

LAWS ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

(AS ON 20 AUGUST 2021)

(Note: This list only consists of Principal Acts administered by the Department and only Amendment Acts containing substantive provisions and Amendment Acts which have not yet been implemented)

1. PRE-UNION LEGISLATION

The Pre-Union legislation which is administered by the Department might contain provisions that are obsolete or redundant. These Acts, however, have not yet been repealed and therefore still form part of the list of Acts administered by the Department. The possibility exists that some of these Acts could contain provisions which are in conflict with recently enacted legislation and even the Constitution. The Pre-Union legislation, which the Department administers, is briefly discussed hereunder.

1.1 Cape Province

1.1.1 The **Sunday Observance Ordinance, 1838 (Ordinance No.1 of 22 March 1838)**, provides for the better observance of the Lord's Day (Sunday) in the Cape Colony. It provides, among others, that it is unlawful for any person to sell or offer for sale any goods, merchandise, cattle or other live-stock; or to trade or to deal or keep open any shop, store or other place for the purpose of trade or dealing; or to cut or carry any fuel or to engage in field labour, except for the preservation of the fruits of the earth in cases of urgent necessity, or (except upon some lawful occasion) to discharge any gun or other fire-arm on the Lord's Day. It further provides that any person guilty of the afore-mentioned acts will be punished and held liable to a fine or to imprisonment. It is, however, not an offence for any contractor to supply, on the Lord's Day, Her Majesty's naval or military forces with any article specified in his contract; nor to prevent any ship-chandler from supplying any ship with anchors, cables, or anything which they may need in cases of necessity.

1.1.2 The **Law of Inheritance Amendment Act, 1873 (Act 26 of 1873)**, provides that no heir will be entitled to deduct from the estate of the dying person or persons any portion under or by virtue of the laws known respectively as the Falcidian and Trebellianic laws.

1.1.3 The **Succession Act, 1874 (Act 23 of 1874)**, provides that no legitimate portion will be claimable of right by any one out of the estate of any person who dies after the commencement of this Act. It further provides that a testator will have the full power to disinherit any child, parent, relative or descendant without assigning any reason for such disinheritance.

1.1.4 The **Lord's Day Observance Act, 1895 (Act 19 of 1895)**, provides for the better observance of the Lord's Day (Sunday). The Act further provides that no places of public amusement or entertainment will be open on the Lord's Day for public performances, but consent may be given by the local authority for performances or exhibitions not indecent and not calculated to bring ridicule, contempt or disrespect upon religion or morality.

1.2 Transvaal

1.2.1 The **Sunday Act, 1896 (Act 28 of 1896)**, provides, among others, that it is, subject to certain exceptions, unlawful for any person to do agricultural or garden work; to discharge a fire-arm; to hunt for game or other animals; or to cause disturbance or hindrance on a Sunday. Provision is further made that it is unlawful for any person to, among others, sell, offer or expose for sale of goods, merchandise, cattle or other live stock or to keep open a shop, store or other place with the object of selling or trading on a Sunday. However, the selling of medicines by apothecaries and druggists and the keeping open by such persons of a shop, store or other place with the object of selling medicines; the supplying of the necessary food and drink to travelers and inmates by a licensed hotel or boarding-house; and the selling of meat, bread, fish and milk between certain hours and the keeping open during those hours of a shop, store or other place with the object of selling such goods on a Sunday are permissible. The Act also provides for the delivery on Sundays of eatables and other goods by Government contractor; prohibits certain games and public entertainments on Sundays; and provides for the seizure and destruction of articles used at such games or entertainment.

1.2.2 Sections 126 to 129 of the **Administration of Estates Proclamation, 1902 (Proclamation No. 28 of 1902)**, contain provisions similar to that of the Acts referred to in paragraphs 1.1.2 and 1.1.3 above.

1.3 Free State

1.3.1 The “**Wet tot Afschaffing van Legitieme Portien (Hoofstuk XCII van die Wetboek)**”, contains, among others, provisions similar to that of the Acts referred to in paragraphs 1.1.2 and 1.1.3 above.

1.3.2 Sections 4 and 5 of the **Police Offences Ordinance, 1902 (Ordinance No. 21 of 1902)**, respectively, prescribe the areas in respect of which this Ordinance will be applicable and provide that the limits of any such area may from time to time be defined, varied or altered. Section 21 provides that any owner, lessee or manager of any public billiard room or other public place of recreation who permits any game to be played therein or who permits any theatrical performance, public dance or concert (except concerts at which only sacred music is performed) or any other public entertainment of a similar nature to be held there on a Sunday, will be guilty of an offence.

2. LEGISLATION AFTER 1910 (UNION AND REPUBLIC LEGISLATION)

The legislation mentioned under this heading was enacted after South Africa became a Union in 1910. Amendment Acts which contain substantive provisions or which have not yet been put into operation are included in the list hereunder. However, Amendment Acts of which the only substantive provision is a savings clause, a transitional provision or a provision which extends the application of an Act to the former TBVC States, are not included in the list.

2.1 The **Natal Conveyancers Act, 1926 (Act 24 of 1926)**, amended the laws relating to conveyancers in the former province of Natal.

2.2 The Department only administers sections 12 and 20 of the **Black Administration Act, 1927 (Act 38 of 1927)**. These sections, respectively, provide for the settlement of civil disputes by Black chiefs, headmen and chiefs' deputies; and the powers of chiefs, headmen and chiefs' deputies to try certain offences.

2.3 The **Insolvency Act, 1936 (Act 24 of 1936)**, consolidated and regulates the law relating to insolvent persons and their estates.

2.4 The **Natal Advocates and Attorneys Preservation of Rights Act, 1939 (Act 27 of 1939)**, provides that certain advocates of the Natal High Court retain the right to practise also as attorneys and that certain attorneys of that High Court retain the right to practise also as advocates.

2.5 The whole of the **Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941 (Act 19 of 1941)**, except section 5, has been repealed. Section 5 places an obligation on executors, tutors, curators or trustees in insolvency to provide security which is incapable of being waived.

2.6 The **Magistrates' Courts Act, 1944 (Act 32 of 1944)**, consolidated the laws relating to magistrates' courts. The Act regulates various issues pertaining to these courts, among others, the establishment and nature of the courts; judicial and other officers of the courts; rules of court; civil and criminal jurisdiction; witnesses and evidence; recovery of debts, execution and costs; and appeal and review.

2.7 The **Commissions Act, 1947 (Act 8 of 1947)**, empowers the President to appoint commissions for the purpose of investigating matters of public concern. The Act, among others, provides for a commission's powers in respect of witnesses; that sittings of commission's must be public; and for the hindering or obstructing of commissions.

2.8 The **Wills Act, 1953 (Act 7 of 1953)**, regulates the execution of wills. The Act provides for the formalities required in the execution of a will; the interpretation of wills; the validity of certain wills executed in accordance with the internal law of certain other states; and the competency of persons involved in the execution of wills.

2.9 Only section 5 of the **Matrimonial Affairs Act, 1953 (Act 37 of 1953)**, is still in force and provides that any High Court, on application of either parent of a minor whose parents are divorced or living apart, may make any order which it deems fit in regard to the custody or guardianship of, or access to, the minor.

2.10 The **Black High Court Abolition Act, 1954 (Act 13 of 1954)**, abolished the Black High Court and transferred the jurisdiction thereof to the High Courts.

