



STAATSKOERANT
VAN DIE REPUBLIEK VAN SUID-AFRIKA
REPUBLIC OF SOUTH AFRICA
GOVERNMENT GAZETTE

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PROKLAMASIE

van die
Staatspresident van die Republiek van
Suid-Afrika

No. 222, 1981

PROKLAMASIE OM DIE SUIDWES-AFRIKA-AFDELING VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA IN DIE HOOGGEREGSHOF VAN SUIDWES-AFRIKA TE OMSKEP EN OM VIR AANGELEENTHEDE WAT DAARMEE IN VERBAND STAAN VOORSIENING TE MAAK

Kragtens die bevoegdheid my verleen by artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), maak ek hierby die wette in die Bylae vervat.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Vierde dag van November Eenduisend Negehonderd Een-en-tagtig.

M. VILJOEN, Staatspresident.

Op las van die Staatspresident-in-rade:

P. W. BOTHA.

BYLAE

Woordomskrywing

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken—

- (i) "appèlafdeling" die appèlafdeling van die Hooggeregshof van Suid-Afrika; (i)
- (ii) "die gebied" die gebied Suidwes-Afrika; (xiv)
- (iii) "die Hooggeregshof" die in artikel 2 bedoelde Hooggeregshof van Suidwes-Afrika; (xiii)
- (iv) "eiser" ook die een of ander party wat in 'n siviele geding om regshulp aansoek doen; (x)
- (v) "griffier" ook 'n assistent-griffier; (xi)
- (vi) "hofdag" enige dag wat nie 'n Saterdag, Sondag of openbare vakansiedag in die gebied is nie; (iii)
- (vii) "laerhof" 'n hof (wat nie die Hooggeregshof is nie) wat notule van sy verrigtinge moet hou, en ook 'n landdros of ander beampte wat 'n voorlopige ondersoek in verband met 'n beweerde misdryf hou; (viii)

PROCLAMATION

by the
State President of the Republic of
South Africa

No. 222, 1981

PROCLAMATION TO CONVERT THE SOUTH-WEST AFRICA DIVISION OF THE SUPREME COURT OF SOUTH AFRICA INTO THE SUPREME COURT OF SOUTH WEST AFRICA AND TO PROVIDE FOR OTHER INCIDENTAL MATTERS

Under the powers vested in me by section 38 of the South-West Africa Constitution Act, 1968 (Act 39 of 1968), I hereby make the laws set out in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria, this Fourth day of November, One thousand Nine hundred and Eighty-one.

M. VILJOEN, State President

By Order of the State President-in-Council:

P. W. BOTHA.

SCHEDULE

Definitions

- 1. In this Proclamation, unless the context otherwise indicates—
 - (i) "appellate division" means the appellate division of the Supreme Court of South Africa; (i)
 - (ii) "civil summons" means any summons whereby civil proceedings are commenced, and includes any rule nisi or notice of motion the object of which is to require the appearance before the court of any person against whom relief is sought in such proceedings or of any person having an interest in resisting the grant of such relief; (xii)
 - (iii) "court day" means any day not being a Saturday, Sunday or public holiday in the territory; (vi)
 - (iv) "defendant" includes any respondent or other party against whom relief is sought in civil proceedings; (xiii)
 - (v) "full court" means a court consisting of two or more judges; (xiv)
 - (vi) "government service" means the government service referred to in section 2 of the Government Service Act, 1980 (Act 2 of 1980), and the expression "officer in the government service" includes any person employed in a department as defined in section 1 (1) of the said Act; (viii)

(viii) "regeringsdiens" die in artikel 2 van die Regeringsdienswet, 1980 (Wet 2 van 1980), bedoelde regeringsdiens en beteken die uitdrukking "beampte in die regeringsdiens" ook 'n persoon in diens by 'n departement soos in artikel 1 (1) van bedoelde Wet omskryf; (vi)

(ix) "Regeringsdienskommissie" die by artikel 4 (1) van die Regeringsdienswet, 1980, ingestelde Regeringsdienskommissie; (vii)

(x) "regterpresident" die Regterpresident van die Hooggeregshof; (ix)

(xi) "Republiek" die Republiek van Suid-Afrika; (xii)

(xii) "siviele dagvaarding" 'n dagvaarding waarmee 'n siviele geding begin word, en ook 'n bevel *nisi* of kennisgewing van mosie wat ten doel het om die verskyning voor die hof te vereis van 'n persoon teen wie regshulp in so 'n geding versoek word of van 'n persoon wat daarby belang het om die verlening van bedoelde regshulp teen te staan; (ii)

(xiii) "verweerder" ook 'n respondent of ander party teen wie in 'n siviele geding om regshulp aansoek gedoen word; (iv)

(xiv) "volle hof" 'n hof wat uit twee of meer regters bestaan. (v)

Hooggeregshof van Suidwes-Afrika

2. Die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika, soos dit onmiddellik voor die inwerking-treding van hierdie Proklamasie bestaan het, hou op om so 'n afdeling te wees, maar bly voortbestaan as 'n hoër hof vir die gebied onder die naam van die Hooggeregshof van Suidwes-Afrika, bestaande uit 'n regterpresident en soveel ander regters as wat die Administrateur-generaal van tyd tot tyd bepaal.

Setel van Hooggeregshof

3. Die setel van die Hooggeregshof is in Windhoek, maar indien die regterpresident dit in belang van die regspleging nodig of dienstig ag, kan hy magtiging verleen vir die hou van die sitting daarvan elders in die gebied.

Aanstelling, besoldiging, ampsduur en pensioene van regters

4. (1) Die regterpresident en die ander regters van die Hooggeregshof moet geskikte persone wees, wat skriftelik deur die Administrateur-generaal aangestel word en hulle, sowel as kragtens subartikel (4) aangestelde persone, ontvang of geniet die by wet voorgeskrewe besoldiging, voordele, toelaes of voorregte.

(2) 'n Aanstelling kragtens subartikel (1) kan, in die geval van 'n persoon wat dan uit hoofde van 'n aanstelling kragtens subartikel (4) in 'n waarnemende hoedanigheid dien, terugwerkend gemaak word vanaf die begin van die tydperk wat hy aldus gedien het of, waar hy vir twee of meer tydperke wat tesame 'n enkele ononderbroke tydperk uitmaak, aldus gedien het, vanaf die begin van die eerste van daardie tydperke.

(3) (a) 'n Persoon wat kragtens hierdie artikel aangestel word, moet, voordat hy sy ampswerkzaamhede begin uitvoer, 'n eed of plegtige verklaring aflê, wat deur hom onderteken moet word, in onderstaande vorm, te wete:

"Ek, (volle naam) verklaar hierby onder eed/plegtig en opreg dat ek in my hoedanigheid as regter van die Hooggeregshof van Suidwes-Afrika aan alle persone op gelyke voet reg sal laat geskied sonder vrees, begunstiging of vooroordeel, en, soos die omstandighede van 'n bepaalde saak vereis, ooreenkomstig die reg en gebruike van die gebied Suidwes-Afrika."

(vii) "Government Service Commission" means the Government Service Commission established by section 4 (1) of the Government Service Act, 1980; (ix)

(viii) "inferior court" means any court (not being the Supreme Court) which is required to keep a record of its proceedings, and includes a magistrate or other officer holding a preparatory examination into an alleged offence; (vii)

(ix) "judge president" means the Judge President of the Supreme Court; (x)

(x) "plaintiff" includes any party seeking relief in civil proceedings; (iv)

(xi) "registrar" includes an assistant registrar; (v)

(xii) "Republic" means the Republic of South Africa; (xi)

(xiii) "the Supreme Court" means the Supreme Court of South West Africa referred to in section 2; (iii)

(xiv) "the territory" means the territory of South West Africa. (ii)

Supreme Court of South West Africa

2. The South-West Africa Division of the Supreme Court of South Africa as it existed immediately prior to the commencement of this Proclamation, shall cease to be such a division, but shall continue to exist as a superior court for the territory under the name of the Supreme Court of South West Africa, consisting of a judge president and as many other judges as the Administrator-General may from time to time determine.

Seat of Supreme Court

3. The seat of the Supreme Court shall be in Windhoek, but if the judge president deems it to be necessary or expedient in the interests of the administration of justice, he may authorise the holding of its sitting elsewhere in the territory.

Appointment, remuneration, tenure of office and pensions of judges

4. (1) The judge president and the other judges of the Supreme Court shall be fit and proper persons appointed by the Administrator-General in writing and they, as well as persons appointed under subsection (4), shall receive or enjoy such remuneration, benefits, allowances or privileges as may be prescribed by law.

(2) Any appointment under subsection (1) may, in the case of any person holding office in an acting capacity by virtue of any appointment under subsection (4), be made with retrospective effect from the commencement of the period during which he so held office or, where he has so held office for two or more periods which together constitute a single uninterrupted period, from the commencement of the first of such periods.

(3) (a) Any person appointed under this section shall, before commencing to exercise the functions of his office, take an oath or make an affirmation to be subscribed by him, in the form set out below, namely:

"I, (full name) hereby swear/solemnly and sincerely affirm and declare that I will in my capacity as a judge of the Supreme Court of South West Africa administer justice to all persons alike without fear, favour or prejudice, and, as the circumstances of any particular case may require, in accordance with the law and customs of the territory of South West Africa."

(b) So 'n eed of plegtige verklaring moet afgelê word voor die senior beskikbare regter van die Hooggeregshof of deur die ander deur die Administrateur-generaal aangewese persoon wat daaronder 'n verklaring moet endosseer en onderteken dat dit voor hom op die betrokke datum afgelê is.

(4) Wanneer dit om die een of ander rede raadsaam is dat 'n persoon aangestel word om as 'n regter op te tree in die plek van 'n regter van die Hooggeregshof of bo en behalwe die regters daarvan of in 'n vakature daarin, kan die Administrateur-generaal 'n geskikte persoon aanstel om aldus op te tree vir die tydperk wat die Administrateur-generaal bepaal.

(5) 'n Aanstelling kragtens hierdie artikel word geag ook te wees ten opsigte van enige tydperk waartydens die aangestelde persoon hom noodsaaklikerwys besig hou in verband met die afhandeling van verrigtinge waaraan hy as regter deelgeneem het en wat by beëindiging van die tydperk waarvoor hy aangestel is, nog nie afgehandel is nie of wat, nadat dit voor of na sodanige beëindiging afgehandel is, heropen word.

(6) (a) Die regterpresident of 'n ander regter van die Hooggeregshof word nie van sy amp onthef nie behalwe ooreenkomstig die bepalings van hierdie artikel.

(b) Die Administrateur-generaal kan so 'n regter weens wangedrag of onbekwaamheid in sy amp skors en moet die skorsing en die rede daarvoor per boodskap aan die Nasionale Vergadering binne 14 dae na die skorsing meedeel, indien die Nasionale Vergadering dan byeen is, of indien die Nasionale Vergadering nie dan byeen is nie, op die eerste dag waarop hy weer byeenkom.

(c) Indien daar binne 21 dae van die datum waarop bedoelde skorsing en die rede daarvoor aldus aan die Nasionale Vergadering meegedeel is, 'n adres van die Nasionale Vergadering aan die Administrateur-generaal voorgelê word waarin versoek word dat die regter weens 'n in paragraaf (b) bedoelde rede van sy amp onthef word, kan die Administrateur-generaal hom van sy amp onthef met ingang van die datum waarop hy in sy amp geskors is.

(d) Indien geen sodanige adres binne die in paragraaf (c) bedoelde tydperk aan die Administrateur-generaal voorgelê word nie, moet die regter in sy amp herstel word.

(7) 'n Regter van die Hooggeregshof wat sy amp in 'n permanente hoedanigheid beklee—

(a) moet aftree by bereiking van die ouderdom van 70 jaar;

(b) kan aftree indien hy die ouderdom van 65 jaar bereik het en minstens tien jaar pensioengewende diens voltooi het;

(c) kan te eniger tyd met die toestemming van die Administrateur-generaal aftree indien hy aangetas raak deur 'n permanente geestes- of liggaamsgebrek wat hom ongeskik maak om sy ampspligte behoorlik te vervul of indien daar 'n ander rede bestaan wat die Administrateur-generaal voldoende ag.

(8) 'n Regter van die Hooggeregshof word by aftrede en sy weduwee word by sy dood die by wet voorgeskrewe pensioen betaal.

Regters beklee geen ander winsbetrekking nie

(5). Geen regter van die Hooggeregshof mag sonder toestemming van die Administrateur-generaal 'n ander winsbetrekking aanvaar of beklee of daarin dien, of ten opsigte van enige diens enige gelde, emolumente of ander besoldiging benewens sy salaris en enige toelaes wat in sy hoedanigheid as so 'n regter aan hom betaalbaar is, ontvang nie.

