

THE MAGISTRATES COURT (AMENDMENT) ACT, 2011

(Act No. 2 of 2011)



I ASSENT

MSWATI III
King of Swaziland

..... 2011

AN ACT
ENTITLED

AN ACT to amend the Magistrate's Court Act, 1938 so as to increase the basic jurisdiction of Magistrates in civil and criminal matters and confer power to the Minister to increase the civil jurisdiction.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement

1. This Act may be cited as the Magistrate's Court (Amendment) Act, 2008 and shall be read as one with the Magistrate's Court Act, 1938 (hereinafter in this Act referred to as "the Principal Act") and shall come into force on the date of publication.

Amendment of section 2

2. Section 2 of the Principal Act is amended by deleting the definition of "court" and replacing it with a new definition as follows -

"court" means a magistrate's court, a senior magistrate's court, a principal magistrate's court"

Amendment of section 3

3. Section 3 of the Principal Act is amended in paragraphs (a), (b) and (c) by deleting those paragraphs and replacing them with new paragraphs (a), (b) and (c) as follows-

- (a) principal magistrate's court;
- (b) senior magistrate's court; and
- (c) magistrate's court"

Amendment of the Principal Act and the Magistrate's Court Rules

4. The Principal Act, the Magistrate's Court Rules and any other law wherever the words -

- (a) "magistrate's courts of the first class";
 - (b) "magistrate's courts of the second class" and
 - (c) "magistrate's courts of the third class",
- appear, are deleted and replaced, respectively, with the following words -
- (a) "principal magistrate's courts";
 - (b) "senior magistrate's courts" and
 - (c) "magistrate's courts".

Amendment of section 16

5. Section 16 of the Principal Act is amended by -

- (a) replacing it with a new section 16 as follows -

"Jurisdiction in respect of causes of action"

16. (1) Subject to section 16 bis and any other provision of this Act or other law the jurisdiction of magistrate's courts in civil matters shall be -

- (a) in the case of principal magistrate's courts, all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed thirty (30) thousand Emalangeni;
 - (b) in the case of senior magistrate's courts, all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed twenty (20) thousand Emalangeni;
 - (c) in the case of any magistrate's courts (lower than a senior magistrate's court), all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed ten (10) thousand Emalangeni.
- (2) Where both parties are Swazis and the cause of action is, in the opinion of the clerk of the court, one suitable to be heard in a Swazi Court of appropriate jurisdiction established or recognized under the Swazi Courts Act, 1950 or the Swazi Administration Act, 1950 or its successor and permissible under the Constitution, the clerk may refuse to issue summons, and may order the plaintiff to commence the action in such Swazi court or other court.
- (3) At any time after the issue of summons commencing action in any case where both parties are Swazis, the court may order that the action be transferred to a Swazi court of appropriate jurisdiction or to such other court as specified in this section; and
- (b) adding a new section 16 bis immediately after section 16 as follows -

"Power to confer increased jurisdiction."

16 bis. The Minister may, in consultation with the Chief Justice and by notice published in the Gazette, increase the jurisdictional amounts specified under section 15.

Amendment of section 72

6. Section 72 (1) of the Principal Act is amended-

(a) in paragraph (a), by deleting sub-paragraphs (i) and (ii) and replacing them with new sub-paragraphs (i) and (ii) as follows -

"(a) a principal magistrate's court -

(i) imprisonment for a period not exceeding fifteen (15) years;

(ii) fine not exceeding twenty (20) thousand Emlalngeni or in default of payment such imprisonment as specified in this paragraph;"

(b) in paragraph (b), by deleting sub-paragraphs (i) and (ii) and replacing them with new sub-paragraphs (i) and (ii) as follows -

(b) a senior magistrate's court-

(i) imprisonment for a period not exceeding ten (10) years;

(ii) fine not exceeding fifteen (15) thousand Emlalngeni or in default of payment such imprisonment as specified in this paragraph;"

(c) in paragraph (c), by deleting sub-paragraphs (i), (ii) and (iii) and replacing them with new sub-paragraphs (i), (ii) and (iii) as follows -

(b) a magistrate's court (lower than a senior magistrate) -

(i) imprisonment for a period not exceeding seven (7) years;

(ii) fine not exceeding ten (10) thousand Emlalngeni or in default of payment such imprisonment as specified in this paragraph;

(iii) whipping, subject to the provisions of section 84 and of this section, not exceeding eight strokes with a cane"

(d) in the second proviso, by deleting the words "Senior Magistrate" and replacing them with the words "principal magistrate" and further deleting the words "ten years" where they appear, and replacing them with the words "eighteen years".

Repeal of Legal Notice No. 57 of 1988

7. The Magistrate's Court (Increase of Jurisdiction) Notice, 1988 is repealed.

LEGAL NOTICE NO. 11 OF 2011

THE FINANCE MANAGEMENT AND AUDIT ACT, 1967

(Act No. 18 of 1967)

THE APPOINTMENT OF MEMBERS OF THE LOSSES COMMITTEE

NOTICE, 2011
(Under Sections 22 and 23)

In exercise of the powers conferred by Sections 22 and 23 of the Finance Management and Audit Act, 1967, the Minister of Finance hereby appoints the following persons to be members of the Losses Committee with effect from the 1st December, 2010 -

(a) Mr. Jimsen Gwebu

Member

(b) Ms. Fikile Nkosi

Member

MAJOZI V. SITHOLE
MINISTER OF FINANCE



SWAZILAND

GOVERNMENT GAZETTE

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PUBLISHED BY AUTHORITY

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CORRIGENDUM
THE MAGISTRATES COURT (AMENDMENT) ACT, 2011
(Act No. 002 of 2011)

The Magistrates Court (Amendment) Act No. 2 of 2011 is corrected under section 1 by deleting the number "2008" and replacing it with the number "2011".

Z. MLANBO
CROWN COUNSEL

CORRIGENDUM
THE SMALL CLAIMS COURT ACT, 2011
(Act No. 001 of 2011)

The Small Claims Court Act No. 1 of 2011 is corrected under section 1 by deleting the number "2008" and replacing it with the number "2011".

Z. MLANBO
CROWN COUNSEL