out below:

I, A.B., do hereby swear/solemnly and sincerely affirm and declare that whenever I may be called upon to perform the functions of a commissioner in any court I will administer justice to all persons alike without fear, favour or prejudice and, as the circumstances of a particular case may require, in accordance with the law and customs of the Republic of South Africa.”; and

(d) by the substitution for subsection (7) of the following subsection:

“(7) Such an oath or affirmation shall be taken or made in open court before the most senior available magistrate of the district in **[question]** which the seat of the court concerned is situated, and he shall at the foot thereof make a note to the effect that it was taken or made before him, and of the date on which it was so taken or made, and append his signature thereto.”

6. Section 11 of the principal Act is hereby amended— Amendment of section 11 of Act 61 of 1984.
(a) by the substitution for subsection (1) of the following subsection:

“(1) The magistrate of the district **[for which]** in which the seat of a court **[has been established]** is situated, shall appoint so many clerks and assistant clerks

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- hof soveel klerke en assistent-klerke van die hof, tolke en regsassistente aanstel as wat nodig is om die voorgeskrewe werksaamhede te verrig.”; en
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Die geregsbode wat kragtens die Wet op Landdroshof, 1944 (Wet No. 32 van 1944), vir die landdroshof van ’n distrik aangestel is, tree op as geregsbode vir ’n hof **[wat vir daardie distrik ingestel is]** in daardie deel van genoemde distrik wat binne die regsgebied van dié hof val.”.

Vervanging van artikel 12 van Wet 61 van 1984.

7. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

“Regsgebied. 12. Die regsgebied van ’n hof is die gebied of distrik waarvoor dit ingestel is.”.

Vervanging van artikel 15 van Wet 61 van 1984.

8. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

- “Regsbevoegdheid ten aansien van skuldoorsake.
15. Behoudens die bepalings van hierdie Wet het ’n hof regsbevoegdheid ten aansien van skuldoorsake in—
- (a) aksies om die lewering of oordrag van roerende of onroerende goed waarvan die waarde **[hoogstens R1 000 is]** nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie;
- (b) aksies om uitsetting teen die okkupeerder van ’n perseel of grond binne die regsgebied van die hof: Met dien verstande dat waar die reg tot okupasie van die perseel of grond tussen die partye in geskil is, die suiwer waarde van daardie reg vir die okkupeerder **[hoogstens R1 000 is]** nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie;
- (c) aksies gebaseer op of wat ontstaan uit ’n likiede dokument of ’n verband waar die eis **[hoogstens R1 000 is]** nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie;
- (d) aksies gebaseer op of wat ontstaan uit ’n krediet-ooreenkoms soos omskryf in artikel 1 van die Wet op Kredietooreenkomste, 1980 (Wet No. 75 van 1980), waar die eis of die waarde van die goed in geskil **[hoogstens R1 000 is]** nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie;
- (e) ander aksies as dié wat reeds in hierdie artikel vermeld is, waar die eis of waarde van die onderwerp in geskil **[hoogstens R1 000 is]** nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie;
- (f) aksies om teeneise **[van hoogstens R1 000]** ten opsigte van enige skuldoorsaak in paragrawe (a) tot (e) vermeld en wat nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie.”.

Wysiging van artikel 16 van Wet 61 van 1984.

9. Artikel 16 van die Hoofwet word hierby gewysig deur paragraaf (d) deur die volgende paragraaf te vervang:

“(d) waarin spesifieke nakoming sonder ’n alternatiewe eis

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of the court, interpreters and legal assistants for that court as may be necessary for the performance of the prescribed functions.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) The messenger of the court appointed under the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), for the magistrates’ court of a district, shall act as messenger of the court for a court **[established for that district]** in that part of the said district falling within the area of jurisdiction of that court.”

7. The following section is hereby substituted for section 12 of the principal Act:

Substitution of section 12 of Act 61 of 1984.

- “Area of jurisdiction. 12. The area of jurisdiction of a court shall be the area or district for which it was established.”

8. The following section is hereby substituted for section 15 of the principal Act:

Substitution of section 15 of Act 61 of 1984.