(b) Any such oath or affirmation shall be taken or made before the senior available judge of the Supreme Court or such other person as the Administrator-General may designate who shall at the foot thereof endorse and sign a statement to the effect that it was made before him on the date concerned.

(4) Whenever it may for any reason be expedient that any person be appointed to act as a judge in the place of any judge of the Supreme Court or in addition to the judges thereof or in any vacancy therein, the Administrator-General may appoint some fit and proper person so to act for such period as the Administrator-General may determine.

(5) Any appointment under this section shall be deemed to be also in respect of any period during which the person appointed is necessarily engaged in connection with the disposal of any proceedings in which he has taken part as a judge and which have not been disposed of at the termination of the period for which he has been appointed or, having been disposed of before or after such termination, are re-opened.

(6) (a) The judge president or any other judge of the Supreme Court shall not be removed from office except in accordance with the provisions of this section.

(b) The Administrator-General may suspend any such judge on account of misconduct or inefficiency and shall communicate the suspension and the reason for doing so by message to the National Assembly within 14 days after the suspension, if the National Assembly is then assembled, or if the National Assembly is not then assembled, on the first day of its next ensuing assembly.

(c) If within 21 days from the date on which the aforesaid suspension and the reason for doing so have been so communicated to the National Assembly, the Administrator-General is presented with an address from the National Assembly praying for the removal of the judge from office on account of any reason referred to in paragraph (b), the Administrator-General may remove him from office with effect from the date of his suspension.

(d) If within the period referred to in paragraph (c) no such address is presented to the Administrator-General, the judge shall be restored to office.

(7) Any judge of the Supreme Court holding office in a permanent capacity—

(a) shall retire from office on attaining the age of 70 years;

(b) may retire from office if he has attained the age of 65 years and has completed at least ten years pensionable service;

(c) may at any time with the approval of the Administrator-General retire from office if he becomes afflicted with a permanent infirmity of mind or body disabling him from the proper discharge of his duties of office or if any other reason exists which the Administrator-General deems to be sufficient.

(8) Any judge of the Supreme Court shall on retirement and his widow shall on his death be paid the pension prescribed by law.

Judges not to hold any other office of profit

5. No judge of the Supreme Court shall without the consent of the Administrator-General accept, hold or perform any other office of profit or receive in respect of any service any fees, emoluments or other remuneration apart from his salary and any allowances which may be paid to him in his capacity as such a judge.

Samestelling van Hooggeregshof

6. (1) (a) Behoudens die bepalings van hierdie Proklamasie of ander wetsbepalings, word die Hooggeregshof, wanneer hy as 'n hof van eerste instansie vir die verhoor van 'n siviele aangeleentheid sit, voor 'n enkele regter saamgestel: Met dien verstande dat die regterpresident, of in sy afwesigheid die senior beskikbare regter te eniger tyd kan gelas dat 'n aangeleentheid verhoor word deur 'n volle hof wat bestaan uit soveel regters as wat hy bepaal.

(b) 'n Enkele regter kan te eniger tyd die verhoor van 'n aangeleentheid wat voor hom verhoor word, staak en dit vir verhoor na die volle hof verwys.

(2) (a) Die Hooggeregshof word, behalwe waar hy ingevolge die een of ander wetsbepaling anders saamgestel moet of kan word, vir die verhoor van 'n appèl voor minstens twee regters saamgestel: Met dien verstande dat 'n appèl van 'n laerhof deur 'n enkele regter verhoor en beslis kan word.

(b) 'n Regter sit nie by die verhoor van 'n appèl teen 'n uitspraak of bevel gegee in 'n saak wat voor hom verhoor is nie.

(3) Wanneer dit vir die regterpresident of, in sy afwesigheid die senior beskikbare regter blyk dat 'n saak wat voor die Hooggeregshof verhoor word, weens die belangrikheid daarvan deur 'n hof wat uit meer regters bestaan, verhoor behoort te word, kan hy gelas dat die verhoor gestaak word en dat opnuut daarmee begin word voor 'n hof bestaande uit soveel regters as wat hy bepaal.

(4) Vir die verhoor van 'n strafsak as 'n hof van eerste instansie word die Hooggeregshof saamgestel op die wyse in die toepaslike wetsbepalings op prosedure in strafregtelike aangeleenthede voorgeskryf.

(5) Gedurende enige tydperk wat by hofreëls as 'n vakansie tydperk bepaal is of waartydens slegs een regter beskikbaar is, is een regter van die Hooggeregshof, ondanks andersluidende bepalings van hierdie Proklamasie of 'n ander wet, bevoeg om al die bevoegdhede, jurisdiksie en gesag van die Hooggeregshof uit te oefen.

Meer as een hof kan terselfdertyd sit

7. Die Hooggeregshof kan te eniger tyd in soveel volgens voorskrif van hierdie Proklamasie saamgestelde howe sittings hou as wat die beskikbare regters toelaat.

Aard van Hooggeregshof

8. (1) Die Hooggeregshof is 'n notulerende hof en het vir sy gebruik 'n seël bestaande uit 'n sirkel en daaromheen binne 'n wyer sirkel die woorde: "HOOGGEREGSHOF VAN SUIDWES-AFRIKA—SUPREME COURT OF SOUTH WEST AFRICA".

(2) Die seël word in die bewaring van die griffier van die Hooggeregshof gehou.

Verrigtinge vind in ope hof plaas

9. Behoudens andersluidende wetsbepalings word alle verrigtinge in die Hooggeregshof in ope hof gevoer.

Wyse waarop daar tot beslissinge geraak word

10. (1) Behoudens andersluidende bepalings van hierdie Proklamasie of ander wetsbepalings, is die uitspraak van die meerderheid van die regters van die volle hof die uitspraak van die hof, en waar die uitspraak van 'n meerderheid van die regters van so 'n hof nie met mekaar ooreenstem nie, word die verhoor verdaag en *de novo* begin voor 'n nuwe hof saamgestel op die wyse wat die regterpresident of, in sy afwesigheid, die senior beskikbare regter bepaal.

Constitution of Supreme Court

6. (1) (a) Subject to the provisions of this Proclamation or any other law, the Supreme Court shall, when sitting as a court of first instance for the hearing of any civil matter, be constituted before a single judge: Provided that the judge president or, in his absence, the senior available judge may at any time direct that any matter be heard by a full court consisting of as many judges as he may determine.

(b) A single judge may at any time discontinue the hearing of any matter being heard before him and refer it for hearing to the full court.

(2) (a) The Supreme Court shall, except where it is in terms of any law required or permitted to be otherwise constituted, be constituted before not less than two judges for the hearing of any appeal: Provided that an appeal from any inferior court may be heard and determined before a single judge.

(b) The judge shall not sit at the hearing of an appeal against a judgment or order given in a case heard before him.

(3) Whenever it appears to the judge president or, in his absence, the senior available judge that any matter being heard before the Supreme Court should in view of its importance be heard before a court consisting of a larger number of judges, he may direct that the hearing be discontinued and commenced afresh before a court consisting of as many judges as he may determine.

(4) For the hearing of any criminal case as a court of first instance, the Supreme Court shall be constituted in the manner prescribed in the applicable law relating to procedure in criminal matters.

(5) During any period which may by rule of court be fixed as vacation or during which only one judge may be available, one judge of the Supreme Court shall, notwithstanding anything in this Proclamation or any other law contained, be competent to exercise all the powers, jurisdiction and authority of the Supreme Court.

More than one court may sit at the same time

7. The Supreme Court may at any time sit in as many courts constituted in the manner provided in this Proclamation as the available judges may allow.

Nature of Supreme Court

8. (1) The Supreme Court shall be a court of record and shall have for its use, a seal consisting of a circle and around such circle within a wider circle the words "HOOGGEREGSHOF VAN SUIDWES-AFRIKA—SUPREME COURT OF SOUTH WEST AFRICA".

(2) The seal shall be kept in custody of the registrar of the Supreme Court.

Proceedings to be carried on in open court

9. Save as may otherwise be provided in any law all proceedings in the Supreme Court shall be carried on in open court.

Manner of arriving at decisions

10. (1) Save as may otherwise be provided in this Proclamation or any other law, the judgment of the majority of the judges of the full court shall be the judgment of the court, and where the judgments of a majority of the judges of any such court are not in agreement, the hearing shall be adjourned and commenced *de novo* before a new court constituted in such manner as the judge president or, in his absence, the senior available judge may determine.

(2) Indien daar op enige stadium gedurende die verhoor van 'n aangeleentheid deur 'n volle hof, 'n regter van die volle hof te sterwe kom of aftree of andersins onbekwaam word om op te tree of afwesig is, word die verhoor, indien die oorblywende regters 'n meerderheid uitmaak van die regters voor wie dit begin het, voor daardie oorblywende regters voortgesit, en indien daardie oorblywende regters nie so 'n meerderheid uitmaak nie, of indien slegs een regter oorbly, word die verhoor *de novo* begin, tensy al die partye by die verrigtinge skriftelik en onvoorwaardelik ooreenkom om die beslissing van die meerderheid van bedoelde oorblywende regters of van bedoelde enkele oorblywende regter as die beslissing van die hof te aanvaar.

(3) Die bepalinge van subartikel (1) is *mutatis mutandis* van toepassing wanneer 'n verhoor onder die omstandighede in subartikel (2) uiteengesit, voor twee of meer regters voortgesit word.

Gesertifiseerde afskrifte van hofstukke as getuienis toelaatbaar

11. Wanneer 'n uitspraak, bevel, order of ander stukke van die Hooggeregshof bewys of geïnspekteer moet word of daar op enige wyse daarna verwys moet word, is 'n afskrif van sodanige uitspraak, bevel, order of ander stuk, wat behoorlik deur die griffier onder die seël van die Hooggeregshof as sodanig gesertifiseer is, *prima facie* bewys daarvan sonder bewys van die egtheid van die handtekening van die griffier.

Persone oor wie en aangeleenthede met betrekking waartoe die Hooggeregshof regsbevoeg is

12. Die Hooggeregshof besit regsbevoegdheid oor alle persone wat binne die gebied woon of is en met betrekking tot alle gedinge wat daar ontstaan en alle misdrywe wat aldaar bereg kan word en alle ander aangeleenthede wat regtens deur hom beregbaar is, en is, afgesien van enige bevoegdheid of jurisdiksie regtens aan hom verleen, bevoeg—

- (a) om appèlle van alle laerhowe binne die gebied te verhoor en daaroor te beslis;
- (b) om die verrigtinge van alle sodanige howe te hersien;
- (c) om na die goëddunke, en op versoek van 'n belanghebbende persoon, enige bestaande, toekomstige of voorwaardelike reg of verpligting te ondersoek en te bepaal, al het so 'n persoon nie regtens enige aanspraak op verligting uit hoofde van die bepaling nie.

Verwysing van bepaalde aangeleenthede vir ondersoek deur skeidsregter

13. (1) Die Hooggeregshof kan, in 'n siviele geding, met die toestemming van die partye—

- (a) enige aangeleentheid wat 'n uitgebreide ondersoek van dokumente, of 'n wetenskaplike, tegniese of plaaslike ondersoek verg wat na die oordeel van die hof nie geredelik deur die hof ingestel kan word nie; of
- (b) enige aangeleentheid wat geheel en al of gedeeltelik op rekening betrekking het; of
- (c) enige ander aangeleentheid wat uit bedoelde geding voortspruit;

vir ondersoek en verslag na 'n deur hom aangewese skeidsregter verwys, en die hof kan die verslag van so 'n skeidsregter in sy geheel of gedeeltelik aanvaar, met of sonder wysigings, of kan so 'n verslag vir verdere ondersoek of verslag of oorweging deur bedoelde skeidsregter terugverwys, of 'n ander bevel ten opsigte daarvan uitvaardig wat hy nodig of wenslik ag.

(2) So 'n verslag of enige deel daarvan wat deur die hof aanvaar word, hetsy met of sonder wysigings, het die uitwerking van 'n bevinding van die hof in die betrokke siviele geding.

(2) If at any stage during the hearing of any matter by a full court, any judge of such court dies or retires or becomes otherwise incapable of acting or is absent, the hearing shall, if the remaining judges constitute a majority of the judges before whom it was commenced, proceed before such remaining judges, and if such remaining judges do not constitute such a majority, or if only one judge remains, the hearing shall be commenced *de novo*, unless all the parties to the proceedings agree unconditionally in writing to accept the decision of the majority of such remaining judges or of such one remaining judge as the decision of the court.

