

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

**Vol. 546**

**Cape Town**

**7 December 2010**

**No. 33852**

## **THE PRESIDENCY**

No. 1175

7 December 2010

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

**No. 19 of 2010: Magistrates' Courts Amendment Act, 2010.**



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**GENERAL EXPLANATORY NOTE:**

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

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)  
(Assented to 3 December 2010.)

# ACT

To amend the Magistrates' Courts Act, 1944, so as to regulate anew the qualifications required for the appointment of a person as a magistrate, additional magistrate and magistrate of a regional division; to further regulate the inclusion of magistrates of regional divisions on the list of magistrates who may adjudicate on civil disputes; to authorise the Minister to determine the conditions relating to the authorisation of a person to serve process of court or other documents on behalf of a public body; and to provide for matters connected therewith.

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

Amendment of section 9 of Act 32 of 1944, as substituted by section 2 of Act 8 of 1967 and amended by section 4 of Act 53 of 1970, section 8 of Act 102 of 1972, section 11 of Act 29 of 1974, section 24 of Act 94 of 1974, section 1 of Act 28 of 1981, section 2 of Act 34 of 1986, section 17 of Act 90 of 1993, section 3 of Act 104 of 1996, section 3 of Act 66 of 1998, section 1 of Act 62 of 2000, section 1 of Act 28 of 2003 and section 1 of Act 22 of 2005 5

1. Section 9 of the Magistrates' Courts Act, 1944 (hereinafter referred to as the principal Act), is hereby amended— 10

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

“(a) Subject to the Magistrates Act, 1993, and [the provisions of paragraph (b) of this subsection and of] section 10 of this Act, 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.”; and 15

(b) by the deletion of paragraph (b) of subsection (1).

Substitution of section 10 of Act 32 of 1944, as substituted by section 4 of Act 66 of 1998 20

2. The following section is hereby substituted for section 10 of the principal Act:

**“Qualifications for appointment of judicial officers**

10. Subject to the provisions of the Magistrates Act, 1993 (Act No. 90 of 1993), any appropriately qualified woman or man who is a fit and proper person may be appointed as a magistrate, an additional magistrate or a magistrate of a regional division.”. 25

**Amendment of section 12 of Act 32 of 1944, as amended by section 9 of Act 40 of 1952, section 25 of Act 94 of 1974, section 5 of Act 66 of 1998 and section 4 of Act 31 of 2008**

3. Section 12 of the principal Act is hereby amended by the substitution for subsections (6), (7) and (8) of the following subsections, respectively: 5

“(6) Only a magistrate of a regional division whose name appears on the list referred to in subsection (7), may adjudicate on civil disputes [as] contemplated in section 29(1) [and] or 29(1B), in accordance with the criteria set out in subsection (8).”

(7) The Magistrates Commission must enter the names of magistrates of regional divisions on a list of magistrates [for the adjudication of] who may adjudicate on civil disputes contemplated in— 10

(a) section 29(1) [and] or 29(1B); or

(b) both sections 29(1) and 29(1B).

(8) The Magistrates Commission may only enter the name of a magistrate on the list in terms of subsection (7) if one or more places have been appointed in terms of section 2(1)(iA) within the regional division in respect of which the magistrate in question had been appointed for the adjudication of civil disputes, and— 15

(a) the head of the South African Judicial Education Institute has issued a duly signed certificate that the magistrate has successfully completed an appropriate training course in the adjudication of civil disputes; or 20

(b) the Magistrates Commission is satisfied that, before the establishment of the Institute referred to in paragraph (a), the magistrate has successfully completed an appropriate training course in the adjudication of civil disputes; or 25

(c) the Magistrates Commission is satisfied that the magistrate, on account of previous experience[—

(i) **as a magistrate presiding over the adjudication of civil disputes; or**

(ii) **as a legal practitioner with at least five years’ experience in the administration of justice],** 30

has suitable knowledge of, and expertise in, civil litigation matters to preside over the adjudication of civil disputes contemplated in section 29 (1) [and] or 29(1B) or both sections 29(1) and 29(1B).”.

**Amendment of section 15 of Act 32 of 1944, as amended by section 11 of Act 40 of 1952, section 2 of Act 19 of 1963, section 29 of Act 70 of 1968, section 26 of Act 94 of 1974, section 1 of Act 59 of 1982, section 64 of Act 90 of 1986 and section 4 of Act 18 of 1996** 35

4. Section 15 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection: 40

“(2A) The Minister may, by notice in the *Gazette*, determine the conditions of authorisation of a person referred to in subsection (2)(a) or any other matter relating to that authorisation.”.

**Short title**

5. This Act is called the Magistrates’ Courts Amendment Act, 2010. 45