2.11 The whole of the **Criminal Procedure Act, 1955 (Act 56 of 1955)**, except sections 319(3) and 384, has been repealed. These sections, respectively, provide for charges for giving false evidence and for a binding over of persons to keep the peace.

2.12 Sections 34, 35, 36 and 37 of the **General Law Amendment Act, 1955 (Act 62 of 1955)**, provide that Ministers and officials must be cited by their official titles; for interim interdicts against the State; for failure to give a satisfactory account of possession of goods; and for the absence of reasonable cause for believing that goods are properly acquired, respectively.

2.13 The **Vexatious Proceedings Act, 1956 (Act 3 of 1956)**, provides for the imposition of restrictions on the institution of vexatious legal proceedings.

2.14 Only sections 16, 17 and 18 of the **Riotous Assemblies Act, 1956 (Act 17 of 1956)**, are still in force. These sections, respectively, provide for special precautions in the interest of public safety regarding explosives; acts or conduct which constitute an incitement to public violence; and any attempt, conspiracy and inducement of another person to commit an offence.

2.15 The **Apportionment of Damages Act, 1956 (Act 34 of 1956)**, amended and regulates the laws relating to contributory negligence and the liability of persons jointly or severally liable in delict for the same damage.

2.16 Section 1 of the **General Law Amendment Act, 1956 (Act 50 of 1956)**, provides that the unlawful appropriation of the use of another person's property is an offence.

2.17 The **Witchcraft Suppression Act, 1957 (Act 3 of 1957)**, provides for the suppression of the practice of witchcraft and similar practices.

2.18 The **State Liability Act, 1957 (Act 20 of 1957)**, consolidated the laws relating to the liability of the State in respect of acts committed by its servants. Provision is made that claims against the State are cognizable in any competent court; that proceedings must be taken against the Minister of the State Department concerned; and for the satisfaction of judgment.

2.19 The **Sexual Offences Act, 1957 (Act 23 of 1957)**, amended and consolidated the laws pertaining to brothels and unlawful carnal intercourse.

2.20 The **Interpretation Act, 1957 (Act 33 of 1957)**, contains provisions relating to the interpretation of statutes.

2.21 The **State Attorney Act, 1957 (Act 56 of 1957)**, regulates the establishment of the office of the State Attorney. The Act, among others, provides for the appointment, rights, privileges and functions of State Attorneys.

2.22 Only sections 5 and 7 of the **General Law Amendment Act, 1957 (Act 68 of 1957)**, are still in force. These sections, respectively, provide that information concerning the identity of children involved in legal proceedings may not be published and for the recognition of the official title of "landdros".

2.23 The **Trespass Act, 1959 (Act 6 of 1959)**, prohibits the unlawful entry or presence on land and the unlawful entry of or presence in buildings in certain circumstances.

2.24 The **Inquests Act, 1959 (Act 58 of 1959)**, provides for the holding of inquests in cases of deaths or alleged deaths apparently occurring from other than natural causes. The Act, among others, also makes provision for the investigation of circumstances of certain deaths; witnesses, evidence and assessors at inquests; examination of witnesses at inquests; and the re-opening of an inquest.

2.25 The **Supreme Court Act, 1959 (Act 59 of 1959)**, regulates, among others, the constitution and the jurisdiction of the Supreme Court of Appeal and of the High Courts; the appointment, remuneration and tenure of office of judges; appeals to High Courts and the Supreme Court of Appeal; grounds for review of proceedings of inferior courts; execution of process and offences relating to execution; and rules of court.

2.26 The **Indemnity Act, 1961 (Act 61 of 1961)**, indemnifies the Government, its officers and all other persons acting under its or their authority in respect of acts, announcements, statements or information advised, commanded, ordered, directed, done, made or published in good faith for the prevention or

suppression of internal disorder; or the maintenance or restoration of good order or public safety or state of emergency in certain areas.

2.27 The **Conventional Penalties Act, 1962 (Act 15 of 1962)**, provides for the enforceability of penal stipulations; reduction of excessive penalties; and that provisions pertaining to penalty stipulations are also applicable in respect of forfeiture stipulations. (Note: The whole of the National Credit Act, 2005 (Act No. 34 of 2005), in so far as it applies to a credit agreement, prevails to the extent that there is any conflict with the Conventional Penalties Act, 1962, with effect from 1 June 2006. See Schedule 1 (section 172(1)) to the National Credit Act, 2005.)

2.28 The **Extradition Act, 1962 (Act 67 of 1962)**, provides for the extradition of persons accused or convicted of certain offences. Provision is, among others, made for extradition agreements; persons liable to be extradited; warrants of arrest issued in the Republic and in certain foreign States in Africa; and for enquiries where an offence was committed in an associated State.

2.29 The **Foreign Courts Evidence Act, 1962 (Act 80 of 1962)**, provides for the obtaining of the evidence of persons in the Republic by courts of law outside the Republic. The Act, among others, provides that a High Court may order the examination of a witness in the Republic in connection with civil or criminal proceedings pending in a foreign court. Provision is also made for the examination, rights and privileges of, and offences by, witnesses.

2.30 The Department only administers section 44 of the **General Law Further Amendment Act, 1962 (Act 93 of 1962)**, which provides for penalties in respect of defacement or disfigurement of property.

2.31 The **Justices of the Peace and Commissioners of Oaths Act, 1963 (Act 16 of 1963)**, consolidated and amended the laws relating to the appointment, powers and duties of justices of the peace and commissioners of oaths. The Act provides, among others, for the powers and duties of justices of the peace and commissioners of oaths and for powers as to oaths outside the Republic.

2.32 The **Reciprocal Enforcement of Maintenance Orders Act, 1963 (Act 80 of 1963)**, regulates the reciprocal enforcement of maintenance orders made in South Africa and proclaimed countries. Provision is, among others, made for the registration of maintenance orders and the confirmation of provisional maintenance orders made in proclaimed countries. The Act also provides that certain maintenance orders are deemed to have been made in terms of the Maintenance Act, 1998; for the transmission of maintenance orders made in the Republic to proclaimed countries; and for provisional maintenance orders against persons residing in proclaimed countries.

2.33 Section 24 of the **General Law Further Amendment Act, 1963 (Act 93 of 1963)**, provides for the regulation of matters resulting from change of names as a result of the constituting of the Republic of South Africa.

2.34 The **Admission of Advocates Act, 1964 (Act 74 of 1964)**, provides for the admission of persons to practise as advocates of the Supreme Court of Appeal and the High Courts. The Act, among others, regulates the requirements for admission as an advocate; the suspension of advocates from practise; and the removal of their names from the roll of advocates.

2.35 The **Prevention of Counterfeiting of Currency Act, 1965 (Act 16 of 1965)**, provides for the prevention of the counterfeiting of coin and the forging or altering of certain bank notes.

2.36 The **Civil Proceedings Evidence Act, 1965 (Act 25 of 1965)**, regulates the law of evidence in regard to civil proceedings. The Act, among others, provides for the admissibility of evidence; competency of witnesses, sufficiency of evidence, documentary evidence; and oaths and affirmations.

2.37 The **Arbitration Act, 1965 (Act 42 of 1965)**, provides for the settlement of disputes by arbitration tribunals in terms of written arbitration agreements and for the enforcement of the awards of such arbitration tribunals. The Act provides for matters not subject to arbitration; the effect of arbitration agreements; the appointment of arbitrators and umpires; and contains provisions relating to arbitration proceedings and awards.

