

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTICE 1678 OF 2023

PUBLICATION OF EXPLANATORY SUMMARY OF THE JUDICIAL MATTERS AMENDMENT BILL, 2023

1. Notice is hereby given in terms of Rule 276(1)(b) of the Rules of the National Assembly that the Minister of Justice and Correctional Services intends to introduce the Judicial Matters Amendment Bill, 2023 (the Bill), in the National Assembly shortly.

2. The explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.

3.1 The primary aim of the Bill is to amend numerous Acts, which are administered by the Department of Justice and Constitutional Development ("the Department") and are intended to address practical and technical issues of a non-contentious nature, as well as constitutional judgments.

3.2 The Bill contains 37 clauses which seek to amend—

- (a) the Magistrates' Courts Act, 1944, so as to further regulate the calling of a witness by the court; and use of assessors;
- (b) the Administration of Estates Act, 1965, so as to make provision for electronic payments; provide for an affidavit by an executor; further regulate liquidation and distribution accounts; provide for the review of Master's appointments; provide for the powers, duties and functions of the Chief Master; provide for a procedure to review a decision of a Master of the High Court or designated official; and further regulate the making of regulations;
- (c) the Criminal Procedure Act, 1977, so as to provide for the information that must appear on a summons or a written notice that is endorsed to the effect that the accused may admit his or her guilt in respect of an offence in respect of which an admission of guilt fine may be paid without appearing in court; provide for the capturing of the conviction and sentence of a person who pays an admission of guilt fine by the Criminal Record Centre of the South African Police Service ("CRC"); and provide for the expungement of the criminal record of a person who is deemed to have been convicted and sentenced in respect of an offence in respect of which an admission of guilt fine has been paid or appeared in court in terms of a summons or written notice in respect of an offence where it was permissible for the person to admit his or her guilt and who have been convicted and sentenced by the court in respect of the offence in question; provide for the procedure and criteria that are to be taken into account to declare offences in respect of which an accused may pay a fine without appearing in court and which will not result in a previous conviction; provide for the payment of a fine without appearance in court and previous conviction; provide for the expungement of criminal records of persons whose name appears in the records of the CRC after having paid an admission of guilt fine for offences as envisaged in section 57B(1); provide for the expungement of the criminal record of a person who is deemed to have been convicted and sentenced in respect of an offence contemplated in any regulations that have been made in terms of section 27(2) of the Disaster Management Act, 2002, in respect of which an admission of guilt fine has been paid or appeared in court in terms of a summons or written notice, where it was permissible for the person to admit his or her guilt and who have been convicted and sentenced by the court in respect of the offence in question; and further regulate the calling of a witness by the court;
- (d) the Matrimonial Property Act, 1984, so as to repeal an unconstitutional provision;

- (e) the Sheriffs Act, 1986, so as to amend the duration of the term of office of members of the Board for Sheriffs;
 - (f) the Intestate Succession Act, 1987, so as to extend the meaning of "spouse";
 - (g) the Maintenance of Surviving Spouses Act, 1990, so as to insert more definitions;
 - (h) the National Prosecuting Authority Act, 1998, so as to further regulate the due dates of reports by Directors of Public Prosecutions and the National Director of Public Prosecutions;
 - (i) the Debt Collectors Act, 1998, so as to further regulate the term of office of members of the Council for Debt Collectors;
 - (j) the Domestic Violence Act, 1998, so as to penalise the making of a false declaration;
 - (k) the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, so as to give effect to a judgment of the Constitutional Court;
 - (l) Protected Disclosures Act, 2000, so as to effect a technical amendment;
 - (m) the Judges' Remuneration and Conditions of Employment Act, 2001, so as to further regulate the conditions of employment of judges of the Constitutional Court, the Supreme Court of Appeal and the High Court;
 - (n) the Prevention and Combatting of Corrupt Activities Act, 2004, so as to regulate and strengthen the duty of private sector entities to put in place measures against corrupt activities;
 - (o) the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to regulate the designation of public health establishments for purposes of providing post exposure prophylaxis and carrying out compulsory HIV testing; amend the definition of 'sexual offence'; regulate the designation of sexual offences courts; and regulate the manner in which child pornography must be dealt with and be disposed of;
 - (p) the Superior Courts Act, 2013, so as to further regulate applications for leave to appeal and appeals; the composition of courts of appeal; electronic service of documents initiating legal proceedings;
 - (q) the South African Human Rights Commission Act, 2013, so as to further regulate the powers of the South African Human Rights Commission with respect to its investigations;
 - (r) the Legal Aid South Africa Act, 2014, so as to further regulate the appointment of the Board; and substitution of obsolete provisions;
 - (s) the International Arbitration Act, 2017, so as to effect a technical correction; and repeal the common law crime of defamation;
- to provide for transitional arrangements,
and to provide for matters connected therewith.

3.3 It is therefore incumbent on the State to amend numerous Acts, which are administered by the Department of Justice and Constitutional Development to address practical and technical issues of a non-contentious nature and to enhance the smooth administration of justice.

4. A copy of the Bill can be found on the websites of the Parliamentary Monitoring Group at <http://www.pmg.org.za> and the Department of Justice and Constitutional Development at www.justice.gov.za and, after introduction, may also be obtained from the Government Printers: Cape Town (Telephone number: (021) 465-7531).