(3) The provisions of subsection (1) shall *mutatis mutandis* apply whenever in the circumstances set out in subsection (2) a hearing proceeds before two or more judges.

Certified copies of court records admissible as evidence

11. Whenever any judgment, decree, order or other record of the Supreme Court is required to be proved or inspected or referred to in any manner, a copy of such judgment, decree, order or other record duly certified as such by the registrar under the seal of the Supreme Court shall be *prima facie* evidence thereof without proof of the authenticity of the registrar's signature.

Persone over whom and matters in relation to which the Supreme Court has jurisdiction

12. The Supreme Court shall have jurisdiction over all persons residing or being in and in relation to all causes arising and all offences triable within the territory and all other matters of which it may according to law take cognisance, and shall, in addition to any powers of jurisdiction which may be vested in it by law, have power—

- (a) to hear and determine appeals from all inferior courts in the territory;
- (b) to review the proceedings of all such courts;
- (c) in its discretion, and at the instance of any interested person, to enquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.

Reference of particular matters for investigation by referee

13. (1) In any civil proceedings the Supreme Court may, with the consent of the parties, refer—

- (a) any matter which requires extensive examination of documents or scientific, technical or local investigation which in the opinion of the court cannot readily be conducted by it; or
- (b) any matter which relates wholly or in part to accounts; or
- (c) any other matter arising in such proceedings,

for enquiry and report to a referee designated by it, and the court may adopt the report of any such referee, either wholly or in part, and either with or without modifications, or may remit such report for further enquiry or report or consideration by such referee, or make such other order in regard thereto as it may deem necessary or desirable.

(2) Any such report or any part thereof adopted by the court, whether with or without modifications, shall have effect as if it were a finding by the court in the civil proceedings in question.

(3) So 'n skeidsregter het, vir die doeleindes van bedoelde ondersoek, die bevoegdhede en behartig die ondersoek op die wyse wat by spesiale hofbevel of by die hofreëls voorgeskryf word.

(4) Vir die doeleindes van die verkryging van die aanwesigheid van 'n getuie (met inbegrip van 'n getuie wat kragtens 'n wetsbepaling in hegtenis gehou word) en die oorlegging van 'n dokument of saak voor 'n skeidsregter, word 'n ondersoek kragtens hierdie artikel 'n siviele geding geag.

(5) (a) 'n Persoon wat gedagvaar is om voor 'n skeidsregter te verskyn en getuienis af te lê of 'n dokument of saak oor te lê, en wat sonder voldoende rede in gebreke bly om op die bepaalde tyd en plek aanwesig te wees of om aanwesig te bly totdat die ondersoek voltooi is of totdat die skeidsregter hom verlof gee om nie meer aanwesig te wees nie, of wat weier om as getuie die eed of 'n plegtige verklaring af te lê, of wat na eedaflegging of die aflê van 'n plegtige verklaring in gebreke bly om 'n vraag aan hom gestel volledig en op bevredigende wyse te beantwoord, of wat in gebreke bly om 'n dokument of saak in sy besit of bewaring of onder sy beheer, en tot oorlegging waarvan hy gedagvaar is, oor te lê, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(b) 'n Persoon wat na eedaflegging of die aflê van 'n plegtige verklaring valse getuienis voor 'n skeidsregter by 'n ondersoek aflê, met die wete dat die getuienis vals is of sonder dat hy weet of glo dat dit waar is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die by wet voorgeskrewe strawwe vir meened.

(6) 'n Skeidsregter is geregtig op die besoldiging wat by die hofreëls voorgeskryf word of, indien geen sodanige besoldiging aldus voorgeskryf is nie, wat die hof bepaal, en op enige redelike uitgawes deur hom vir die doeleindes van die ondersoek aangegaan, en sodanige besoldiging en uitgawes word deur die takseermeester van die Hooggeregshof getakseer en is koste in die geding.

Appelle teen uitspraak of bevel van Hooggeregshof in siviele geding

14. (1) 'n Appèl teen 'n uitspraak of bevel van die Hooggeregshof in 'n siviele geding kan aangeteken word—

(a) in die geval van 'n uitspraak of bevel deur 'n enkele regter op aansoek by wyse van mosie of op dagvaarding vir provisionele vonnis of in 'n verhoorsaak waar die verweerder in verstek is of slegs in verband met koste wat regtens by die diskresie van die hof berus, na die volle hof van die Hooggeregshof;

(b) in enige ander geval, met inbegrip van 'n appèl teen 'n uitspraak of bevel op appèl gegee, na die appèl-afdeling.

(2) Die volgende bepalinge geld in verband met appèlle ingevolge subartikel (1), te wete:

(a) Die reg van appèl is nie beperk bloot op grond van die waarde van die saak in geskil of die bedrag in die geding geëis of toegeken of bloot op grond daarvan dat die saak in geskil nie in geld bereken kan word nie;

(b) geen uitspraak of bevel by toestemming gegee of wat slegs betrekking het op koste wat regtens by die diskresie van die hof berus, en geen interlokutêre bevel is aan appèl onderhewig nie, behalwe met verlof van die hof wat die uitspraak of bevel gegee het;

(c) die reg van appèl is onderworpe aan enige wetsbepalinge waarby daardie reg uitdruklik beperk word;

(d) die reëls waarby die verrigtinge van die appèlafdeling gereël word, is *mutatis mutandis* van toepassing ten opsigte van appèlle na daardie afdeling.

(3) Any such referee shall for the purposes of such enquiry have such powers and shall conduct the enquiry in such manner as may be prescribed by a special order of court or by rules of court.

(4) For the purpose of procuring the attendance of any witness (including any witness detained in custody under any law) and the production of any document or thing before a referee, an enquiry under this section shall be deemed to be civil proceedings.

(5) (a) Any person summoned to appear and give evidence or produce any document or thing before a referee, who, without sufficient cause, fails to attend at the time and place specified or to remain in attendance until the conclusion of the enquiry or until he is excused by the referee from further attendance, or refuses to be sworn, or to make affirmation as a witness, or having been sworn or having made affirmation, fails to answer fully and satisfactorily any question put to him, or fails to produce any document or thing in his possession or custody or under his control, which he was summoned to produce, shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding three months.

(b) Any person who after having been sworn or having made affirmation, gives false evidence before a referee at any enquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(6) Any referee shall be entitled to such remuneration as may be prescribed by the rules of court or, if no such remuneration has been so prescribed, as the court may determine, and to any reasonable expenditure incurred by him for the purposes of the enquiry, and any such remuneration and expenditure shall be taxed by the taxing master of the Supreme Court and shall be costs in the cause.

Appeals against judgment or order of Supreme Court in civil proceedings

14. (1) An appeal from any judgment or order of the Supreme Court in any civil proceedings may be made—

(a) in the case of any judgment or order by a single judge on application by way of motion or on summons for provisional sentence or in any trial case in which the defendant is in default or as to costs only left by law to the discretion of the court, to the full court of the Supreme Court;

(b) in any other case, including any appeal against a judgment or order given or made on appeal, to the appellate division.

(2) The following provisions shall apply in connection with appeals under subsection (1), namely:

(a) The right of appeal shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in the suit or by reason only of the fact that the matter in dispute is incapable of being valued in money;

(b) no judgment or order given or made by consent or as to costs only left by law to the discretion of the court and no interlocutory order shall be subject to appeal save with the leave of the court by which the judgment was given or the order was made;

(c) the right of appeal shall be subject to the provisions of any law which specifically limits that right;

(d) the rules regulating the proceedings of the appellate division shall *mutatis mutandis* apply in respect of appeals to that division.

(3) Wanneer die partye by 'n siviele geding in verband waarmee ooreenkomstig paragraaf (a) van subartikel (1) appèl aangeteken kan word, by die griffier 'n skriftelike kennisgewing indien waarby hulle toestem dat die appèl deur die appèlafdeling verhoor en beslis word, is daardie afdeling regsbevoeg, mits enige ingevolge paragraaf (b) van subartikel (2) vereiste verlof toegestaan is, om die appèl te verhoor en te beslis sonder dat daar vooraf eers 'n appèl deur die Hooggeregshof verhoor en beslis is.

(4) Ondanks andersluidende wetsbepalings, is daar geen appèl teen 'n uitspraak of bevel van die Hooggeregshof nie in verrigtinge in verband met 'n aansoek—

(a) deur een eggenoot teen die ander om onderhoud *pendente lite*;

(b) om 'n bydrae tot die koste van 'n huweliksgeding wat aanhangig is;

(c) om die tussentydse bewaring van 'n kind wanneer 'n huweliksgeding tussen sy ouers aanhangig is of op die punt staan om ingestel te word;

(d) deur een ouer teen die ander om tussentydse toegang tot 'n kind wanneer 'n huweliksgeding tussen die ouers aanhangig gemaak is of op die punt staan om ingestel te word.

(5) Die bepalinge van hierdie artikel maak nie op ander bepalinge met betrekking tot appèlle teen beslissinge van laerhove in siviele aangeleenthede inbreuk nie.

Bevoegdheid van hof by verhoor van appèlle

15. (1) Die Hooggeregshof is bevoeg—

(a) om by die verhoor van 'n appèl verdere getuienis te ontvang, hetsy mondeling of by verklaring voor 'n persoon deur die hof aangestel, of om die saak vir verder verhoor na die hof van eerste instansie of die hof waarvan die uitspraak die onderwerp van die appèl is, terug te verwys, met so 'n opdrag wat betref die afneem van verdere getuienis of andersins as wat vir eersbedoelde hof nodig blyk;

(b) om die uitspraak of bevel wat die onderwerp van die appèl is, te bevestig, te wysig of ter syde te stel, en om enige uitspraak te gee of bevel uit te vaardig wat die omstandighede vereis.

(2) By 'n appèl na die appèlafdeling het daardie afdeling, behoudens die bepalinge van hierdie Proklamasie, die bevoegdheid wat die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959), of enige ander wet aan hom ten opsigte van so 'n appèl verleen.

Gronde vir hersiening van verrigtinge van laerhove

16. (1) Die gronde waarop die verrigtinge van 'n laerhof voor die Hooggeregshof in hersiening gebring kan word, is—

(a) gebrek aan regsbevoegdheid van die hof;

(b) belang by die geding, vooroordeel, kwaadwilligheid of korrupsie by die voorsittende regterlike beampte;

(c) growwe onreëlmatigheid by die verrigtinge;

(d) die toelating van ontoelaatbare of onbevoegde getuienis of die verwerping van toelaatbare of bevoegde getuienis.

(2) Die bepalinge van hierdie artikel het geen uitwerking op ander wetsbepalinge met betrekking tot die hersiening van verrigtinge van laerhove nie.

Prosesstukke word nie sonder toestemming van die hof teen regter uitgereik nie

17. (1) Ondanks andersluidende wetsbepalinge, word geen dagvaarding of getuedagvaarding in 'n siviele geding teen 'n regter van die Hooggeregshof uit enige hof uitgereik nie, behalwe met die toestemming van die Hooggeregshof.

(3) Whenever the parties to any civil proceedings in connection with which an appeal may be made in accordance with paragraph (a) of subsection (1), lodge with the registrar notice in writing of their consent to the appeal being heard and determined by the appellate division, the said division shall have jurisdiction, provided any leave required in terms of paragraph (b) of subsection (2) has been granted, to hear and determine the appeal without an intermediate appeal having first been heard and determined by the Supreme Court.

(4) Notwithstanding anything to the contrary in any law contained, no appeal shall lie from a judgment or order of the Supreme Court in proceedings in connection with an application—

(a) by one spouse against the other for maintenance *pendente lite*;

(b) for contribution towards the costs of a pending matrimonial action;

(c) for the interim custody of a child when a matrimonial action between its parents is pending or is about to be instituted;

(d) by one parent against the other for interim access to a child when a matrimonial action between the parents is pending or is about to be instituted.

(5) Nothing in this section shall affect the provisions of any other law relating to appeals from decisions of inferior courts in civil matters.

Powers of court on hearing of appeals

15. (1) The Supreme Court shall have power—

(a) on the hearing of an appeal to receive further evidence, either orally or by deposition before a person appointed by the court, or to remit the case to the court of first instance or the court whose judgment is the subject of the appeal, for further hearing, with such instructions as regards the taking of further evidence or otherwise as to such first-mentioned court may seem necessary;

(b) to confirm, amend or set aside the judgment or order which is the subject of the appeal and to give any judgment or make any order which the circumstances may require.

(2) On appeal to the appellate division that division shall, subject to the provisions of this Proclamation, have such powers as the Supreme Court Act, 1959 (Act 59 of 1959), or any other law may confer upon it in respect of any such appeal.