2.38 The **Administration of Estates Act, 1965 (Act 66 of 1965)**, consolidated and amended the laws relating to the liquidation and distribution of the estates of deceased persons; the administration of the property of minors and persons under curatorship; and of derelict estates. It also regulates the rights of

beneficiaries under mutual wills made by any two or more persons; the appointment of tutors and curators; and the establishment of the Guardian's Fund.

2.39 The **Immovable Property (Removal or Modification of Restrictions) Act, 1965 (Act 94 of 1965)**, regulates the law relating to the removal or modification of restrictions on immovable property imposed by a will or other instrument. The Act imposes a limit on the duration of *fideicommissa* created by a will or other instrument in respect of immovable property, and on the duration of restrictions on the alienation of immovable property imposed by a will or other instrument otherwise than by way of a *fideicommissum*.

2.40 The **Justices of the Peace and Commissioners of Oaths Amendment Act, 1967 (Act 21 of 1967)**, provides that a justice of the peace who has been appointed for a ward is deemed to have been appointed as justice of the peace for the magisterial district in which such ward is situated.

2.41 The **Pre-Union Statute Law Revision Act, 1967 (Act 78 of 1967)**, repealed certain Pre-Union laws which were in force in the various provinces of the Republic.

2.42 The **Prize Jurisdiction Act, 1968 (Act 3 of 1968)**, regulates the prize jurisdiction of courts. Provision is made for the prize jurisdiction of courts; adjudication of prize proceedings; and condemned prize.

2.43 The Department only administers section 4 of the **Dangerous Weapons Act, 1968 (Act 71 of 1968)**, which provides for the penalties which are to be imposed when dangerous weapons or firearms are used in the commission of offences involving violence. (*Note: This Act is to be repealed by the Dangerous Weapons Act, 2013 (Act 15 of 2013), which Act has not yet been implemented.*)

2.44 The **Assessment of Damages Act, 1969 (Act 9 of 1969)**, amended the law relating to the assessment of damages for loss of support as a result of a person's death. Provision is made that insurance moneys, pensions and certain benefits may not be taken into account in the assessment of damages for loss of support.

2.45 The **Establishment of the Northern Cape Division of the Supreme Court of South Africa Act, 1969 (Act 15 of 1969)**, established the Northern Cape Division of the (then) Supreme Court of South Africa.

2.46 The **Prohibition of Disguises Act, 1969 (Act 16 of 1969)**, prescribes penalties for being in disguise in suspicious circumstances.

2.47 The **Formalities in respect of Leases of Land Act, 1969 (Act 18 of 1969)**, provides for the formalities in respect of leases of land.

2.48 The **Legal Aid Act, 1969 (Act 22 of 1969)**, provides for legal aid for indigent persons and for that purpose established a Legal Aid Board and defined its functions. The Act also provides for the constitution, meetings and finances of the Board.

2.49 The **Abolition of Juries Act, 1969 (Act 34 of 1969)**, repealed the laws relating to trial by jury in criminal proceedings.

2.50 The **Prescription Act, 1969 (Act 68 of 1969)**, consolidated and amended the laws relating to prescription. This Act provides, among others, for acquisitive and extinctive prescription; when prescription begins; and the interruption and suspension of prescription.

2.51 The **Pre-Union Statute Law Revision Act, 1970 (Act 42 of 1970)**, repealed certain Pre-Union laws which were in force in the various provinces of the Republic.

2.52 The **South African Law Reform Commission Act, 1973 (Act 19 of 1973)**, provides for the establishment of the South African Law Reform Commission. Provision is also made for the constitution, objects, powers, and duties of, and reports by, the Commission.

2.53 Section 50 of the **General Law Amendment Act, 1973 (Act 62 of 1973)**, amended Proclamation No. 333 of 1949.

2.54 The **Prescribed Rate of Interest Act, 1975 (Act 55 of 1975)**, provides for the calculation of interest on a debt, in certain circumstances, at a prescribed rate and for the payment of interest on certain judgment debts.

2.55 In terms of the **Petition Proceedings Replacement Act, 1976 (Act 35 of 1976)**, any reference in any law to the institution of application proceedings in any court by petition, shall be construed as a reference to the institution of such proceedings by notice of motion in terms of the rules of such court.

2.56 The **Pre-Union Statute Law Revision Act, 1976 (Act 36 of 1976)**, repealed certain Pre-Union laws which were in force in the various provinces of the Republic.

2.57 The **Abolition of Civil Imprisonment Act, 1977 (Act 2 of 1977)**, abolished civil imprisonment of a debtor on account of his or her failure to pay a sum of money in terms of any judgment.

2.58 The **Indemnity Act, 1977 (Act 13 of 1977)**, indemnifies the State, members of the Executive Council of the Republic, persons in the service of the State and persons acting under their authority in respect of acts, announcements, statements or information advised, commanded, ordered, directed, done, made or published in good faith for the prevention, suppression or termination of internal disorder or the maintenance or restoration of good order or public safety or essential services or the preservation of life or property in any part of the Republic.

2.59 The **Prohibition of the Exhibition of Films on Sundays and Public Holidays Act, 1977 (Act 16 of 1977)**, prohibits the exhibition of films on Sundays and certain public holidays in certain circumstances.

2.60 The **Recognition and Enforcement of Foreign Arbitral Awards Act, 1977 (Act 40 of 1977)**, provides for the recognition and enforcement of foreign arbitral awards. Provision is made that any foreign arbitral award may be made an order of a court and be enforced as such. The Act also provides for the circumstances under which an order of a court may be refused.

2.61 The **Pre-Union Statute Law Revision Act, 1977 (Act 43 of 1977)**, repealed certain Pre-Union laws which were in force in the various provinces of the Republic.

2.62 The **Criminal Procedure Act, 1977 (Act 51 of 1977)**, regulates aspects relating to the criminal procedure in the South African law. The Act provides, among others, for the procedures to be followed in criminal proceedings; arrest and other measures of securing the attendance of accused persons in court; and the release of an accused on warning or bail. It further regulates the laws pertaining to search and warrants; seizure and forfeiture of property; assistance to accused persons; summary trials and preparatory examinations; conduct of proceedings; witnesses and evidence; competent verdicts, previous convictions and sentence; compensation and restitution; reviews and appeals in cases of criminal proceedings in lower courts; and for appeals in cases of criminal proceedings in superior courts.

2.63 The **Dissolution of Marriages on Presumption of Death Act, 1979 (Act 23 of 1979)**, provides for the dissolution of marriages of persons presumed to be dead.

2.64 The **Attorneys Act, 1979 (Act 53 of 1979)**, consolidated the laws relating to the admission and practice of attorneys, notaries and conveyancers. The Act, among others, provides for the continuation of the Attorneys Fidelity Fund and law societies in respect of the attorneys' profession. Provision is further made for the qualifications for and admission as, attorneys, notaries and conveyancers and for the removal from the roll of attorneys.

2.65 The **Divorce Act, 1979 (Act 70 of 1979)**, regulates the law of divorce in South Africa. Provision is made for the dissolution of a marriage and the grounds for divorce; the safeguarding of interests of dependant and minor children; the division of assets; and the maintenance of parties to divorce proceedings.

2.66 The **Protection of Information Act, 1982 (Act 84 of 1982)**, provides for the protection from disclosure of certain information. The Act, among others, prohibits certain acts in relation to prohibited places; the obtaining and disclosure of certain information; and certain acts which are prejudicial to the security and interests of the Republic. Provision is also made for the disclosure of certain information.

