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No. 48, 1965.]

ACT

To amend the Magistrates' Courts Act, 1944.

(English text signed by the State President.)
(Assented to 29th April, 1965.)

Amendment of section 9 of Act 32 of 1944, as amended by section 8 of Act 40 of 1952, section 17 of Act 50 of 1956, section 38 of Act 68 of 1957, section 24 of Act 93 of 1962 and section 1 of Act 19 of 1963.

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

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

(a) by the substitution for sub-section (1) of the following sub-section:

“(1) (a) Subject to the provisions of the law governing the public service and the provisions of paragraph (b) of this sub-section and of section *ten*, the Minister may appoint for any district or sub-district a magistrate, one or more additional magistrates or one or more assistant magistrates and for every regional division a magistrate or magistrates.

(b) No person shall be appointed as a magistrate of a regional division unless he is a magistrate who has satisfied all the requirements for the degree of *baccalaureus legum* of a university in the Republic or has passed the Public Service Senior Law Examination or an examination deemed by the Public Service Commission to be equivalent or superior to the said examination, and the board referred to in section *nine bis* has informed the Minister that he is suitable for appointment as a magistrate of a regional division.

(c) A magistrate of a regional division may also be a magistrate of a district.”; and

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

“(2) Whenever by reason of absence or incapacity a magistrate, additional magistrate or assistant magistrate is unable to carry out the functions of his office or whenever such office becomes vacant, the Minister, or, if delegated by the Minister, the Secretary or Deputy Secretary for Justice or an Under-Secretary for Justice or the Administrative Control Officer or first administrative officer in the staff branch of the Department of Justice may appoint any other competent officer of the public service or any competent retired officer of the public service to act in the place of the absent or incapacitated magistrate, additional magistrate or assistant magistrate, as the case may be, during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that no person shall be appointed as an acting magistrate of a regional division unless he has satisfied all the requirements for the degree referred to in paragraph (b) of sub-section (1) or has passed an examination referred to in that paragraph: Provided further that when any such vacancy has remained unfilled for a continuous period exceeding six months the fact shall be reported to the Public Service Commission.”.

Insertion of section 9bis in Act 32 of 1944.

2. The following section is hereby inserted after section *nine* of the principal Act:

"Establishment of Regional Divisions Appointments Advisory Board.

9bis. (1) The Minister of Justice shall establish a board, to be known as the Regional Divisions Appointments Advisory Board, to determine from time to time the suitability of magistrates for appointment as magistrates of regional divisions and to advise the Minister concerned as to the suitability of such magistrates for appointment as magistrates of regional divisions.

(2) The board shall consist of—

- (a) the Secretary for Justice who shall be the chairman thereof;
- (b) the Deputy Secretary for Justice who shall be the vice-chairman thereof; and
- (c) so many officers of the Department of Justice holding office as attorney-general or the rank of chief magistrate or Under-Secretary for Justice, as the Minister of Justice may from time to time appoint.

(3) Half the members of the board shall form a quorum.

(4) If the chairman of the board is absent from any meeting, the vice-chairman of the board shall preside at that meeting, and if both the chairman and the vice-chairman of the board are absent from any meeting, one of the members present thereat and previously designated thereto by the chairman shall preside at such meeting.

(5) The decision of a majority of the members of the board present at any meeting thereof shall be deemed to be the decision of the board.

(6) In the event of an equality of votes on any matter before a meeting of the board, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote."

Amendment of section 48 of Act 32 of 1944.

3. Section *forty-eight* of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

"(d) such judgment as to costs (including costs as between attorney and client) as may be just;"

Short title.

4. This Act shall be called the Magistrates' Courts Amendment Act, 1965.