Grounds of review of proceedings of inferior courts

16. (1) The grounds upon which the proceedings of any inferior court may be brought under review before the Supreme Court are—

(a) absence of jurisdiction on the part of the court;

(b) interest in the cause, bias, malice or corruption on the part of the presiding judicial officer;

(c) gross irregularity in the proceedings;

(d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.

(2) Nothing in this section shall affect the provisions of any other law relating to the review of proceedings in inferior courts.

No process to be issued against judge except with consent of court

17. (1) Notwithstanding anything to the contrary in any law contained, no summons or subpoena against any judge of the Supreme Court shall in any civil action be issued out of any court except with the consent of the Supreme Court.

(2) Waar toestemming tot die uitreiking van 'n dagvaarding of getuiedagvaarding teen 'n regter om in 'n siviele saak te verskyn, verleen is, word die datum waarop daardie regter die hof moet bywoon, in oorleg met die regterpresident of, in sy afwesigheid, die eersvolgende senior beskikbare regter van die Hooggeregshof bepaal.

Strekking en tenuitvoerlegging van prosesstukke van afdelings van die Hooggeregshof van Suid-Afrika

18. Die siviele prosesstukke van 'n afdeling van die Hooggeregshof van Suid-Afrika geld ook in die gebied en kan daarin bestel of ten uitvoer gelê word asof dit prosesstukke van die Hooggeregshof was.

Tenuitvoerlegging van prosesstukke ten opsigte van vereniging, vennootskap of firma

19. 'n Lasbrief of ander prosesstuk vir die tenuitvoerlegging van 'n uitspraak gegee of bevel uitgevaardig teen 'n vereniging van persone met of sonder regs persoonlikheid of 'n vennootskap of firma kan deur beslaglegging op die eiendom of bates van die vereniging, vennootskap of firma ten uitvoer gelê word.

Tyd toegelaat om verskyning aan te teken

20. Die tydperk toegelaat om verskyning aan te teken in verband met 'n siviele dagvaarding wat buite die gebied bestel is, moet nie minder as 21 dae wees nie.

Verbod op beslaglegging om jurisdiksie te vestig of arrest waar verweerder in die gebied of die Republiek woon

21. (1) Geen inhegtenisname van die persoon of beslaglegging op eiendom om jurisdiksie te vestig, word teen 'n persoon wat in die gebied of die Republiek woon, deur die Hooggeregshof beveel nie.

(2) Geen lasbrief word in of in verband met 'n siviele geding wat ingestel is of staan te word, uit die Hooggeregshof uitgereik vir die inhegtenisname van 'n persoon wat in die gebied of die Republiek woon, ten einde sy verskyning as verweerder by daardie verrigtinge te verseker nie, bloot op grond daarvan dat daardie persoon na 'n plek buite die regsgebied van die Hooggeregshof maar binne die Republiek vertrek het of op die punt staan om daarheen te vertrek.

Omstandighede waarin sekerheidstelling vir koste nie vereis word nie

22. Wanneer 'n persoon wat in die Republiek woon 'n eiser is in 'n siviele geding voor die Hooggeregshof, word daar nie bloot uit hoofde daarvan dat hy buite die gebied woon, sekerheid vir koste in daardie geding van hom vereis nie.

Wyse waarop verskyning van getuies in siviele gedinge versker word en strawwe vir versuim om te verskyn

23. (1) 'n Party by 'n siviele geding voor die Hooggeregshof in verband waarmee die aanwesigheid van getuies vereis word, kan die aanwesigheid van 'n getuie verkry op die wyse in die hofreëls bepaal.

(2) Wanneer 'n persoon wat gedagvaar is om as 'n getuie by 'n siviele geding aanwesig te wees, sonder redelike verskoning versuim om die dagvaarding te gehoorsaam, en dit uit die relas van die bevoegde beampote of uit getuienis onder eed afgelê, blyk dat die dagvaarding bestel is aan die persoon aan wie dit gerig is en dat sy redelike uitgawes, bereken ooreenkomstig die tarief kragtens artikel 35 voorgeskryf, aan hom betaal of aangebied is, of dat hy bestelling van die dagvaarding ontwyk, of indien 'n persoon wat ter voldoening aan 'n dagvaarding opgedaag het, versuim om aanwesig te bly, kan die hof waarin die geding gevoer word 'n lasbrief uitreik waarby gelas word dat hy in hegtenis geneem en op 'n tyd en plek in die lasbrief vermeld of so spoedig moontlik daarna voor daardie hof gebring word.

(2) Where the issuing of a summons or subpoena against a judge to appear in a civil action has been consented to, the date upon which such judge shall attend court shall be determined in consultation with the judge president or, in his absence, the next senior judge of the Supreme Court available.

Scope and execution of process of divisions of Supreme Court of South Africa

18. The civil process of any division of the Supreme Court of South Africa shall run also throughout the territory and may be served or executed therein as if it were civil process of the Supreme Court.

Execution of process in respect of association, partnership or firm

19. Any warrant or other process for the execution of any judgment or order issued against any association of persons corporate or unincorporate, or any partnership or firm may be executed by attachment of the property or assets of such association, partnership or firm.

Time allowed for appearance

20. The time allowed for entering an appearance to a civil summons served outside the territory shall not be less than 21 days.

Prohibition on attachment to found jurisdiction or arrest where defendant resides in the territory or the Republic

21. (1) No attachment of person or property to found jurisdiction shall be ordered by the Supreme Court against any person residing in the territory or the Republic.

(2) No writ shall be issued out of the Supreme Court in or in connection with civil proceedings instituted or to be instituted for the arrest of any person residing within the territory or the Republic to secure his appearance as a defendant in those proceedings, by reason only that such person has departed or is about to depart to a place outside the jurisdiction of the Supreme Court but within the Republic.

Circumstances in which security for costs shall not be required

22. When any person residing within the Republic is a plaintiff in civil proceedings in the Supreme Court, he shall not by reason only of the fact that he resides outside the territory be required to furnish security for costs in those proceedings.

Manner of securing attendance of witnesses in civil proceedings and penalties for non-attendance

23. (1) Any party to civil proceedings before the Supreme Court in which the attendance of witnesses is required may procure the attendance of any witness in the manner provided for in the rules of court.

(2) Whenever any person subpoenaed to attend any civil proceedings as a witness fails without reasonable excuse to obey the subpoena and it appears from the return of the proper officer or from evidence given under oath that the subpoena was served upon the person to whom it is directed and that his reasonable expenses calculated in accordance with the tariff framed under section 35 have been paid or offered to him, or that he is evading service, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the court in which the proceedings are conducted, may issue a warrant directing that he be arrested and brought before the court at a time and place stated in the warrant or as soon thereafter as possible.

(3) 'n Persoon wat ingevolge so 'n lasbrief of 'n dergelyke lasbrief uitgereik deur die hof van 'n afdeling van die Hooggeregshof van Suid-Afrika, in hegtenis geneem word, kan daarkragtens aangehou word voor die hof wat dit uitgereik het of in 'n gevangenis of opsluitplek of ander aanhoudingsplek of in die bewaring van die persoon wat hom in bewaring het, ten einde sy aanwesigheid as 'n getuie by die betrokke geding te verseker. Met dien verstande dat die hof hom onder borgakte kan vrylaat met of sonder borge vir sy verskyning om getuie af te lê soos vereis en vir sy verskyning by die in subartikel (4) bedoelde ondersoek.

(4) Die hof kan summier ondersoek instel na so 'n persoon se ontwyking van bestelling van die dagvaarding of versuim om die dagvaarding te gehoorsaam of om aanwesig te bly, en kan, tensy bewys word dat daardie persoon 'n redelike verskoning vir die ontwyking of versuim het, hom vonnis tot 'n boete van hoogstens eenhonderd rand of tot gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(5) 'n Vonnis ingevolge subartikel (4) opgelê, word ten uitvoer gelê en is onderworpe aan appèl asof dit 'n vonnis is wat in 'n strafsak opgelê is.

(6) Indien 'n persoon wat 'n borgakte aangegaan het om te verskyn ten einde in so 'n geding getuie af te lê, of om by 'n in subartikel (4) bedoelde ondersoek te verskyn, versuim om aldus te verskyn, kan daar, afgesien van die verbeurdverklaring van sy borggeld, met betrekking tot hom gehandel word asof hy versuim het om 'n dagvaarding om by bedoelde geding aanwesig te wees, te gehoorsaam of om by bedoelde ondersoek te verskyn.

Wyse waarop met getuie gehandel kan word by weiering om getuie af te lê of stukke oor te lê

24. (1) Wanneer 'n persoon wat of ter voldoening aan 'n dagvaarding of ingevolge 'n kragtens artikel 23 uitgereikte lasbrief, verskyn of aanwesig is en deur die hof mondeling van hom verlang word om in 'n siviele geding getuie af te lê, weier om 'n eed of plegtige verklaring af te lê, of, nadat hy 'n eed of plegtige verklaring afgelê het, weier om die vrae te beantwoord wat aan hom gestel word, of weier of versuim om 'n stuk of saak oor te lê waarvan die oorlegging van hom vereis word, sonder dat daar grondige rede vir die weiering of versuim bestaan, kan die hof die verrigtinge vir 'n tydperk van hoogstens agt dae verdaag en die persoon wat aldus weier of versuim, intussen by lasbrief gevange sit, tensy hy eerder instem om te doen wat van hom verlang word.

(2) Indien 'n in subartikel (1) bedoelde persoon by die hervatting van die verhoor van die geding weer weier om te doen wat aldus van hom verlang word, kan die hof weer die verrigtinge verdaag en hom vir 'n dergelyke tydperk gevange sit en daardie prosedure van tyd tot tyd herhaal totdat bedoelde persoon instem om te doen wat van hom verlang word.

(3) Die bepalings van hierdie artikel belet nie die hof om in enige saak uitspraak te gee of die verrigtinge andersins af te handel op grond van ander voldoende getuie wat afgeneem is nie.

(4) Niemand is verplig om 'n stuk of saak oor te lê wat nie in die dagvaarding vermeld of andersins genoegsaam beskryf is nie, tensy hy dit werklik in die hof het.

(5) Wanneer 'n dagvaarding uitgereik word om die aanwesigheid van 'n regterlike beampte te verkry om in 'n siviele geding getuie af te lê of 'n boek, stuk of dokument oor te lê, en dit blyk—

(a) dat hy nie in staat is om getuie af te lê of 'n boek, stuk of dokument oor te lê wat by 'n geskilpunt in die geding ter sake sou wees nie; of

(b) dat sodanige boek, stuk of dokument behoorlik deur iemand anders oorgelê sou kon word; of

(3) Any person arrested under such warrant or a like warrant issued by the court of any division of the Supreme Court of South Africa, may be detained thereunder before the court which issued it or in any gaol or lock-up or other place of detention or in the custody of the person who is in charge of him, with a view to procuring his presence as a witness in the said proceedings: Provided that the court may release him on a recognizance with or without sureties for his appearance to give evidence as required and for his appearance at the enquiry referred to in subsection (4).

(4) The court may summarily enquire into such person's evasion of the service of the subpoena or failure to obey the subpoena or to remain in attendance, and may, unless it is proved that such person has a reasonable excuse for such evasion or failure, sentence him to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months.

(5) Any sentence imposed by the court under subsection (4) shall be enforced and shall be subject to appeal as if it were a sentence in a criminal case.

(6) If any person who has entered into any recognizance for his appearance to give evidence at such proceedings or for his appearance at an enquiry referred to in subsection (4), fails so to appear, he may, apart from the forfeiture of his recognizance, be dealt with as if he had failed to obey a subpoena to attend such proceedings or to appear at such enquiry.

Manner in which witness may be dealt with on refusal to give evidence or produce documents

24. (1) Whenever any person who appears either in obedience to a subpoena or by virtue of a warrant issued under section 23 or is present and is verbally required by the court to give evidence in any civil proceedings, refuses to be sworn or to make an affirmation, or, having been sworn or having made an affirmation, refuses to answer such questions as are put to him, or refuses or fails to produce any document or thing which he is required to produce, without any just excuse for such refusal or failure, the court may adjourn the proceedings for any period not exceeding eight days and may, in the meantime, by warrant commit the person so refusing or failing to gaol unless he sooner consents to do what is required of him.

(2) If any person referred to in subsection (1) again refuses at the resumed hearing of the proceedings to do what is so required of him, the court may again adjourn the proceedings and commit him for a like period and from time to time repeat that procedure until such person consents to do what is required of him.

(3) Nothing in this section contained shall prevent the court from giving judgment in any case or otherwise disposing of the proceedings according to any other sufficient evidence taken.