(The Protection of State Information Bill, which have been referred back to Parliament by the President in September 2013, will, upon enactment repeal the Protection of Information Act, 1982)

2.67 The **Admiralty Jurisdiction Regulation Act, 1983 (Act 105 of 1983)**, provides for the vesting of the powers of admiralty courts of the Republic in the High Courts and for the extension of these powers. Provision is also made for the law to be applied by, and the procedure applicable in, these Courts.

2.68 The **Small Claims Courts Act, 1984 (Act 61 of 1984)**, makes provision for the establishing of courts to adjudicate small civil claims. The Act deals with the establishment and nature of small claims courts; presiding and other officers of these courts; the jurisdiction of such courts; rules of court; procedure and evidence; judgment and costs; and execution and review of its orders.

2.69 The Department only administers Part IX of the **Close Corporations Act, 1984 (Act 69 of 1984)**, which deals with the winding-up of a close corporation. Provision is, among others, made for voluntary winding-up; liquidation by courts; and the appointment of liquidators.

2.70 The **Matrimonial Property Act, 1984 (Act 88 of 1984)**, regulates the matrimonial property law. Provision is made for marriages which are subject to the accrual system; the accrual of estates; and inheritances, legacies and donations which are excluded from accrual. The Act further abolished the marital power of husbands and provides for marriages in community of property.

2.71 The **Rules Board for Courts of Law Act, 1985 (Act 107 of 1985)**, provides for the making of rules for the efficient, expeditious and uniform administration of justice in the High Courts and lower courts. The Act provides for the establishment, constitution, powers, functions and duties of the Rules Board for Courts of Law.

2.72 The **Special Courts for Blacks Abolition Act, 1986 (Act 34 of 1986)**, abolished special courts for Black persons.

2.73 The **Justices of the Peace and Commissioners of Oaths Amendment Act, 1986 (Act 36 of 1986)**, excludes members of certain bodies from the office of justice of the peace. The Act also provides that any person who has been duly appointed but who, by virtue of the provisions of the Act, becomes incompetent to hold the office of justice of the peace, will remain competent to complete any proceedings in which he or she took part as a justice of the peace immediately prior to that date and which, at that date, have not been completed.

2.74 The **Sheriffs Act, 1986 (Act 90 of 1986)**, provides for the appointment of sheriffs; the establishment of a Board for Sheriffs and a Fidelity Fund for Sheriffs; and the regulation of the conduct of sheriffs.

2.75 The **Transfer of Powers and Duties of the State President Act, 1986 (Act 97 of 1986)**, amended certain laws so as to vest certain functions, which were assigned to the State President, to the respective Ministers of State who are responsible for the administration of those laws.

2.76 The **Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987)**, provides for the appointment, powers and functions of Family Advocates. The principal function of the Family Advocate relates to mediation in certain divorce proceedings, and in certain applications arising from such proceedings, in which minor or dependent children are involved, in order to safeguard the interests of such children.

2.77 The **Intestate Succession Act, 1987 (Act 81 of 1987)**, regulates the law regarding intestate succession.

2.78 In terms of the **Law of Evidence and the Criminal Procedure Act Amendment Act, 1987 (Act 103 of 1987)**, any accountable boy under the age of 14 years may be held legally responsible for any act or offence in respect of which sexual intercourse with a female is an element.

2.79 The **Criminal Law Amendment Act, 1988 (Act 1 of 1988)**, renders punishable certain acts committed by persons whose mental faculties are impaired by the consumption or use of certain substances. The purpose of the Act is to prevent perpetrators of crimes from escaping liability on account of raising a defence such as "drunkenness".

2.80 In terms of the **Enforcement of Foreign Civil Judgments Act, 1988 (Act 32 of 1988)**, civil judgments given in designated countries may be enforced in magistrates' courts in the Republic. Provision

is also made for the registration of judgments given in designated countries; the effect of such registration; and the setting aside of registered judgments.

2.81 The **Law of Evidence Amendment Act, 1988 (Act 45 of 1988)**, deals with the taking of judicial notice of the law of a foreign state and of traditional law, and prescribes general requirements for the admissibility of hearsay evidence. The Act also amended the Criminal Procedure Act, 1977, so as to make the husband or wife of an accused a competent but not compellable witness at criminal proceedings. The Act further amended the Civil Proceedings Evidence Act, 1965, so as to further regulate the admissibility of communications between spouses made during their marriage at civil proceedings.

2.82 The **Trust Property Control Act, 1988 (Act 57 of 1988)**, regulates the control over trust property. Provision is made for certain documents which are deemed to be trust instruments; the jurisdiction of the Masters of the High Courts; lodgement of trust instruments; appointment and removal of, or resignation by, trustees; the power of a court to vary trust provisions; and the variation of trust instruments.

2.83 The **Reciprocal Enforcement of Maintenance Orders (Countries in Africa) Act, 1989 (Act 6 of 1989)**, provides for the reciprocal enforcement of maintenance orders made in the Republic and in designated countries in Africa. Provision is further made for the transmission of maintenance orders; registration of maintenance orders; confirmation of provisional maintenance orders; and the registration of emoluments attachment orders made in designated countries.

2.84 The **Insolvency Amendment Act, 1989 (Act 89 of 1989)**, amended the Insolvency Act, 1936, so as to further regulate the appointment of trustees and the interrogation of an insolvent or any other person at a meeting of creditors.

2.85 The **Reciprocal Service of Civil Process Act, 1990 (Act 12 of 1990)**, provides for the reciprocal service of process in civil matters in the Republic and in countries designated by the Minister.

2.86 The **Maintenance of Surviving Spouses Act, 1990 (Act 27 of 1990)**, provides the surviving spouse in certain circumstances with a claim for maintenance against the estate of the deceased spouse.

2.87 In terms of the **Adjustment of Fines Act, 1991 (Act 101 of 1991)**, the maximum fine which may be imposed as an alternative to a fixed term of imprisonment under any law, shall be determined in accordance with the ratio between the monetary and imprisonment jurisdiction which a magistrate's court may impose under the Magistrates' Courts Act, 1944.

2.88 The **Short Process Courts and Mediation in Certain Civil Cases Act, 1991 (Act 103 of 1991)**, provides for the establishment of an alternative forum for the adjudication of certain civil cases and mediation in certain civil cases. Provision is made for the appointment of adjudicators and mediators; the establishment and nature of short process courts; procedure and evidence in these courts; and appeal and review procedures.

2.89 The **Decriminalization Act, 1991 (Act 107 of 1991)**, provides for the decriminalisation of certain offences. Provision is made for the establishment, constitution, powers, functions and duties of advisory committees and the designation of a panel of justices of the peace for each province to deal with certain minor offences.

2.90 The **Prevention of Public Violence and Intimidation Act, 1991 (Act 139 of 1991)**, provided for the establishment, constitution, powers and functions of a Commission of Inquiry (Goldstone Commission) regarding the Prevention of Public Violence and Intimidation.

2.91 The **Domicile Act, 1992 (Act 3 of 1992)**, provides for domicile of choice; domicile of a person who cannot acquire a domicile of choice; succession of domicile; and the standard of proof for acquisition or loss of domicile.

2.92 The **Criminal Law Second Amendment Act, 1992 (Act 126 of 1992)**, creates offences in respect of organisations with a military or similar character.

2.93 Section 1 of the **General Law Amendment Act, 1992 (Act 139 of 1992)**, provides that the advantage which is required so as to constitute the common law crime of extortion, may also be of a non-patrimonial nature.