- “Jurisdiction in respect of causes of action. 15. Subject to the provisions of this Act, a court shall have jurisdiction in respect of causes of action in—

(a) actions for the delivery or transfer of any property, movable or immovable, not exceeding **[R1 000]** in value the amount determined by the Minister from time to time by notice in the *Gazette*;

(b) actions for ejectment against the occupier of any premises or land within the area of jurisdiction of the court: Provided that where the right of occupation of the premises or land is in dispute between the parties, that right does not exceed **[R1 000]** in clear value to the occupier the amount determined by the Minister from time to time by notice in the *Gazette*;

(c) actions based on or arising out of a liquid document or a mortgage bond, where the claim does not exceed **[R1 000]** the amount determined by the Minister from time to time by notice in the *Gazette*;

(d) actions based on or arising out of a credit agreement as defined in section 1 of the Credit Agreements Act, 1980 (Act No. 75 of 1980), where the claim or the value of the property in dispute does not exceed **[R1 000]** the amount determined by the Minister from time to time by notice in the *Gazette*;

(e) actions other than those already mentioned in this section, where the claim or the value of the matter in dispute does not exceed **[R1 000]** the amount determined by the Minister from time to time by notice in the *Gazette*;

(f) actions for counterclaims not exceeding **[R1 000]** the amount determined by the Minister from time to time by notice in the *Gazette*, in respect of any cause of action mentioned in paragraphs (a) to (e).”

9. Section 16 of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

Amendment of section 16 of Act 61 of 1984.

“(d) in which is sought specific performance without an

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om betaling van skadevergoeding aangevra word, behalwe in die geval van—

- (i) die verstrekking van 'n rekening ten opsigte waarvan die eis nie **[R1 000]** die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie; 5
- (ii) die lewering of oordrag van roerende of onroerende goed **[ter waarde van hoogstens R1 000]** waarvan die waarde nie die bedrag wat die Minister van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal, te bowe gaan nie; 10

Wysiging van
artikel 44 van
Wet 61 van 1984.

10. Artikel 44 van die Hoofwet word hierby gewysig deur in die Engelse teks subartikel (1) deur die volgende subartikel te vervang:

“(1) If a court has granted judgment for the payment of a 15 sum of money and the clerk of the court is satisfied that such judgment has remained unsatisfied after the judgment **[debtor]** creditor has acted in terms of all the provisions of this Chapter available to him, the clerk of the court shall, upon the written application of the judgment creditor accompanied by an affidavit specifying the amount still owing 20 under the judgment and how that amount is arrived at, transmit a certified copy of that judgment, together with that affidavit, to the clerk of the magistrate's court of the district in which the judgment debtor resides, carries on 25 business or is employed, or, if the judgment debtor is a juristic person, of the district in which its registered office or main place of business is situated.”.

Kort titel en inwerkingtreëding.

11. (1) Hierdie Wet heet die Wysigingswet op Howe vir Klein Eise, 1986. 30
(2) Artikels 8 en 9 tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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alternative claim for payment of damages, except in the case of—

- 5 (i) the rendering of an account in respect of which the claim does not exceed **[R1 000]** the amount determined by the Minister from time to time by notice in the *Gazette*;
- 10 (ii) the delivery or transfer of any property, movable or immovable, not exceeding **[R1 000]** in value the amount determined by the Minister from time to time by notice in the *Gazette*;”.

10. Section 44 of the principal Act is hereby amended by the substitution in the English text for subsection (1) of the following subsection:

Amendment of section 44 of Act 61 of 1984.

- 15 “(1) If a court has granted judgment for the payment of a sum of money and the clerk of the court is satisfied that such judgment has remained unsatisfied after the judgment **[debtor]** creditor has acted in terms of all the provisions of this Chapter available to him, the clerk of the court shall, upon the written application of the judgment creditor accompanied by an affidavit specifying the amount still owing under the judgment and how that amount is arrived at, transmit a certified copy of that judgment, together with that affidavit, to the clerk of the magistrate’s court of the district in which the judgment debtor resides, carries on business or is employed, or, if the judgment debtor is a juristic person, of the district in which its registered office or main place of business is situated.”.
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11. (1) This Act shall be called the Small Claims Courts Amendment Act, 1986.

Short title and commencement.

- 30 (2) Sections 8 and 9 shall come into operation on a date fixed by the State President by notice in the *Gazette*.