(4) No person shall be bound to produce any document or thing not specified or otherwise sufficiently described in the subpoena unless he actually has it in court.

(5) When a subpoena is issued to procure the attendance of a judicial officer to give evidence or to produce any book, paper or document in any civil proceedings and it appears—

(a) that he is unable to give any evidence or to produce any book, paper or document which would be relevant to any issue in such proceedings; or

(b) that such book, paper or document could properly be produced by some other person; or

(c) dat om hom te verplig om aanwesig te wees op misbruik van geregtelike proses sou neerkom;

kan die hof, ondanks enigiets in hierdie artikel vervat, na redelike kennisgewing deur die griffier aan die party wat die dagvaarding uitgeneem het en nadat daardie party in kamers aangehoor is indien hy verskyn, 'n bevel uitvaardig waarby die dagvaarding gekanselleer word.

Ondervraging op vraagpunte van persone van wie getuienis in siviele gedinge verlang word

25. (1) Die Hooggeregshof kan in verband met 'n siviele geding wat voor hom aanhangig is, beveel dat die getuienis van 'n persoon wat in die Republiek woon of hom dan daar bevind, by wyse van vraagpunte afgeneem word.

(2) Wanneer 'n bevel kragtens subartikel (1) uitgevaardig word, moet die griffier van die hof daardie feit sertifiseer en 'n afskrif van sy sertifikaat aan 'n kommissaris van die Hooggeregshof van Suid-Afrika stuur, tesame met behoorlik en wettiglik opgestelde vraagpunte waarvoor ondervraging van die betrokke persoon verlang word, asook die gelde en die bedrag van die onkoste aan daardie persoon betaalbaar ten opsigte van sy verskyning.

(3) Getuienis by wyse van vraagpunte ingevolge die betalings van subartikels (1) en (2) afgeneem en deur die betrokke kommissaris gesertifiseer, word, onderworpe aan alle wetlike eksepsies, as getuienis in voormelde siviele geding aanvaar.

(4) By ontvangs van 'n griffier van die Hooggeregshof van Suid-Afrika van so 'n afskrif, vraagpunte, gelde en 'n bedrag soos in subartikel (2) beoog word, dagvaar 'n kommissaris van die Hooggeregshof die betrokke persoon om voor hom te verskyn, en by sy verskyning neem die kommissaris sy getuienis af asof hy 'n getuie in 'n siviele geding voor die Hooggeregshof is en stel hy aan hom voormelde vraagpunte asook ander vrae wat daarop bereken is om volledige en juiste antwoorde op bedoelde vraagpunte te verkry, en neem hy die aldus verkreeë getuienis af of laat hy dit afneem, en sertifiseer dit as korrek en stuur dit aan die griffier van die hof waarin die betrokke siviele geding aanhangig is.

(5) Die kommissaris moet verder aan laasbedoelde griffier 'n sertifikaat stuur wat die bedrag aantoon wat aan die betrokke persoon ten opsigte van die onkoste verbonde aan sy verskyning betaal is, asook die koste van uitreiking en bestelling van die prosesstukke waarby daardie persoon gedagvaar is om voor hom te verskyn.

(6) 'n Persoon wat gedagvaar word om volgens voorskrif van hierdie artikel te verskyn, en wat sonder redelike verskoning versuim om op die in die dagvaarding vermelde tyd en plek te verskyn, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens eenhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Wyse waarop met rogatore kommissies, versoekbriewe en stukke vir betekening afkomstig uit vreemde lande gehandel moet word

26. (1) Wanneer 'n rogatore kommissie of versoekbrief wat van 'n staat of gebied of hof buite die gebied (met inbegrip van die Republiek) ontvang is, deur die Sekretaris van Justisie aan die griffier van die Hooggeregshof gestuur word, tesame met 'n vertaling in Afrikaans of Engels, indien die oorspronklike in 'n ander taal is, en 'n mededeling dat die Ministersraad dit wenslik ag dat daaraan gevolg gegee word sonder om te vereis dat 'n aansoek deur die agente, as daar is, van die partye by die geding of saak by die Hooggeregshof gedoen word, lê die griffier bedoelde rogatore kommissie of versoekbrief voor aan 'n regter in kamers om daaraan gevolg te gee.

(c) that the compelling of his attendance would be an abuse of process of the court;

the court may, notwithstanding anything in this section contained, after reasonable notice by the registrar to the party who sued out the subpoena and after hearing that party in chambers if he appears, make an order cancelling such subpoena.

Examination by interrogatories of persons whose evidence is required in civil cases

25. (1) The Supreme Court may in connection with any civil proceedings pending before it, order that the evidence of any person who resides or is for the time being in the Republic be taken by means of interrogatories.

(2) Whenever an order is made under subsection (1), the registrar of the court shall certify that fact and transmit a copy of his certificate to a commissioner of the Supreme Court of South Africa, together with any interrogatories duly and lawfully framed which it is desired to put to the said person, and also such fees and such amount of the expenses which may be payable to the said person for his appearance.

(3) Any evidence taken by means of interrogatories in terms of the provisions of subsections (1) and (2) and certified by the commissioner concerned, shall, subject to all lawful exceptions, be received as evidence in the civil proceedings aforementioned.

(4) Upon receipt from a registrar of the Supreme Court of South Africa of any such copy, interrogatories, fees and amount as are contemplated in subsection (2), any commissioner of the Supreme Court shall summon the person concerned to appear before him, and upon his appearance shall take his evidence as if he were a witness in a civil case in the Supreme Court, and shall put to him the interrogatories aforesaid with any other questions calculated to obtain full and true answers to the said interrogatories and shall take down or cause to be taken down the evidence so obtained, and shall transmit the same, certified as correct, to the registrar of the court wherein the civil proceedings in question are pending.

(5) The commissioner shall further transmit to the last-mentioned registrar a certificate showing the amount paid to the person concerned in respect of the expenses of his appearance, and also the cost of the issue and service of the process for summoning such person before him.

(6) Any person summoned to appear as in this section provided, who without reasonable excuse fails to appear at the time and place mentioned in the summons, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months.

Manner of dealing with commissions rogatoire, letters of request and documents for service originating from foreign countries

26. (1) Whenever a commission rogatoire or letter of request received from any state or territory or court outside the territory (including the Republic), is transmitted to the registrar of the Supreme Court by the Secretary for Justice, together with a translation in Afrikaans or English, if the original is in any other language, and an intimation that the Council of Ministers considers it desirable that effect should be given thereto without requiring an application to be made to the Supreme Court by the agents, if any, of the parties to the action or matter, the registrar shall submit the same to a judge in chambers in order to give effect to such commission rogatoire or letter of request.

(2) Wanneer 'n versoek om die bestelling aan 'n persoon in die gebied van 'n siviele prosesstuk of sitasie wat van 'n staat, gebied of hof buite die gebied (met inbegrip van die Republiek) ontvang is, deur die Sekretaris van Justisie aan die griffier van die Hooggeregshof gestuur word, tesame met 'n vertaling in Afrikaans of Engels, indien die oorspronklike in 'n ander taal is, en 'n mededeling dat die Ministersraad dit wenslik ag dat daaraan gevolg gegee word, laat die griffier bedoelde prosesstuk of sitasie ooreenkomstig die hofreëls bestel deur die balju of 'n adjunk-balju of 'n persoon wat 'n regter van die Hooggeregshof spesiaal vir daardie doel aangestel het.

(3) Die griffier moet, nadat daar aan so 'n rogatore kommissie, versoekbrief, prosesstuk of sitasie gevolg gegee is, alle tersaaklike stukke, wat behoorlik ooreenkomstig die hofreëls gewaarmerk is, aan die Sekretaris van Justisie vir versending deurstuur.

(4) Behalwe waar die Ministersraad anders gelas, word geen ander gelde as uitgawes op 'n staat, gebied of hof, ten behoeve waarvan bestelling geskied het soos in hierdie artikel bedoel, verhaal nie.

Aanstelling van beampptes van die Hooggeregshof

27. (1) (a) Die Ministersraad kan, met inagneming van die wetsbepalings op die regeringsdiens, vir die Hooggeregshof 'n griffier, assistent-griffier en balju, en adjunk-balju's en ander beampptes aanstel wanneer hulle vir die regspleging of die uitoefening van die bevoegdhede en gesag van daardie hof nodig is: Met dien verstande dat, indien die pligte wat deur 'n adjunk-balju verrig moet word, volgens die oordeel van die Regeringsdienskommissie nie voldoende is om minstens een persoon die hele jaar deur ten volle besig te hou nie, en geen beampte in die regeringsdiens volgens die oordeel van bedoelde kommissie in staat is om die pligte van daardie adjunk-balju benewens sy ander pligte uit te voer nie, of indien, volgens die Ministersraad se oordeel die pligte van bedoelde adjunk-balju op bevredigende wyse en met 'n vermindering in staatsuitgawes verrig kan word deur 'n persoon wat nie 'n beampte in die regeringsdiens is nie, die Ministersraad enige persoon as so 'n adjunk-balju kan aanstel teen die besoldiging en op die voorwaardes wat die Ministersraad bepaal.

(b) Wanneer die griffier, assistent-griffier of balju weens afwesigheid of onbekwaamheid nie sy ampspligte kan uitvoer nie of sy amp vakant word, kan die Ministersraad 'n ander bevoegde beampte in die regeringsdiens magtig om in die plek van die afwesige of onbekwame beampte op te tree solank hy aldus afwesig of onbekwaam is, of om in die vakante betrekking waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so 'n vakature vir 'n ononderbroke tydperk van meer as ses maande nie gevul is nie, die geval aan die Regeringsdienskommissie gerapporteer moet word.

(2) 'n Beampte in die regeringsdiens wat kragtens subartikel (1) aangestel is, kan gelyktydig meer as een van die in daardie subartikel bedoelde ampte beklee.

(3) 'n Adjunk-balju wat nie 'n beampte in die regeringsdiens is nie, kan, met goedkeuring van die Ministersraad, een of meer assistente aanstel vir wie hy verantwoordelik is en so 'n assistent kan, onderworpe aan die voorskrifte van die adjunk-balju, enige van die bevoegdhede van daardie adjunk-balju uitoefen en enige van sy werksaamhede of pligte verrig.

(4) 'n Persoon wat aangestel is as assistent van 'n adjunk-balju wat 'n beampte in die regeringsdiens is, kan, onderworpe aan die opdragte van daardie adjunk-balju, enige bevoegdheid van bedoelde adjunk-balju uitoefen en enige van sy werksaamhede of pligte verrig.

(2) Whenever a request for the service on any person in the territory of any civil process or citation received from any state, territory or court outside the territory (including the Republic), is transmitted to the registrar of the Supreme Court by the Secretary for Justice, together with a translation in Afrikaans or English, if the original is in any other language, and an intimation that the Council of Ministers considers it desirable that effect should be given thereto, the registrar shall cause service of the said process or citation to be effected in accordance with the rules of court by the sheriff or a deputy-sheriff, or any person specifically appointed thereto by a judge of the Supreme Court.

(3) The registrar shall, after effect has been given to any such commission rogatoire, letter of request, process or citation, return all relevant documents, duly verified in accordance with the rules of court, to the Secretary for Justice for transmission.

(4) Except where the Council of Ministers otherwise directs, no fees other than disbursements shall be recovered from any state, territory or court on whose behalf any service such as is referred to in this section has been performed.

Appointment of officers of the Supreme Court

27. (1) (a) The Council of Ministers may, subject to the laws governing the government service, appoint for the Supreme Court a registrar, assistant registrar and sheriff and deputy-sheriffs and other officers whenever they may be required for the administration of justice or the execution of the powers and authorities of the said court: Provided that if the duties to be performed by any deputy-sheriff are in the opinion of the Government Service Commission insufficient to keep at least one person fully occupied throughout the year, and no officer in the government service is in the opinion of the said commission able to perform the duties of such deputy-sheriff in addition to his other duties, or if in the opinion of the Council of Ministers the duties of such deputy-sheriff can be performed satisfactorily and with a reduction in governmental cost by a person who is not an officer in the government service, the Council of Ministers may appoint any person as such deputy-sheriff at such remuneration and on such conditions as the Council of Ministers may determine.

(b) Whenever by reason of absence or incapacity the registrar, assistant registrar or sheriff is unable to carry out the functions of his office, or his office becomes vacant, the Council of Ministers may authorize any other competent officer in the government service to act in the stead of the absent or incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that when such vacancy has remained unfilled for a continuous period exceeding six months the matter shall be reported to the Government Service Commission.

(2) Any officer in the government service appointed under subsection (1) may simultaneously hold more than one of the offices mentioned in that subsection.