2.94 The **Drugs and Drug Trafficking Act, 1992 (Act 140 of 1992)**, provides, among others, for the prohibition of the use or possession of, or the dealing in, drugs and of certain acts relating to the manufacture or supply of certain substances; the obligation to report certain information to the police; and for the exercise of the powers of entry, search, seizure and detention in specified circumstances. Provision is also made for the recovery of the proceeds of drug trafficking.

2.95 The **Security by Means of Movable Property Act, 1993 (Act 57 of 1993)**, regulates the legal consequences of the registration of a notarial bond over specified movable property. The Act further excludes the operation of a landlord's tacit hypothec in respect of certain movable property.

2.96 The **Documentary Evidence from Countries in Africa Act, 1993 (Act 62 of 1993)**, provides for the admissibility in the Republic of documentary evidence emanating from certain countries in Africa, designated by the Minister. The Act further provides that documents emanating from designated countries will be deemed to have their origin in the Republic as well as for the conditions of admissibility in the Republic of certain foreign documents.

2.97 The **Magistrates Act, 1993 (Act 90 of 1993)**, provides, among others, for the establishment, constitution, objects, functions, secretary and staff of the Magistrates Commission. Provision is further made for the determination of the salaries and conditions of service of magistrates.

2.98 The **Security Forces Board of Inquiry Act, 1993 (Act 95 of 1993)**, makes provision for the establishment, constitution and functions of a Security Forces Board of Inquiry to inquire into any allegation that an offence has been committed by a member of the Security Forces. The Act further provides for the appointment of, and inquiries by, Area Directors and the reporting of certain allegations to the Board or Area Directors. **The Act was never put into operation. The SAPS have their own legislation in this regard.**

2.99 The **Recognition of Foreign Legal Qualifications and Practice Act, 1993 (Act 114 of 1993)**, provides for the exemption of certain persons from certain requirements in the Admission of Advocates Act, 1964, and the Attorneys Act, 1979. Provision is further made for the appointment of a panel to consider applications for exemption made in terms of the Act. **The Act ceased to have effect on 1 April 1998.**

2.100 The **Magistrates' Courts Amendment Act, 1993 (Act 120 of 1993)**, amends, among others, the Magistrates' Courts Act, 1944, in order to provide for the establishment and jurisdiction of civil courts for civil divisions and the appointment of senior civil magistrates for those courts and to create a separate court structure for the adjudication of civil cases. Provision is further made for the establishment of family courts for the adjudication of divorce actions and the appointment of family magistrates, and that advocates and attorneys may, in certain circumstances, be appointed as acting judicial officers. **The Act has not yet been put into operation.**

2.101 Sections 61 to 64 of the **General Law Third Amendment Act, 1993 (Act 129 of 1993)**, respectively amend certain sections of the Rules Board for Courts of Law Act, 1985, so as to further regulate the composition of the Rules Board and the remuneration, allowances, benefits, privileges and period of office of its members. The Act also empowers the Rules Board to do research with regard to the functioning and structure of the courts and the criminal and civil procedure law in order to advise the Minister on the development, improvement or reform thereof. Section 82 provides that the failure to give satisfactory account of the possession of certain implements or objects is a punishable offence. **Sections 61 to 64 of the Act have not yet been put into operation.**

2.102 The **Judicial Service Commission Act, 1994 (Act 9 of 1994)**, read in conjunction with the Interim Constitution and the Constitution, provides for the establishment, composition and functions of the Judicial Service Commission.

2.103 The **Public Protector Act, 1994 (Act 23 of 1994)**, read in conjunction with the Interim Constitution and the Constitution, provides for the appointment, independence and impartiality, and powers and functions of the Public Protector. Provision is also made for the appointment of deputy and provincial public protectors and the staff of the Office of the Public Protector.

2.104 The **Human Rights Commission Act, 1994 (Act 54 of 1994)**, read in conjunction with the Interim Constitution and the Constitution, provides, among others, for the establishment, appointment of members, powers, duties, functions, staff and expenditure of the Human Rights Commission. Provision is further made for investigations by the Commission; its powers in respect of entering and search of premises and

attachment and removal of articles; compensation for certain expenses; and damage and legal proceedings against the Commission.

This Act will, upon implementation of the South African Human Rights Commission Act, 2013 (Act 40 of 2013), be repealed by that Act (see no. 2.159 hereunder).

2.105 The **Constitutional Court Complementary Act, 1995 (Act 13 of 1995)**, regulates matters incidental to the establishment of the Constitutional Court. The Act provides, among others, for the nature and seal of the Court; the scope and execution of process of the Court; securing the attendance of witnesses; and the appointment of officers and staff of the Court.

2.106 The **Promotion of National Unity and Reconciliation Act, 1995 (Act 34 of 1995)**, provides for the establishment, objectives, functions, powers and constitution of the Truth and Reconciliation Commission. The Act further provides for the establishment of a Committee on Human Rights Violations, a Committee on Amnesty and a Committee on Reparation and Rehabilitation and the constitution, powers, duties and functions of each of these Committees. Provision is also made for investigations and hearings by the Commission, its powers in respect of, and the procedure to be followed at, such investigations and hearings.

2.107 The **Right of Appearance in Courts Act, 1995 (Act 62 of 1995)**, provides for the right of advocates and attorneys to appear in the various courts in the Republic.

2.108 The **Judicial Matters Amendment Act, 1995 (Act 85 of 1995)**, made the Magistrates Act, 1993, applicable throughout the Republic and validated certain transfers of, and the performance of certain functions by, certain magistrates. The Act further amended the Magistrates Act, 1993, in order to provide for a magistrate to be transferred to, and appointed in, a post in the public service.

2.109 The **Justice Laws Rationalisation Act, 1996 (Act 18 of 1996)**, provides for the rationalisation and consolidation of certain statutes by the extension of the operation of certain laws to certain areas forming part of the national territory of the Republic, in substitution for other laws which were applicable in those areas.

2.110 The **Special Investigating Units and Special Tribunals Act, 1996 (Act 74 of 1996)**, provides for the establishment, composition, functions and powers of Special Investigating Units for the purpose of investigating serious malpractices or maladministration in connection with the administration of State institutions, State assets and public money as well as any conduct which may seriously harm the interests of the public. Provision is also made for the establishment, composition, powers and functions of Special Tribunals to adjudicate upon civil matters emanating from investigations by Special Investigating Units.

2.111 The **International Co-operation in Criminal Matters Act, 1996 (Act 75 of 1996)**, facilitates the procuring of evidence and the execution of sentences in criminal cases and the confiscation and transfer of the proceeds of crime between the Republic and foreign States.

2.112 The **Criminal Procedure Amendment Act, 1996 (Act 86 of 1996)**, amends the Criminal Procedure Act, 1977, so as to provide that an accused must be informed of his or her right to legal representation; that evidence may be given by means of closed circuit television or similar electronic media; and for the proof of undisputed evidence in respect of an accused who is legally represented. The Act further regulates the payment of admission of guilt fines; the correction of a plea of guilty; the admissibility of certain evidence given by means of affidavits; and the admissibility of confessions. **Section 11 of the Act has not yet been put into operation.**

2.113 The **National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act 17 of 1997)**, provides for the filling of vacancies among the permanent delegates to the National Council of Provinces.

2.114 In order to give effect to the Constitutional Court's judgment that corporal punishment as a sentence option is unconstitutional, the **Abolition of Corporal Punishment Act, 1997 (Act 33 of 1997)**, provides for the abolishment of corporal punishment authorised in legislation.

