

MAGISTRATES' COURTS (AMENDMENT) ACT, 2004

No. 30



of 2004

ARRANGEMENT OF SECTIONS

SECTION

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An Act to amend the Magistrates' Courts Act

Date of Assent: 30th August, 2004

Date of commencement: On Notice

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Magistrates' Courts (Amendment) Act, 2004, and shall come into operation on such date as the Minister may, by order, appoint.

Short title and commencement

2. Section 2 of the Magistrates' Courts Act (hereinafter referred to as "the Act") is amended by substituting, for the definition of the word "magistrate", the following new definition —

Amendment of section 2 of Cap. 04:04

"'magistrate' includes a Regional Magistrate, a Chief Magistrate, a Principal Magistrate, a Senior Magistrate, a Magistrate Grade I, a Magistrate Grade II and a Magistrate Grade III, appointed in accordance with section 8;"

3. Section 8 of the Act is amended —

Amendment of section 8 of the Act

(a) by substituting for subsection (1) thereof, the following new subsection —

"(1) There shall be seven grades of magistrates, namely, Regional Magistrate, Chief Magistrate, Principal Magistrate, Senior Magistrate, Magistrate Grade I, Magistrate Grade II and Magistrate Grade III.";

(b) in subsection (3) thereof, by substituting for the words "or Grade II" which appear therein, the words " , Magistrate Grade II or Magistrate Grade III."; and

(c) in subsection (4) thereof, by inserting the words “Regional Magistrate,” immediately before the words “Chief Magistrate”.

Amendment
of section 9 of
the Act

4. Section 9 of the Act is amended by substituting, for that section, the following new section —

“Magisterial
districts and
regions
Cap.03:02

9. (1) The Chief Justice may make regulations establishing magisterial districts and magisterial regions.
(2) For the purposes of this section, any area prescribed as an administrative district under the Administrative Districts Act shall be deemed to be a magisterial district established under this section.”

Amendment
of section 10
of the Act

5. Section 10 of the Act is amended by substituting, for that section, the following new section —

“Assignment
of magistrates
to courts

10. (1) The Chief Justice may —
(a) assign magistrates to courts in any magisterial districts or regions referred to in section 9(1); or
(b) transfer magistrates between courts in any magisterial district or region or from courts in one magisterial district or region to another magisterial district or region.
(2) The Chief Justice may assign —
(a) a Regional Magistrate to supervise the administration of justice in any magisterial region; and
(b) Chief Magistrates, Principal Magistrates and Senior Magistrates to supervise the administration of justice in courts in any magisterial district.
(3) Where a Regional Magistrate is assigned to supervise the administration of justice in accordance with subsection (2)(a), he may, in consultation with the magistrate in charge of the district where the work emanates —
(a) allocate himself work;
(b) allocate work between the magistrates in one district to magistrates in another district; or
(c) take such steps as may be necessary to ensure that the work in the courts of such region is conducted efficiently and expeditiously.
(4) Without prejudice to the provisions of subsection (3) a Chief Magistrate, Principal Magistrate or Senior Magistrate who is assigned, in terms of subsection (2)(b), to supervise the administration of justice in courts in any magisterial district may allocate work between the magistrates of the district, or transfer work from one of such magistrates to another, and may take such steps as may be necessary to ensure that the work in the courts of such magistrates is conducted efficiently and expeditiously.”

6. Section 17 of the Act is amended by substituting, for that section, the following new section —

“Jurisdiction
in respect of
causes of
action

17. (1) Subject to section 30, a Regional Magistrate, a Chief Magistrate, a Principal Magistrate and a Senior Magistrate shall have jurisdiction in all civil claims where the total amount claimed either in the way of liquidated or unliquidated damages, or the value of the property claimed, does not exceed —

(a) P40,000, in the case of a Regional Magistrate and a Chief Magistrate;

(b) P30, 000, in the case of a Principal Magistrate; and

(c) P20, 000 in the case of a Senior Magistrate.

(2) Subject to section 30, a Regional Magistrate, a Chief Magistrate, a Principal Magistrate and a Senior Magistrate shall have jurisdiction in all actions of ejection against the occupier of any premises or land where the right of occupation of any such premises or land in dispute between the parties does not exceed, in value to the occupier —

(a) P40, 000, in the case of a Regional Magistrate and a Chief Magistrate;

(b) P30, 000 in the case of a Principal Magistrate; and

(c) P20,000 in the case of a Senior Magistrate.

(3) Subject to section 30, a Magistrate Grade I, a Magistrate Grade II and a Magistrate Grade III shall have jurisdiction in all civil claims where the total amount claimed either in the way of liquidated or unliquidated damages or the value of property claimed does not exceed —

(a) P15, 000, in the case of a Magistrate Grade I; and

(b) P10, 000 in the case of a Magistrate Grade II and a Magistrate Grade III.”.

7. Section 60 of the Act is amended —

(a) in subsection (1) thereof, by inserting the words “Regional Magistrate, a” immediately before the words “Chief Magistrate”; and

(b) in subsection 2 thereof, by substituting for the words “A Magistrate Grade I and a Magistrate Grade II” the words “A Magistrate Grade I, a Magistrate Grade II and a Magistrate Grade III”.

8. Section 61 of the Act is amended —

(a) by substituting for subsections (1) and (2), the following new subsections —

“(1) Subject to the provisions of this Act and of any other written law, the limits to the punishment that may be imposed by magistrates shall be as follows —

Amendment
of section 17
of the Act

Amendment
of section 60
of the Act

Amendment
of section 61
of the Act

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|-----|--|---|
| (a) | Regional and Chief Magistrates | 15 years' imprisonment or P40, 000 fine, or both; |
| (b) | Principal Magistrates | 12 years' imprisonment or P30, 000 fine, or both; |
| (c) | Senior Magistrates | 10 years' imprisonment or P20, 000 fine, or both; |
| (d) | Magistrates Grade I | 7 years' imprisonment or P15, 000 fine, or both; |
| (e) | Magistrates Grade II and Magistrates Grade III | 5 years' imprisonment or P10, 000 fine, or both; |

Provided that a Regional Magistrate, a Chief Magistrate or a Principal Magistrate may impose a maximum sentence of 20 years' imprisonment where a minimum sentence has been prescribed as punishment for commission of an offence.

(2) In respect of offences for which such punishment is specifically authorised by written law, all magistrates shall be competent to impose a sentence of whipping subject to the following maximum strokes —

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|-----|---|------------|
| (a) | Regional and Chief Magistrates | 12 strokes |
| (b) | Principal Magistrates | 10 strokes |
| (c) | Senior Magistrates | 9 strokes |
| (d) | Magistrates Grade I | 7 strokes |
| (e) | Magistrates Grade II and Magistrates Grade III.”; and | 5 strokes |

(b) by deleting subsection (6) thereof.

Repeal of Act
No. 12 of 1999

9. The Magistrates' Courts (Amendment) Act of 1999 is hereby repealed.

PASSED by the National Assembly this 2nd day of August, 2004.

A. MATLHAKU,
Clerk of the National Assembly.