(3) Any deputy-sheriff who is not an officer in the government service may with the approval of the Council of Ministers appoint one or more assistants for whom he shall be responsible and any such assistant may subject to the directions of the deputy-sheriff exercise any of the powers and perform any of the functions or duties of such deputy-sheriff.

(4) Any person appointed as an assistant to a deputy-sheriff who is an officer in the government service may, subject to the directions of such deputy-sheriff, exercise any of the powers and perform any of the functions or duties of that deputy-sheriff.

(5) 'n Adjunk-balju wat nie 'n beampte in die regeringsdiens is nie, moet, so gou doenlik na sy aanstelling tot bevrediging van die balju sekeriteit vir die behoorlike en pligsgetroue verrigting van sy werksaamhede verstrek, en indien hy versuim of nalaat om binne 'n tydperk deur die balju bepaal sodanige sekeriteit te verstrek, verval sy aanstelling by verstryking van daardie tydperk.

(6) Wanneer in enige saak daar teen die bestelling of tenuitvoerlegging van 'n prosesstuk deur die balju of 'n adjunk-balju beswaar gemaak word op grond daarvan dat hy by daardie saak belang het of aan 'n party by daardie saak verwant is of op 'n ander goeie wrakingsgrond, of wanneer dit weens siekte of afwesigheid of om 'n ander rede nodig is om 'n persoon aan te stel om tydelik enige pligte van 'n adjunk-balju te verrig, kan die Ministersraad 'n waarnemende adjunk-balju aanstel.

(7) Die Ministersraad kan aan 'n beampte in die Departement van Justisie enige bevoegdheid delegeer wat by hierdie artikel aan hom verleen word.

Skorsing van adjunk-balju

28. (1) 'n Adjunk-balju wat na bewering nalatig of traag by die bestelling of tenuitvoerlegging van prosesstukke was of opsetlik betaling van meer as die voorgeskrewe gelde of onkoste geëis het of 'n valse relaas gemaak of hom andersins in verband met sy pligte aan wangedrag skuldig gemaak het, kan in afwagting van 'n ondersoek, in sy amp geskors en van die voordele daarvan onthef word deur die balju, wat 'n persoon kan aanstel om gedurende die tydperk van die skorsing in sy plek op te tree.

(2) Die balju moet onverwyld enige stappe wat hy ingevolge hierdie artikel gedoen het aan die Sekretaris van Justisie vir die inligting van die Ministersraad rapporteer, en die Ministersraad kan na ondersoek die skorsing tersyde stel of dit bekragtig en kan na goeddunke die adjunk-balju wat aldus geskors is, uit sy amp ontslaan.

Tenuitvoerlegging van prosesstukke

29. (1) Die balju of die betrokke adjunk-balju of sy assistent moet alle vonnis, bevel, uitspraak, beveldskrifte, dagvaardings, reëls, orders, lasbriewe, lasgewings en prosesstukke van die hof wat aan die balju gerig is, ten uitvoer lê en 'n relaas van die wyse waarop dit ten uitvoer gelê is, verstrek aan die hof en aan die party wat dit uitgeneem het.

(2) Die relaas van die balju of 'n adjunk-balju of van 'n balju of adjunk-balju van die Hooggeregshof van Suid-Afrika of sy assistent, van die stappe wat in verband met 'n prosesstuk van die hof gedoen is, is *prima facie*-getuienis van die aangeleenthede daarin vermeld.

(3) Die balju moet alle persone wat op las van die hof (met inbegrip van die hof van 'n afdeling van die Hooggeregshof van Suid-Afrika) in hegtenis geneem of deur bevoegde gesag in sy bewaring gestel is, ontvang en laat aanhou.

(4) 'n Weiering deur die balju of 'n adjunk-balju om 'n handeling te verrig wat hy regtens gemagtig is om te verrig, is onderworpe aan hersiening deur die hof by aansoek *ex parte* of na kennisgewing, al na die omstandighede vereis.

Aanspreeklikheid vir handeling van balju

30. (1) Die Administrateur-generaal is aanspreeklik vir verlies of skade wat ontstaan uit 'n wederregtelike handeling deur die balju of 'n adjunk-balju wat 'n beampte in die regeringsdiens is, of deur 'n assistent van so 'n adjunk-balju, binne die bestek van sy diens as balju of so 'n adjunk-balju of assistent verrig, of uit pligsversuim deur die balju of so 'n adjunk-balju of assistent.

(5) Any deputy-sheriff who is not an officer in the government service shall, as soon as possible after his appointment furnish security to the satisfaction of the sheriff for the due and faithful performance of his functions, and if he fails or neglects to furnish such security within a period fixed by the sheriff, his appointment shall lapse at the expiration of the said period.

(6) Whenever in any matter objection is made to the service or execution of process by the sheriff or a deputy-sheriff by reason of the interest of such sheriff or deputy-sheriff in such matter or of the relationship of such sheriff or deputy-sheriff to a party to such matter or of any other good cause of challenge, or whenever on account of illness or absence or any other reason it is necessary to appoint any person to perform temporarily any of the duties of a deputy-sheriff, the Council of Ministers may appoint an acting deputy-sheriff.

(7) The Council of Ministers may delegate to an officer of the Department of Justice any of the powers vested in him by this section.

Suspension of deputy-sheriffs

28. (1) Any deputy-sheriff who is alleged to have been negligent or dilatory in the service or execution of process or wilfully to have demanded payment of more than the prescribed fees or expenses or to have made a false return or in any other manner to have misconducted himself in connection with his duties, may pending investigation be suspended from office and profit by the sheriff who may appoint any person to act in his place during the period of suspension.

(2) The sheriff shall forthwith report to the Secretary for Justice for the information of the Council of Ministers any action which he has taken under this section and the Council of Ministers may after investigation set aside the suspension or may confirm it and may if it deems it fit dismiss from his office the deputy-sheriff who has been so suspended.

Execution of process

29. (1) The sheriff or the deputy-sheriff concerned or his assistant shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the court directed to the sheriff and make return of the manner of execution thereof to the court and to the party at whose instance they were issued.

(2) The return of the sheriff or a deputy-sheriff or of a sheriff or deputy-sheriff of the Supreme Court of South Africa or his assistant, of what has been done upon any process of the court, shall be *prima facie* evidence of the matters stated therein.

(3) The sheriff shall receive and cause to be detained all persons arrested by order of the court (including the court of any division of the Supreme Court of South Africa) or committed to his custody by competent authority.

(4) Any refusal by the sheriff or any deputy-sheriff to do an act which he is by law empowered to do shall be subject to review by the court on application *ex parte* or on notice, as the circumstances may require.

Liability for acts of sheriff

30. (1) The Administrator-General shall be liable for any loss or damage resulting from any wrongful act performed by the sheriff or a deputy-sheriff who is an officer in the government service or an assistant of such deputy-sheriff, within the scope of his employment as sheriff or such deputy-sheriff or assistant or from any neglect of duty of the sheriff, or such deputy-sheriff or assistant.

(2) Die balju of 'n adjunk-balju of sy assistent is nie vir skade wat ontstaan uit die bevryding of ontsnapping van 'n persoon wat hy in hegtenis geneem het of wat in sy bewaring gestel is, aanspreeklik nie, tensy die bevryding of ontsnapping weens sy nalatigheid of oogluikende toelating geskied het, maar moet in die geval van die bevryding of ontsnapping van so 'n persoon alle wettige middels vir die agtervolging, inhegtenisname en veilige bewaring van so 'n persoon aanwend.

(3) Geen geding word weens 'n handeling of versuim by die vervulling van sy ampspligte deur die balju of 'n adjunk-balju of sy assistent ingestel nie, tensy dit aanhangig gemaak word binne ses maande nadat die handeling of versuim plaasgevind het.

Bestelling van prosesstukke aan balju of adjunk-balju

31. (1) Wanneer 'n prosesstuk aan die balju bestel moet word, kan daardie prosesstuk deur die ander party bestel word deur 'n afskrif daarvan gedurende gewone kantoorure by sy kantoor teen sy handtekening aan hom te lewer.

(2) Wanneer 'n prosesstuk aan 'n adjunk-balju bestel moet word, kan daardie prosesstuk, indien die adjunk-balju in dieselfde distrik as die balju woon, deur die balju, en in enige ander geval, deur die geregsbode van die landdroshof bestel word: Met dien verstande dat indien die geregsbode self die adjunk-balju is aan wie bestelling aldus moet geskied, bedoelde prosesstuk bestel kan word deur 'n persoon wat die balju spesiaal vir die doel aanstel.

Eiendom wat nie vir beslaglegging vatbaar is nie

32. Die balju of 'n adjunk-balju of sy assistent lê nie by die tenuitvoerlegging van 'n prosesstuk beslag op—

(a) die nodige beddens, beddegoed en klere van die persoon teen wie beslaglegging geskied of 'n lid van sy gesin nie;

(b) die nodige meubels, behalwe beddens, en huisgereedskap vir sover die waarde daarvan die som van vierhonderd rand nie te bowe gaan nie;

(c) lewendende hawe, gereedskap en landbou-uitrusting van 'n landbouer vir sover die waarde daarvan die som van vierhonderd rand nie te bowe gaan nie;

(d) voedsel en drank voldoende om in die behoeftes van bedoelde persoon en die lede van sy gesin vir een maand te voorsien nie;

(e) ambagsgereedskap en -uitrusting vir sover die waarde daarvan die som van vierhonderd rand nie te bowe gaan nie;

(f) professionele boeke, dokumente of instrumente wat vir die skuldenaar in sy beroep noodsaaklik is, vir sover die waarde daarvan vierhonderd rand nie te bowe gaan nie; of

(g) wapens en ammunisie wat die skuldenaar volgens die een of ander wet, regulasie of tugreglement as deel van sy uitrusting in sy besit moet hê.

Met dien verstande dat die Hooggeregshof in buitengewone omstandighede en op die voorwaardes wat hy bepaal, die bedrag in paragraaf (b), (c), (e) of (f) vermeld, tot hoogstens vier maal daardie bedrag kan verhoog.

Oortredings met betrekking tot eksekusie

33. 'n Persoon wat—

(a) die balju of 'n adjunk-balju of sy assistent by die uitvoering van sy pligte dwarsboom;

(b) in die wete dat 'n beslagleggingsbevel of interdik in verband met goed deur die hof verleen is, daardie goed wegmaak of daarvoor beskik op 'n wyse wat nie volgens wet gemagtig is nie, of wetens toelaat dat daardie goed, indien in sy besit of onder sy beheer, op so 'n wyse wegemaak of daarvoor beskik word;

(2) The sheriff or a deputy-sheriff or his assistant shall not be liable for damage arising out of the rescue or escape of any person arrested by him or committed to his custody, unless such rescue or escape was effected through his negligence or connivance, but shall in the event of the rescue or escape of any such person use all lawful means for his pursuit, apprehension and safe custody.

(3) No proceedings shall be brought for anything done or omitted to be done in the execution of his office by the sheriff or any deputy-sheriff or his assistant in the execution of his office unless commenced within six months after the act was committed or the omission occurred.

Service of process on sheriff or deputy-sheriff

31. (1) Whenever any process requires to be served on the sheriff, such process may be served by the other party by delivering a copy thereof to him at his office during ordinary office hours against his signature.

(2) Whenever any process requires to be served on a deputy-sheriff, the said process may, if the deputy-sheriff resides in the same district as the sheriff, be served by the sheriff, and in every other case by the messenger of the magistrate's court: Provided, that if the messenger is himself the deputy-sheriff to be so served, the said process may be served by any person specially appointed by the sheriff for the purpose.

Property not liable to be seized in execution

32. The sheriff or a deputy-sheriff or his assistant shall not seize in execution of any process—

(a) the necessary beds, bedding and wearing apparel of the person against whom execution is levied or any member of his family;

(b) the necessary furniture, other than beds, and household utensils in so far as they do not exceed in value the sum of four hundred rand;

(c) livestock, tools and agricultural implements of a farmer in so far as they do not exceed in value the sum of four hundred rand;

(d) any food or drink sufficient to meet the needs of such person and the members of his family for one month;

(e) tools and implements of trade in so far as they do not exceed in value the sum of four hundred rand;

(f) professional books, documents or instruments necessarily used by the debtor in his profession, in so far as they do not exceed in value the sum of four hundred rand; or

(g) such arms and ammunition as the debtor is in terms of any law, regulation or disciplinary order required to have in his possession as part of his equipment;

Provided that the Supreme Court may in exceptional circumstances and on such conditions as it may determine, increase the amount specified in paragraph (b), (c), (e) or (f) to not more than four times the amount therein mentioned.