2.115 The **State of Emergency Act, 1997 (Act 64 of 1997)**, gives effect to section 37(1) of the Constitution by providing for the declaration of a state of emergency and empowering the President to make regulations in pursuance of such a declaration.

2.116 The **Contingency Fees Act, 1997 (Act 66 of 1997)**, regulates contingency fees agreements between legal practitioners and their clients. Provision is, among others, made for the form and content of contingency fees agreements; settlement; and that a client may claim the review of an agreement or fees.

2.117 The **Criminal Law Amendment Act, 1997 (Act 105 of 1997)**, gives effect to the Constitutional Court's judgment that the sentence of death is unconstitutional and therefore invalid. The Act makes provision for the setting aside of all sentences of death in accordance with law and their substitution by lawful punishments. It further amended certain laws so as to repeal provisions relating to the sentence of death. Provision is also made for the imposition of minimum sentences in respect of certain serious offences.

2.118 The **National Prosecuting Authority Act, 1998 (Act 32 of 1998)**, provides for the establishment of a single national prosecuting authority in accordance with the provisions of section 179 of the Constitution. Provision is, among others, made for the structure and composition of a single national prosecuting authority; the appointment, remuneration and conditions of service of members of the prosecuting authority; and the powers, duties and functions of such members.

2.119 The **Magistrates' Courts Amendment Act, 1998 (Act 67 of 1998)**, amends the Magistrates' Courts Act, 1944, so as to further regulate the summoning of assessors in civil and criminal proceedings; the procedure in the event of death, incapacity, absence or recusal of an assessor; and to empower the Minister of Justice to make regulations in connection with matters pertaining to assessors. **Certain sections of the Act have not yet been put into operation.**

2.120 The **Determination of Delegates (National Council of Provinces) Act, 1998 (Act 69 of 1998)**, provides for the determination of permanent and special delegates to the National Council of Provinces.

2.121 The **Maintenance Act, 1998 (Act 99 of 1998)**, which repeals the Maintenance Act, 1963, restates and amends certain laws relating to maintenance. Provision is, among others, made for the establishment of maintenance courts and the appointment of maintenance officers and maintenance investigators. The Act further regulates complaints relating to maintenance and the investigation of such complaints; enquiries by maintenance courts; matters relating to maintenance and other orders; and civil execution. Offences relating to, among others, maintenance order, witnesses, false information and publication of information in respect of children are created and provision is made for penalties in respect of such offences. **The Act, except for sections 5 and 7(1)(d) and (2), was implemented on 26 November 1999. Section 5 came into operation on 1 November 2006.**

2.122 The **Witness Protection Act, 1998 (Act 112 of 1998)**, provides for the establishment of an Office for Witness Protection for the protection of witnesses; the appointment of a Director of such Office, witness protection officers and security officers; and regulates the powers, functions and duties of such a Director. Provision is, among others, made for temporary protection pending placement under protection; protection agreements; the protection of minors; the placement of witnesses and related persons under protection; discharge from protection; and the services related to such protection. **The Act, except for sections 6 and 20, was implemented on 31 March 2000.**

2.123 The **Debt Collectors Act, 1998 (Act 114 of 1998)**, provides for the establishment and composition of a Council for Debt Collectors and for the exercise of control over the occupation of debt collector. Provision is, among others, made for the registration as a debt collector; payment of subscription fees; a code of conduct; and trust accounts to be opened by debt collectors. The Act also amends the Magistrates' Courts Act, 1944, so as to legalise the recovery of fees or remuneration by registered debt collectors.

2.124 The **Domestic Violence Act, 1998 (Act 116 of 1998)**, provides for the issuing of protection orders with regard to domestic violence. The Act places a duty on any member of the South African Police Service to assist and inform a complainant of his or her rights and provides, among others, for arrest by a peace officer without a warrant; the issuing of protection orders; the seizure of arms and dangerous weapons; the variation or setting aside of protection orders; and the prohibition of the publication of certain information.

2.125 The **Recognition of Customary Marriages Act, 1998 (Act 120 of 1998)**, makes provision for the recognition of customary marriages and specifies the requirements for a valid customary marriage. The Act further regulates the registration of customary marriages; the proprietary consequences of customary marriages; the capacity of spouses of such marriages; and the dissolution of customary marriages. Provision is also made for the equal status and capacity of spouses in customary marriages.

2.126 The **Prevention of Organised Crime Act, 1998 (Act 121 of 1998)**, introduces measures to combat organised crime, money laundering and criminal gang activities and prohibits certain activities relating to racketeering activities. Provision is made for the prohibition of money laundering and for an obligation to report certain information. The Act also criminalises certain activities associated with gangs and provides, among others, for the recovery of the proceeds of an unlawful activity; the civil forfeiture of criminal assets that have been used to commit an offence or assets that are the proceeds of an unlawful activity; and for the establishment of a Criminal Assets Recovery Account. The Act also repealed the Proceeds of Crime Act, 1996.

2.127 Section 14 of the **Judicial Matters Second Amendment Act, 1998 (Act 122 of 1998)**, provides that the provisions of section 111 of the Criminal Procedure Act, 1977 (Act 51 of 1977), as made applicable to certain areas of the national territory of the Republic of South Africa by section 2 of the Justice Laws Rationalisation Act, 1996, shall also be applicable in respect of any offence committed in any such area prior to the commencement of the last-mentioned Act.

2.128 The **Promotion of Access to Information Act, 2000 (Act 2 of 2000)**, gives effect to section 32 of the Constitution subject to justifiable limitations, including but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance and in a manner which balances the right of access to information with any other rights including the rights in the Bill of Rights in Chapter 2 of the Constitution.

2.129 The **Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)**, gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution.

2.130 The **Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)**, gives effect to section 9 of the Constitution by providing for, among others, the equal enjoyment of all rights and freedoms by every person; the promotion of equality; the values of non-racialism and non-sexism contained in section 1 of the Constitution; the prevention of unfair discrimination and protection of human dignity as contemplated in sections 9 and 10 of the Constitution; and the prohibition of advocacy of hatred, based on race, ethnicity, gender or religion, that constitutes incitement to cause harm as contemplated in section 16(2)(c) of the Constitution. The Act also provides for procedures for the determination of circumstances under which discrimination is unfair, for measures to educate the public and raise public awareness on the importance of promoting equality and overcoming unfair discrimination, hate speech and harassment and to provide remedies for victims of unfair discrimination. **Certain sections of the Act have not yet been put into operation.**

2.131 The **Protected Disclosures Act, 2000 (Act 26 of 2000)**, makes provision for procedures in terms of which employees in both the private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers. The Act further provides for the protection of employees who make a disclosure which is protected in terms of this Act.

2.132 The **Cross-Border Insolvency Act, 2000 (Act 42 of 2000)**, provides effective mechanisms for dealing with cases of cross-border insolvency.

2.133 The **Supreme Court Decree, 1990 (Ciskei) Amendment Act, 2001 (Act 16 of 2001)**, amends the Supreme Court Decree, 1990 (Ciskei), so as to enable the High Court seated at Bisho to sit at any place in the province of the Eastern Cape.

