

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
DIVORCE COURTS
AMENDMENT BILL**

[B 24—97]

(As agreed to by the Portfolio Committee on Justice (National Assembly))

[B 24A—97]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WYSIGINGSWETSONTWERP
OP EGSKEIDINGSHOWE**

[W 24—97]

(Soos goedgekeur deur die Portefeuljekomitee oor Justisie (Nasionale Vergadering))

[W 24A—97]

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AMENDMENTS AGREED TO

DIVORCE COURTS AMENDMENT BILL
[B 24—97]

CLAUSE 1

1. On page 4, in lines 3, 4 and 5, to omit “[Blacks] persons [domiciled] within their [respective] areas of jurisdiction [in respect of marriage]” and to substitute:

[Blacks domiciled within their respective areas of jurisdiction in respect of marriage] persons

2. On page 4, in line 8, after “courts]” to insert:

, if the parties are or if either of the parties is—

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| <p>(i) domiciled in the area of jurisdiction of the court on the date on which the action is instituted; or</p> <p>(ii) ordinarily resident in the area of jurisdiction of the court on the said date and has or have been ordinarily resident in the Republic for a period of not less than one year immediately prior to that date</p> |
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3. On page 4, after line 15, to insert the following paragraph:

- (b) by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) A division of the court shall consist of a president who shall be a fit and proper person appointed by the Minister of Justice [at which appointment the provisions of Chapter II of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), are mutatis mutandis applicable in so far as those provisions relate to a magistrate of a regional division, and sittings of two or more divisions may be held simultaneously] after consultation with the Magistrates Commission, and such a president shall for the purposes of the Magistrates Act, 1993 (Act No. 90 of 1993), be deemed to be a magistrate of a regional division as contemplated in the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944).”;

4. On page 4, in line 18, to omit paragraph (c) and to substitute:

- (c) by the substitution for paragraph (b) of subsection (4) of the following paragraph:

“(b) The rules [which the State President has made under the repealed section 13(5) of the Black Administration Act, 1927 (Act No. 38 of 1927), and the substituted section 10(4) of the Black Administration Act, 1927, Amendment Act, 1929 (Act No. 9 of 1929),] for Divorce Courts which are in force on the date of the commencement of the Administration Amendment Act, 1997, shall remain in force until they are repealed or amended under this subsection: Provided that any rule purporting to restrict access to the Courts on the grounds of a person’s race, shall be invalid and of no force.

(bA) Sittings of two or more divisions of the court may be held simultaneously.”;

5. On page 4, after line 35, add the following paragraph:

(b) Any person who has been appointed as a Family Advocate or Family Counsellor under the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987), shall be deemed to have also been appointed in respect of any Divorce Court having jurisdiction in the area for which he or she had been so appointed.

CLAUSE 2

Clause rejected.

CLAUSE 3

1. On page 4, in line 44, to omit “Divorce Courts” and to substitute “Administration”.

CLAUSE 4

1. On page 4, in line 46, after “Act” to insert “**9 of 1929**”.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 4:

Amendment of section 1 of Act 70 of 1979, as amended by section 1 of Act 7 of 1989

5. Section 1 of the Divorce Act, 1979, is hereby amended by the substitution for the definition of “court” of the following definition: “**‘court’** means [**the provincial or local division of the Supreme Court of South Africa**] any High Court as contemplated in section 166 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), or a divorce court established under section 10 of the [**Black Administration Act, 1927, Amendment Act, 1929 (Act No. 9 of 1929)**] Administration Amendment Act, 1929 (Act No. 9 of 1929), which has jurisdiction with respect to a divorce action;”.

PREAMBLE

1. In the English text, on page 2, in the eighth line, to omit “judicature” and to substitute “judiciary”.