Offences relating to execution

33. Any person who—

(a) obstructs the sheriff or a deputy-sheriff or his assistant in the execution of his duty;

(b) being aware that goods are under arrest, interdict or attachment by the court, makes away with or disposes of those goods in a manner not authorised by law, or knowingly permits those goods, if in his possession or under his control, to be made away with or disposed of in such a manner;

(c) in die geval van 'n vonnisskuldenaar, op versoek van die balju of 'n adjunk-balju of sy assistent om eiendom ter voldoening aan 'n lasbrief tot eksekusie van 'n vonnis teen so 'n persoon uitgereik, aan te wys—

(i) valslik aan die balju of daardie adjunk-balju of sy assistent verklaar dat hy geen eiendom of nie voldoende eiendom om aan die lasbrief te voldoen, besit nie; of

(ii) hoewel hy van sodanige eiendom weet, versuim of weier om daardie eiendom aan te wys of dit aan die balju of adjunk-balju of sy assistent te lewer wanneer hy daartoe versoek word; of

(d) in die geval van 'n vonnisskuldenaar, weier of versuim om te voldoen aan 'n vereiste van die balju of 'n adjunk-balju of sy assistent in verband met die lewering van dokumente in sy besit of onder sy beheer met betrekking tot die eiendomsreg op die onroerende goed onder eksekusie,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige gevangenisstraf sonder die keuse van 'n boete.

Oorsending van dagvaardings, bevelskrifte en ander prosesstukke en van kennisgewing van uitreiking daarvan per telegraaf

34. In 'n siviele geding—

(a) kan 'n dagvaarding, bevelskrif, lasbrief, bevel, order, kennisgewing, dokument of ander prosesstuk van die hof (met inbegrip van die hof van 'n afdeling van die Hooggeregshof van Suid-Afrika) of 'n mededeling wat volgens wet, hofreël of ooreenkoms van partye aan 'n persoon bestel of teen hom ten uitvoer gelê of by die huis, woon- of besigheidsplek van 'n persoon gelaat moet word, sodat so 'n persoon daardeur geraak kan word, per telegraaf versend word, en 'n telegrafiese afskrif wat aan so 'n persoon bestel of teen hom ten uitvoer gelê of by sy huis of woon- of besigheidsplek gelaat word, het dieselfde krag en uitwerking asof die oorspronklike aan so 'n persoon getoon of 'n afskrif daarvan aan hom bestel of teen hom ten uitvoer gelê of gelaat was soos voorheen vermeld, na gelang van die geval; en

(b) dien 'n telegram van 'n regterlike of polisie-beampte, griffier, assistent-griffier, balju, adjunk-balju of klerk van die hof, waarin vermeld word dat 'n lasbrief of bevelskrif uitgereik is vir die aanhouding of inhegtenisneming van 'n persoon wat in 'n siviele saak of geding of by siviele verrigtinge moet verskyn of hom met verweer, as voldoende magtiging aan 'n beampte wat regtens bevoeg is om so 'n lasbrief of bevelskrif vir die inhegtenisneming en aanhouding van bedoelde persoon ten uitvoer te lê, totdat 'n voldoende tydperk, maar hoogstens veertien dae, vir die versending van die lasbrief of bevelskrif na die plek waar bedoelde persoon in hegtenis geneem is of aangehou word, verstryk het, tensy 'n regter van die Hooggeregshof of van die Hooggeregshof van Suid-Afrika eerder die vrylating van daardie persoon gelas: Met dien verstande dat, waar goeie redes daarvoor aangevoer word, so 'n regter kan beveel dat bedoelde persoon vir 'n verdere tydperk in die bevel vermeld, maar hoogstens agt-en-twintig dae vanaf die datum van inhegtenisneming van daardie persoon, aangehou word.

Getuiegelde

35. (1) Die Ministersraad kan van tyd tot tyd by kennisgewing in die *Offisiële Koerant* 'n tarief van toelaes voorskryf wat betaal moet word aan 'n getuie in 'n siviele geding of aan 'n persoon wat so 'n getuie weens die jeug of 'n ouderdoms- of ander gebrek van daardie getuie moet beplei.

(c) being a judgment debtor and being required by the sheriff or a deputy-sheriff or his assistant to point out property to satisfy a warrant issued in execution of judgment against such person—

(i) falsely declares to the sheriff or that deputy-sheriff or his assistant that he possesses no property or insufficient property to satisfy the warrant; or

(ii) although knowing of such property neglects or refuses to point it out or to deliver it to the sheriff or deputy-sheriff or his assistant when requested to do so; or

(d) being a judgment debtor refuses or neglects to comply with any requirement of the sheriff or a deputy-sheriff or his assistant in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

Transmission of summonses, writs or other process and of notice of issue thereof by telegraph

34. In any civil proceedings—

(a) any summons, writ, warrant, rule, order, notice, document or other process of the court (including the court of any division of the Supreme Court of South Africa) or any communication which by any law, rule of court or agreement of parties shall be served or executed upon any person, or left at the house or place of abode or business of any person, in order that such person may be affected thereby, may be transmitted by telegraph, and a telegraphic copy served or executed upon such person, or left at his house or place of abode or business, shall be of the same force and effect as if the original had been shown to or a copy thereof had been served or executed upon such person, or left as aforesaid, as the case may be; and

(b) any telegram from any judicial or police officer, registrar, assistant registrar, sheriff, deputy-sheriff or clerk of the court stating that a warrant or writ has been issued for the apprehension or arrest of any person required to appear in or to answer any civil suit, action or proceeding, shall be sufficient authority to any officer by law authorized to execute any such warrant or writ for the arrest and detention of such person until a sufficient period of time, not exceeding fourteen days, has elapsed to allow of the transmission of the warrant or writ to the place where such person has been arrested or is detained, unless the discharge of such person be previously ordered by a judge of the Supreme Court or of the Supreme Court of South Africa: Provided that any such judge may upon cause shown order the further detention of any such person for a period to be stated in such order, but not exceeding twenty-eight days from the date of arrest of such person.

Witness fees

35. (1) The Council of Ministers may from time to time by notice in the *Official Gazette* prescribe a tariff of allowances which shall be paid to a witness in civil proceedings or to any person who is to accompany any such witness on account of the youth or infirmity due to old age or any other infirmity of such witness.

(2) So 'n kennisgewing kan onderskeid maak tussen persone volgens die afstande wat hulle moet reis om aanwesig te wees by die hof waarheen hulle opgeroep of gedagvaar is, of volgens hul profesie, beroep of besigheid, en kan aan daarin vermelde beamptes in die regeringsdiens die bevoegdheid verleen om, in gevalle waar betaling van toelae teen die aldus voorgeskrewe tarief buitensporige ontbering kan meebring, die betaling van toelae teen 'n hoër tarief as daardie tarief te gelas.

Hofreëls

36. (1) Die regterpresident kan met goedkeuring van die Administrateur-generaal, reëls uitvaardig waarby die verrigtinge van die Hooggereshof gereël word en daarin voorskryf—

- (a) die prosesstukke van die hof;
- (b) die tyd en wyse van appèl na die hof;
- (c) die praktyk en prosedure in verband met die bestelling van dagvaardings, pleitstukke, getuiedagvaardings of ander stukke of in verband met die uitreiking van vraagpunte of die tenuitvoerlegging van beveldskrifte of lasbriewe;
- (d) die praktyk en prosedure in verband met die verwysing van 'n aangeleentheid na 'n skeidsregter in-gevolge artikel 13 en die besoldiging aan so 'n skeidsregter betaalbaar;
- (e) die verpligte ondersoek deur een of meer behoorlik geregistreerde geneeshere van 'n party by verrigtings waarin vergoeding of skadeloosstelling ten opsigte van beweerde liggaamlike besering geëis word en wie se gesondheidstoestand by die bepaling van sodanige vergoeding of skadeloosstelling ter sake is, asook die wyse, tyd, plek en verantwoordelikheid vir die koste van die ondersoek en die beskikbaarstelling aan die teenparty van enige dokumentêre verslag van die ondersoek;
- (f) die prosedure by of in verband met 'n ondersoek na 'n persoon se geestestoestand en die uitsprake of bevelde wat by so 'n ondersoek gegee of uitgevaardig kan word;
- (g) die aanstelling en toelating van kommissarisse om getuie te neem en getuies te ondervra;
- (h) die wyse waarop stukke wat buite die gebied en die Republiek verly is, gewaarmerk kan word ten einde in die hof oorgelê of gebruik of in 'n openbare kantoor in die gebied oorgelê of ingedien te kan word;
- (i) die aanstelling en toelating van beëdigde vertalers;
- (j) die verrigtings van die balju en ander beamptes van die hof;
- (k) die tarief van hofgelde;
- (l) die gelde betaalbaar ten opsigte van die bestelling of tenuitvoerlegging van prosesstukke van die hof (behalwe getuiedagvaardings of lasbriewe van staatsweë in straf-sake uitgereik) of ten opsigte van die dagvaarding van persone om op vraagpunte te antwoord;
- (m) die tarief van koste en uitgawes wat ten opsigte van die bestelling of tenuitvoerlegging van prosesstukke in paragraaf (l) bedoel of aan persone wat verskyn om op vraagpunte te antwoord, toegelaat mag word;
- (n) die wyse waarop die bedrag van sekerheid bepaal word wat verstrekk moet word in 'n geval waar sekerheid verstrekk moet word en die vorm waarin en wyse waarop sodanige sekerheid verstrekk kan word;
- (o) die ure waartydens die griffier se kantoor vir die afhandeling van werksaamhede oop moet wees;
- (p) die wyse van aantekening of notering van getuie en van verrigtinge in die hof, en die bewaring van en beskikking oor aantekeninge of notule van sodanige getuie en verrigtinge;
- (q) die tarief van gelde wat deur advokate, prokureurs en notarisse gevorder kan word;

(2) Such notice may differentiate between persons according to the distances they have to travel to attend the court to which they are summoned or subpoenaed, or according to their professions, callings or occupations, and may empower such officers in the government service as may be specified therein, to order payment of allowances in accordance with a higher tariff than the tariff so prescribed in cases where payment of allowances in accordance with the last-mentioned tariff may cause undue hardship.

Rules of Court

36. (1) The judge president may, with the approval of the Administrator-General, make rules for regulating the conduct of the proceedings of the Supreme Court and may prescribe therein—

- (a) the process of the court;
- (b) the time and manner of appeal to the court;
- (c) the practice and procedure in connection with the service of any summons, pleading, subpoena or other document or in connection with the issue of interrogatories or the execution of any writ or warrant;
- (d) the practice and procedure in connection with the reference of any matter to a referee in terms of section 13 and the remuneration payable to any such referee;
- (e) the compulsory examination by one or more duly registered medical practitioners of any party to proceedings in which damages or compensation in respect of alleged bodily injury is claimed and whose state of health is relevant for the determination of such damages or compensation, and the manner, time, place and responsibility for the cost of the examination, and the making available to the opposing party of any documentary report on the examination;
- (f) the procedure at or in connection with any enquiry as to the mental state of any person and the judgments or orders which may be given or issued at any such enquiry;
- (g) the appointment and admission of commissioners to take evidence and examine witnesses;
- (h) the manner in which documents executed outside the territory and the Republic may be authenticated to permit of their being produced or used in any court or produced or lodged in any public office in the territory;
- (i) the appointment and admission of sworn translators;
- (j) the proceedings of the sheriff and other officers of the court;
- (k) the tariff of court fees;
- (l) the fees payable in respect of the service or execution of any process of the court (except subpoenas or warrants issued at the instance of any governmental authority in criminal matters) or in respect of the summoning of persons to answer interrogatories;
- (m) the tariff of costs and expenses which may be allowed in respect of the service or execution of any process referred to in paragraph (l) or to persons appearing to answer interrogatories;
- (n) the manner of determining the amount of security to be given in any case where security is required to be given and the form and manner in which such security may be given;
- (o) the hours during which the office of the registrar shall be open for the transaction of business;
- (p) the manner of recording or noting of evidence and of the proceedings in the court, and the custody and disposal of records or minutes of such evidence and proceedings;
- (q) the tariff of fees chargeable by advocates, attorneys and notaries;

(r) die taksering van kosterekenings, met inbegrip van kosterekenings wat nie op gedingvoering betrekking het nie, en die verhaal van koste; en

(s) oor die algemeen enige aangeleentheid wat dit nodig is om voor te skryf ten einde die behoorlike afhandeling en reëling van die werksaamhede van die hof te verseker.

(2) Die regterpresident kan reëls uitvaardig waarby die verrigtinge van die hof gereël word met betrekking tot—

- (a) die tye vir die hou van hofsittings;
- (b) die ter rolle plasing van sake vir verhoor; en
- (c) die verlenging of verkorting, soos omstandighede mag vereis, van enige tydperk waarin 'n handeling in-gevolge die kragtens subartikel (1) uitgevaardigde reëls verrig moet word.