2.134 The **Administration of Estates Laws Interim Rationalisation Act, 2001 (Act 20 of 2001)**, makes the Administration of Estates Act, 1965, applicable throughout the Republic and repeals corresponding laws in force in the areas of the former TBVC-States. The Act also empowers the Minister to direct that—

- (a) a Master, Deputy Master or Assistant Master must exercise, perform or carry out the powers, functions and duties conferred upon, assigned to or imposed upon him or her by or under the Administration of Estates Act, 1965; or
 - (b) a Master must exercise, perform or carry out his or her powers, functions and duties in respect of his or her guardian's fund,
- subject to the control, direction and supervision of another Master designated by the Minister.

2.135 The **Interim Rationalisation of Jurisdiction of High Courts Act, 2001 (Act 41 of 2001)**, makes provision for the interim rationalisation of the areas of jurisdiction of the High Courts by conferring on the

Minister for Justice and Constitutional Development the power to alter the areas of jurisdiction after consultation with the Judicial Service Commission.

2.136 The **Judges' Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001)**, regulates the remuneration and conditions of employment of judges of the Constitutional Court, the Supreme Court of Appeal and the High Courts. The Act also repeals the Judges' Remuneration and Conditions of Employment Act, 1989 (Act 88 of 1989), and various other related Acts.

2.137 The **Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act 27 of 2002)**, is intended to facilitate South Africa's accession to the Rome Statute on the International Criminal Court. It also creates a legislative framework to ensure that the Statute is implemented effectively in South Africa.

2.138 The **Reinstatement of Enrolment of Certain Deceased Legal Practitioners Act, 2002 (Act 32 of 2002)**, provide for the reinstatement of the enrolment of certain deceased legal practitioners who were struck off the roll of advocates or attorneys as a result of their opposition to the previous political dispensation of apartheid or their assistance to persons who were opposed to the apartheid system.

2.139 The **Institution of Legal Proceedings against Certain Organs of State Act, 2002 (Act 40 of 2002)**, among others, aims to regulate the prescription and to harmonise the periods of prescription of debts for which certain organs of state are liable. The Act also makes provision for notice requirements in connection with the institution of legal proceedings against certain organs of state in respect of the recovery of debt.

2.140 The **Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act 70 of 2002)**, among others, aims to regulate the interception of certain communications, the monitoring of certain signals and radio frequency spectrums and the provision of certain communication-related information. The Act also regulates the making of applications for, and the issuing of, directions authorizing the interception of communications and the provision of communication-related information under certain circumstances.

2.141 The **Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)**, among others, aims to provide for the strengthening of measures to prevent and combat corruption and corrupt activities; the establishment and endorsement of a Register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts; and to place a duty on certain persons holding a position of authority to report certain corrupt transactions.

2.142 The **Citation of Constitutional Laws Act, 2005 (Act 5 of 2005)**, changed the reference to the Constitution by providing that no "Act number" will be allocated to it in future. It also substituted the short titles of all Constitution Amendment Acts that have been enacted since the commencement of the Constitution, so as to provide for the consecutive numbering of those Acts.

2.143 The **Judicial Matters Amendment Act, 2005 (Act 22 of 2005)**, amends numerous Acts of Parliament administered by the Department of Justice and Constitutional Development. **Section 14(c) will come into operation on a date fixed by the President by proclamation in the Gazette.**

2.144 The **Repeal of the Black Administration Act and Amendment of Certain Laws Act, 2006 (Act 28 of 2005)**, repeals the Black Administration Act, 1927 (Act 38 of 1927), incrementally and amends the Administration of Estates Act, 1965 (Act 66 of 1965), so as to give the Masters of the High Courts jurisdiction over the property of all minors, including those who are governed by the principles of customary law.

2.145 The **Repeal of the Black Administration Act and Amendment of Certain Laws Amendment Act, 2007 (Act 13 of 2007)**, amended the Black Administration Act and Amendment of Certain Laws Act, 2005, so as to substitute a date and provided for matters connected therewith.

2.146 The **Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)**, aims to comprehensively and extensively review and amend all aspects of the laws and the implementation of the laws relating to sexual offences, and to deal with all legal aspects of or relating to sexual offences in a single statute, by, among others, repealing the common law offence of rape and replacing it with a new expanded statutory offence of rape, applicable to all forms of sexual penetration without consent, irrespective of gender; and repealing the common law offence of indecent assault and

replacing it with a new statutory offence of sexual assault, applicable to all forms of sexual violation without consent.

2.147 The **South African Judicial Education Institute Act, 2008 (Act 14 of 2008)**, aims to regulate the training of judicial officers which will be undertaken by an Institute the Act intends to create.

2.148 The **Renaming of High Courts Act, 2008 (Act 30 of 2008)**, addresses the undesirable situation where certain High Courts are still referred to by their names under the previous Constitutional dispensation prior to 1994.

2.149 The **Jurisdiction of Regional Courts Amendment Act, 2008 (Act 31 of 2008)**, is intended to confer civil jurisdiction on Regional Courts, as well as jurisdiction to deal with family issues which are currently dealt with by the Divorce Courts established under section 10 of the Administration Amendment Act, 1929.

2.150 The **Child Justice Act, 2008 (Act 75 of 2008)**, aims to establish a criminal justice system for children, who are in conflict with the law and are accused of committing offences, in accordance with the values underpinning the Constitution and the international obligations of the Republic. The Act further aims to—

- * provide for the minimum age of criminal capacity of children;
- * provide a mechanism for dealing with children who lack criminal capacity outside the criminal justice system;
- * make special provision for securing attendance at court and the release or detention and placement of children;
- * make provision for the assessment of children;
- * provide for the holding of a preliminary inquiry and to incorporate, as a central feature, the possibility of diverting matters away from the formal criminal justice system, in appropriate circumstances;
- * make provision for child justice courts to hear all trials of children whose matters are not diverted;
- * extend the sentencing options available in respect of children who have been convicted; and
- * entrench the notion of restorative justice in the criminal justice system in respect of children who are in conflict with the law.

2.151 The **Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act 11 of 2009)**, aims to modify the customary law of succession so as to provide for the devolution of certain property in terms of the law of intestate succession. The Act also clarifies certain matters relating to the law of succession and the law of property in relation to persons who are subject to customary law.

2.152 The **Criminal Law (Forensic Procedures) Amendment Act, 2010 (Act 6 of 2010)**, among others, aims to amend the Criminal Procedure Act, 1977 (Act 51 of 1977), so as to provide for the compulsory taking of fingerprints of certain categories of persons and for the taking of fingerprints and body-prints for investigative purposes. The Act further introduced provisions in the Criminal Procedure Act, 1977, so as to provide for the retention of fingerprints and body-prints and to regulate the destruction of fingerprints that have been taken.

2.153 The **Protection from Harassment Act, 2011 (Act 17 of 2011)**, provides for the issuing of protection orders against harassment and aims to introduce measures which seek to enable the relevant organs of state to give effect to the provisions of the Act.

2.154 The **Constitution Seventeenth Amendment Act of 2012** aims to amend the Constitution of the Republic of South Africa, 1996, so as to further define the role of the Chief Justice as the head of the judiciary; to provide for a single High Court of South Africa; to provide that the Constitutional Court is the highest court in all matters; to further regulate the jurisdiction of the Constitutional Court and the Supreme Court of Appeal and to provide for the appointment of an Acting Deputy Chief Justice.

2.155 The **Protection of Personal Information Act, 2013 (Act 4 of 2013)**, aims to give effect to the right to privacy by introducing measures to ensure that the personal information of an individual is safeguarded when it is processed by responsible parties. It also aims to balance the right to privacy against other rights, particularly the right to access to information and to generally protect important interests, including the free flow of information within and across the borders of the Republic.