Herroeping en wysiging van wette

37. (1) Die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1951 (Wet 55 van 1951), word hierby herroep.

(2) Die artikels van die Wet op die Hooggeregshof, 1959, in die eerste kolom van die Aanhangsel vermeld, word hierby gewysig in die mate in die tweede kolom daarvan uiteengesit.

(3) Die Eerste Bylae by laasbedoelde Wet word hierby gewysig deur die woorde "Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika" en "Windhoek" en die uitdrukking "Die gebied Suidwes-Afrika, maar met uitsondering van die gebied bedoel in artikel 38 (5) van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968)" te skrap.

Oorgangsbepalings

38. (1) Die aantal ander regters as die regterpresident waaruit die in artikel 2 bedoelde afdeling bestaan het, word geag die aantal sodanige regters te wees wat die Administrateur-generaal kragtens daardie artikel bepaal het.

(2) Tensy dit in 'n bepaalde geval klaarblyklik onvanpas sou wees—

(a) word 'n verwysing in 'n ander wet as die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959), of in 'n dokument of register—

(i) na die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika; of

(ii) na 'n afdeling van bedoelde Hooggeregshof, wat onmiddellik voor die inwerkingtreding van hierdie Proklamasie ook 'n verwysing na bedoelde Suidwes-Afrika-afdeling was;

(iii) na die Hoërhof van Suidwes-Afrika, uitgelê as 'n verwysing of ook as 'n verwysing, na gelang van die geval, na die Hooggeregshof;

(b) word 'n verwysing na bedoelde Wet op die Hooggeregshof of 'n bepaling daarvan, in 'n wet wat in of ten opsigte van die gebied van toepassing is, vir sover dit aldus van toepassing is, uitgelê as 'n verwysing of ook as 'n verwysing, na gelang van die geval, na hierdie Proklamasie, of 'n bepaling daarvan wat met bedoelde eersgenoemde bepaling ooreenstem.

(3) By die toepassing ten opsigte van 'n kragtens hierdie Proklamasie aangestelde regter of sy weduwee, van die bepalinge van die Wet op Pensioene van Regters, 1978 (Wet 90 van 1978), of die Wet op Besoldiging van Regters, 1978 (Wet 91 van 1978), word 'n verwysing in daardie Wette na inkomste of die Staatsinkomstefonds uitgelê as 'n verwysing na die Sentrale Inkomstefonds van die gebied.

(4) 'n Aanstelling gemaak, reëls uitgevaardig of 'n tarief ten opsigte van toelaes aan getuies voorgeskryf, ten opsigte van die gebied of 'n hof van die gebied, kragtens 'n bepaling van die Wet op die Hooggeregshof, 1959, word geag gemaak, uitgevaardig of voorgeskryf te wees kragtens die ooreenstemmende bepalinge van hierdie Proklamasie.

(r) the taxation of bills of costs, including bills of costs not relating to litigation, and the recovery of costs; and

(s) generally any matter which it may be necessary to prescribe in order to ensure the proper despatch and conduct of the business of the court.

(2) The judge president may make rules for regulating the proceedings of the court with reference to—

- (a) the times for the holding of courts;
- (b) the placing on the roll of actions for hearing; and
- (c) the extension or reduction, as local circumstances may require, of any period within which any act may in terms of the rules made under subsection (1) be required to be performed.

Repeal and amendment of laws

37. (1) The South-West Africa Affairs Amendment Act, 1951 (Act 55 of 1951), is hereby repealed.

(2) The sections of the Supreme Court Act, 1959, mentioned in the first column of the Annexure, are hereby amended to the extent set out in the second column thereof.

(3) The First Schedule to the last-mentioned Act is hereby amended by the deletion of the words "South-West Africa Division of the Supreme Court of South Africa" and "Windhoek" and the expression "The territory of South-West Africa, but excluding the area referred to in section 38 (5) of the South-West Africa Constitution Act, 1968 (Act 39 of 1968)".

Transitional provisions

38. (1) The number of judges other than the judge president constituting the division referred to in section 2, shall be deemed to be the number of such judges determined by the Administrator-General under that section.

(2) Unless it would in any particular case be obviously inappropriate—h number of judges other than the judge president constituting the division referred to in section 2, shall be deemed to be the number of such judges determined by the Administrator-General under that section.

(2) Unless it would in any particular case be obviously inappropriate—

(a) any reference in any law other than the Supreme Court Act, 1959 (Act 59 of 1959), or in any document or register—

(i) to the South-West Africa division of the Supreme Court of South Africa; or

(ii) to any division of the said Supreme Court, which immediately prior to the commencement of this Proclamation included a reference to the said South-West Africa division;

(iii) to the High Court of South-West Africa, shall be construed as a reference or as including a reference, as the case may be, to the Supreme Court;

(b) any reference to the said Supreme Court Act or any provision thereof, in any law which applies in or in respect of the territory shall, in so far as it so applies, be construed as a reference or including a reference, as the case may be, to this Proclamation or any provision thereof corresponding to such first-mentioned provision.

(3) For the purposes of the application of the provisions of the Judges' Pensions Act, 1978 (Act 90 of 1978), of the Judges' Remuneration Act, 1978 (Act 91 of 1978), in respect of a judge appointed under this Proclamation or his widow, any reference in such Acts to revenue or the State Revenue Fund shall be construed as a reference to the Central Revenue Fund of the territory.

(4) Any appointment or rules made or tariff prescribed in respect of allowances to witnesses, in respect of the territory or any court of the territory, under any provision of the Supreme Court Act, 1959, shall be deemed to have been made or prescribed under the corresponding provisions of this Proclamation.

(5) Enigiets gedoen deur, in of met betrekking tot die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika, word geag gedoen te wees deur, in of met betrekking tot die Hooggeregshof.

(6) By die toepassing van die wetsbepalings met betrekking tot regspraktisyns word die Hooggeregshof geag 'n afdeling van die Hooggeregshof van Suid-Afrika te wees.

(7) Ondanks die bepalinge van hierdie Proklamasie, word die bepalinge van die Wet op die Hooggeregshof, 1959, vir sover dit van toepassing is met betrekking tot 'n staat waaraan onafhanklikheid by wet verleen is, uitgelê asof hierdie Proklamasie nie verorden was nie en asof die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika die Hooggeregshof was.

Toepassing van artikels 37 tot en met 40

39. Artikels 37 tot en met 40 is ook in die Republiek van toepassing.

Kort titel en inwerkingtreding

40. Hierdie Proklamasie heet die Proklamasie op die Hooggeregshof van Suidwes-Afrika, 1981, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

AANHANGSEL

WYSIGING VAN DIE WET OP DIE HOOGGEREGSHOF, 1959 (WET 59 VAN 1959)

Artikel van wet	Mate waarin gewysig
1	Deur die omskrywing van "Republiek" deur die volgende omskrywing te vervang: " 'Republiek' by die toepassing van artikels 28, 29 en 33 (behalwe waar dit die eerste keer in subartikel (2) voorkom), ook die gebied Suidwes-Afrika;"
	Deur die omskrywing van "provinsiale afdeling" deur die volgende omskrywing te vervang: " 'provinsiale afdeling' ook die Oos-Kaapse afdeling en die Noord-Kaapse afdeling;"
13 (2) (a)	Deur die voorbehoudsbepaling te skrap.
20 (1) (a)	Deur die woorde "van 'n ander afdeling as die Suidwes-Afrika-afdeling" te skrap.
21 (1A)	Deur die woorde "beslissing van 'n" waar daardie woorde vir die eerste en derde keer voorkom, te vervang deur die woorde "beslissing van die Hooggeregshof van Suidwes-Afrika of van 'n"
21 (2) (a)	Deur die uitdrukking "teen 'n uitspraak of bevel in paragraaf (a) van subartikel (1) van artikel <i>twintig</i> bedoel, wat deur 'n regter van die Suidwes-Afrika-afdeling gegee is, of" te skrap.
26 (1)	Deur na die woorde "plaaslike afdeling" die woorde "of van die Hooggeregshof van Suidwes-Afrika" in te voeg.
30 (3)	Deur na die woord "lasbrief" die woorde "of 'n dergelyke lasbrief uitgereik deur die Hooggeregshof van Suidwes-Afrika" in te voeg.
32 (2)	Deur na die woorde "kommissaris van die hof" die woorde "of van die Hooggeregshof van Suidwes-Afrika" in te voeg.
32 (3)	Deur na die woord "sertifikaat" die woorde "of 'n dergelyke sertifikaat van die griffier van die Hooggeregshof van Suidwes-Afrika en van bedoelde" in te voeg.
36 (2)	Deur na die woord "adjunk-balju" die woorde "of die balju of 'n adjunk-balju van die Hooggeregshof van Suidwes-Afrika" in te voeg.
36 (3)	Deur na die woord "hof" die uitdrukking "(met inbegrip van die Hooggeregshof van Suidwes-Afrika)" in te voeg.
41 (a)	Deur na die woord "hof" die uitdrukking "(met inbegrip van die Hooggeregshof van Suidwes-Afrika)" in te voeg.
41 (b)	Deur na die woord "Hooggeregshof" die uitdrukking "(met inbegrip van die Hooggeregshof van Suidwes-Afrika)" in te voeg.
43 (3)	Deur paragraaf (j) deur die volgende paragraaf te vervang: "(j) die tarief van hofgelde;"
44	Deur die woorde "die Hoëhof van Suidwes-Afrika bly voortbestaan onder die naam van die Suidwes-Afrika-afdeling van die Hooggeregshof van Suid-Afrika" te skrap.
45	Deur daardie artikel te skrap.

(5) Anything done by, in or in relation to the South-West Africa division of the Supreme Court of South Africa, shall be deemed to have been done by, in or in relation to the Supreme Court.

(6) For the purposes of the laws relating to legal practitioners the Supreme Court shall be deemed to be a division of the Supreme Court of South Africa.

(7) Notwithstanding the provisions of this Proclamation, the provisions of the Supreme Court Act, 1959, in so far as it applies in relation to any state to which independence has been granted by law, shall be construed as if this Proclamation had not been enacted and as if the South-West Africa division of the Supreme Court of South Africa were the Supreme Court.

Application of sections 37 up to and including 40

39. Sections 37 up to and including 40 shall apply also in the Republic.

Short title and commencement

40. This Proclamation shall be called the Supreme Court of South West Africa Proclamation, 1981, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

ANNEXURE

AMENDMENT OF THE SUPREME COURT ACT, 1959

(ACT 59 OF 1959)

Section of act	Extent of amendment
1	By the substitution for the definition of "Republic" of the following definition: " 'Republic' for the purposes of sections 28, 29 and 33 (except where it appears for the first time in subsection (2)), includes the territory of South West Africa;"
	By the substitution for the definition of "provincial division" of the following definition: " 'provincial division' includes the Eastern Cape division and the Northern Cape division;"
13 (2) (a)	By the deletion of the proviso.
20 (1) (a)	By the deletion of the words "other than the South West Africa division".
21 (1A)	By the substitution for the words "decision of a", wherever they occur, of the words "decision of the Supreme Court of South West Africa or of a".
21 (2) (a)	By the deletion of the expression "against any judgment or order referred to in paragraph (a) of subsection (1) of section <i>twenty</i> given or made by a judge of the South West Africa division, or".
26 (1)	By the insertion after the words "local division" of the words "or of the Supreme Court of South West Africa".
30 (3)	By the insertion after the word "warrant" of the words "or any like warrant issued by the Supreme Court of South West Africa".
32 (2)	By the insertion after the words "commissioner of the court" of the words "or of the Supreme Court of South West Africa".
32 (3)	By the insertion after the word "certificate" of the words "aforesaid or a like certificate from the registrar of the Supreme Court of South West Africa and of the".
36 (2)	By the insertion after the word "deputy-sheriff" of the words "or the sheriff or a deputy-sheriff of the Supreme Court of South West Africa".
36 (3)	By the insertion after the word "court" of the expression "(including the Supreme Court of South West Africa)".
41 (a)	By the insertion after the words "the court" of the expression "(including the Supreme Court of South West Africa)".
41 (b)	By the insertion after the words "Supreme Court" of the expression "(including the Supreme Court of South West Africa)".
43 (3)	By the substitution for paragraph (j) of the following paragraph: "(j) the tariff of court fees;"
44	By the deletion of the words "the High Court of South West Africa shall remain in existence under the name of the South West Africa division of the Supreme Court of South Africa".
45	By the deletion of that section.

BOTHALIA

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