2.156 The **Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013)**, aims to give effect to the Republic's obligations concerning the trafficking of persons in terms of international agreements. The Act introduces an offence of trafficking in persons and other offences associated with trafficking in persons and further aims to provide for measures to protect and assist victims of trafficking in persons. **Act came into operation on 9 August 2015 with the exception of sections 15, 16 and 31(2)(b)(ii).**

2.157 The **Superior Courts Act, 2013 (Act 10 of 2013)**, rationalised, consolidated and amended the laws relating to the Constitutional Court, the Supreme Court of Appeal and the High Court of South Africa. The Act also makes provision for the administration of the judicial functions of all courts and those administrative and budgetary matters relating to the Superior Courts.

2.158 The purpose of the **Prevention and Combating of Torture of Persons Act, 2013 (Act 13 of 2013)**, is to give effect to the Republic's obligations in terms of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by, among others, providing for the offence of torture of persons and other offences associated with the torture of persons. The Act also aims to prevent and combat the torture of persons within or across the borders of the Republic.

2.159 The **South African Human Rights Commission Act, 2013 (Act 40 of 2013)**, provides for the composition, powers, functions and functioning of the South African Human Rights Commission. The Act also repeals the Human Rights Commission Act, 1994 (Act 54 of 1994).

2.160 The **Judicial Matters Second Amendment Act, 2013 (Act 43 of 2013)**, aims to amend certain provisions of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to enable the Minister to designate certain courts for dealing with sexual offences. **Date of commencement to be proclaimed.**

2.161 The **Justice Administered Fund Act, 2017 (ACT 2 of 2017)**, introduces, for the first time a proper statutory framework for the management and accounting of monies in trust which are sometimes referred to as third party funds, for instance bail and maintenance money. These monies will be paid into the Fund created by the Act and the monies will be dealt in terms of the Act, which regulates the management, control and accountability in respect of the money.

2.162 The **Courts of Law Amendment Act, 2017 (Act 7 of 2017)**, aims, among others, to amend the Magistrates' Courts Act, 1944, so as to regulate the rescission of judgments where the judgment debt has been paid. The Act also aims to regulate the factors a court must take into consideration to make a just and equitable order; to further regulate offers by judgment debtors after judgment and to further regulate the issuing of emoluments attachment orders. The Act further regulates debt collection proceedings pursuant to judgments granted by a court for a regional division and provides for certain offences and penalties relating to judgments, emoluments attachment orders and instalment orders. The Act also amends the Superior Courts Act, 2013, so as to provide for the rescission of judgments by consent and the rescission of judgments where the judgment debt has been paid.

2.163 The **International Arbitration Act, 2017 (Act 15 of 2017)**, aims to provide for the incorporation of the Model Law on International Commercial Arbitration, as adopted by the United Nations Commission on International Trade Law, into South African law and it provides anew for the recognition and enforcement of foreign arbitral awards.

2.164 The **Cybercrimes Act, 2020 (Act 19 of 2020)**, among others, creates offences which have a bearing on cybercrime, it criminalises the disclosure of data messages which are harmful and makes provision for interim protection orders. The Act also makes provision for jurisdiction in respect of cybercrimes and it regulates the powers to investigate cybercrimes. Aspects relating to mutual assistance in respect of the investigation of cybercrimes and obligations to report cybercrimes are also regulated in terms of the Act. The Act also aims to enable the Executive to enter into agreements with foreign States to promote measures that are aimed at the detection, prevention, mitigation and investigation of cybercrimes. **Date of commencement – to be determined.**

3. CONSTITUTIONS

3.1 The **Republic of Transkei Constitution Act, 1976 (Act 15 of 1976)(Transkei)**, constituted the former Republic of Transkei and provides for matters incidental thereto.

3.2 The **Constitution of the Republic of South Africa, 1993 (Act 200 of 1993)**, introduced a new Constitution for the Republic of South Africa. This Act has been repealed by the Constitution of the Republic of South Africa, 1996, except for certain sections, referred to in Schedule 6 to the 1996-Constitution, which remain in force.

3.3 The **Constitution of the Republic of South Africa, 1996**, introduces a new Constitution for the Republic of South Africa.

ANNEXURE "A"

**Laws that were administered by the Department which have been repealed or are now administered by other departments
(As on 1 October 2013)**

1. Repealed laws

1.1 The Department only administered Chapters 14 and 15 of the **Companies Act, 1973 (Act 61 of 1973)**. Chapter 14, which dealt with the winding-up of companies, provided, among others, for winding-up by a court; voluntary winding-up; the appointment, powers and duties of liquidators; the examination of persons in winding-up; and the dissolution of companies and other bodies corporate. Chapter 15, which regulated judicial management, provided, among others, for the circumstances in which a company may be placed under judicial management; the duties of judicial managers; and the cancellation of a judicial management order. *(Note: The whole of the Companies Act, 1973, has been repealed by section 224(1) of the Companies Act, 2008 (Act No. 71 of 2008), which Act come into operation on 1 May 2011.)*

1.2 Section 4 of the **Prevention of Family Violence Act, 1993 (Act 133 of 1993)**, provided, among others, for an obligation to report cases of suspected ill-treatment of children. *(Note: Section 4 of the Act, obligation to report suspected ill-treatment of a child, was repealed in terms of section 313 of the Children's Act, 2005 (Act 38 of 2005), on 1 April 2010.)*

1.3 The **Hague Convention on the Civil Aspects of International Child Abduction Act, 1996 (Act 72 of 1996)**, provided for the application in the Republic of the Hague Convention on the Civil Aspects of International Child Abduction. Provision was also made for the application of the Convention and the designation of a Central Authority. *(NOTE: The whole of this Act was repealed in terms of section 313 of the Children's Act, 2005 (Act No. 38 of 2005), on 1 April 2010.)*

2. Laws that are now administered by other departments

2.1 The **Stock Theft Act, 1959 (Act 57 of 1959)**, amended and consolidated the laws relating to the theft of stock and produce. The Act, among others, provides for the failure to give a satisfactory account of the possession of stock or produce; the entering of closed land with the intent to steal stock or produce; and that a document of identification must be furnished by a person who disposes of stock. Provision is also made for arrest and search without a warrant and for malicious arrest and search. ***The administration of the Act was transferred to the Minister of Safety and Security. (See Proclamation R. 46, 2011 of 19 August 2011 which published in Gazette No. 34535)***

2.2 The **Game Theft Act, 1991 (Act 105 of 1991)**, regulates the ownership of game in certain instances and also provides for the combatting of theft and wrongful and unlawful hunting, catching and taking into possession of game. Provision is also made for the offences concerning entering of land or dispersing or luring away of game with the intent to steal such; arrest and search; and compensation for theft of, or damage to, game. ***The administration of the Act was transferred to the Minister of Safety and Security. (See Proclamation R. 46, 2011 of 19 August 2011 which published in Gazette No. 34535)***

2.3 The **Public Funding of Represented Political Parties Act, 1997 (Act 103 of 1997)**, establishes the Represented Political Parties' Fund with a view to making provision for the funding of political parties participating in Parliament and provincial legislatures. The Act further provides for the management of that Fund by the Electoral Commission and for accountability regarding that Fund. The Act also regulates the allocation of moneys from that Fund and the purposes for which allocated moneys may be used by political parties. ***The administration of the Act was transferred to the Minister of Home Affairs. (See Proclamation R. 47, 2012 of 5 September 2012 which published in Gazette No. 35655)***