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justice

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PROPOSED AMENDMENTS
SOUTH AFRICAN JUDICIAL EDUCATION INSTITUTE BILL
[B 4-2007]

CLAUSE 1

1. On page 3, in line 9, to omit "11(1)" and to substitute "12(1)".
2. On page 3, in line 14, to omit "and constitutional development".
3. On page 3, in line 15, to omit the definition of "**retired judge**".
4. On page 3, in line 16, to omit the definition of "**this Act**" and to substitute:
"(viii) '**this Act**' includes any guidelines issued under section 16."

CLAUSE 5

1. On page 3, in line 38, to omit "(1)".
2. On page 3, in line 49, after "courts;" to insert "and".
3. On page 3, from line 50, to omit paragraph (f) and to substitute:
"(f) to render such assistance to foreign judicial institutions and courts as
may be agreed upon by the Council."
4. On page 4, from line 1, to omit paragraphs (g) and (h).

5. On page 5, from line 5, to omit subsection (2).

CLAUSE 7

Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow clause 6:

Composition of Council

7. (1) The Council comprises the Chief Justice as chairperson, the Deputy Chief Justice as deputy chairperson and the following other members:

- (a) the Minister or her or his nominee;
- (b) a judge of the Constitutional Court, designated by the Chief Justice after consultation with the judges of the Constitutional Court;
- (c) a person or a judge designated by the Judicial Service Commission from among its ranks;
- (d) the President of the Supreme Court of Appeal;
- (e) two judges president and two other judges, at least one of whom must be a woman, designated by the Chief Justice after consultation with the judges president;
- (f) five magistrates, designated by the Magistrates Commission, and of whom—

- (i) at least two must be women; and
- (ii) two must be Regional Court Magistrates;
- (g) a judge who has been discharged from active service as contemplated in the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), designated by the Chief Justice in consultation with the Minister;
- (h) the Director;
- (i) one advocate designated by the General Council of the Bar of South Africa;
- (j) one attorney designated by the Law Society of South Africa;
- (k) two university teachers of law designated by the South African Law Deans Association; and
- (l) two other members who must be members of the public not involved in the administration of justice, designated by the Minister after consultation with the Chief Justice.

(2) A member designated in terms of subsection (1)(b), (c), (e), (f), (g), (i), (j), (k) or (l) holds office as such a member for a period of five years but such a member may be replaced—

- (i) in the case of a member designated in terms of subsection (1)(c), (f), (i), (j), (k) or (l) by the designating person or body on written notice to the Chief Justice; or
- (ii) in the case of a member designated in terms of subsection (1)(b), (e) or (g), by the Chief Justice after consultation with the persons required to be consulted in respect of the designation in question.

(3) Any member referred to in subsection (2) whose term of office has expired, may be designated again.

(4) A vacancy in the membership of the Council does not affect the validity of the proceedings or the decisions of the Council.

(5) Due consideration must be given in the composition of the Council to demographic and gender representivity.

CLAUSE 8

1. On page 4, in line 51, to omit "The" and to substitute "A".
2. On page 4, in line 52, to omit "Deputy-Chief" and to substitute "Deputy Chief".
3. On page 4, in line 56, to omit "cause minutes of the proceedings to be kept" and to substitute "keep minutes of the proceedings".

CLAUSE 9

1. On page 5, in line 5, to omit "a standing committee" and to substitute "standing committees".
2. On page 5, in line 8, to omit "particular aspects of".
3. On page 5, from line 17, to omit subsection (3) and to substitute:

"(3) (a) The members of a standing or other committee may be members of Council or may be co-opted for that purpose by Council.

(b) The majority of the members of any such committee must be members of the Council."

4. On page 5, after line 18, to add the following subsection:

"(4) The Council—

- (a) is not divested of any function entrusted to any of its committees by virtue of subsection (1) or (2); and
- (b) may set aside or vary any decision taken by such committee, subject to any rights that may have accrued to a person as a result of the decision."

CLAUSE 10

1. On page 5, in line 22, after "(1),", to insert "but subject to section 13,".
2. On page 5, from line 26, to omit subparagraph (iii).
3. On page 5, in line 29, to omit subparagraph (i) and to substitute:
"(i) oversee the appointment of temporary and permanent professional staff;".
4. On page 5, in line 34, to omit "Magistrates" and to substitute "Magistrates".

NEW CLAUSE

1. That the following be a new clause to follow clause 10:

"Administration of Institute

11. In order to perform its functions the Institute must, amongst other things—

- (a) employ a Director to head the Institute;
- (b) employ academic staff and procure the services of suitably qualified judicial educators;
- (c) employ such administrative staff as may be necessary; and
- (d) enter into contracts with service providers and accept liability for the expenses incurred as a result of such services being rendered."

CLAUSE 11

1. On page 5, in line 44, to omit "; and".
2. On page 5, in line 45, to omit paragraph (b) and to substitute:
"(b) appoint and supervise the administrative staff of the Institute; and
(c) provide quarterly management reports to the Director-General."
3. On page 5, from line 49, to omit paragraph (b) and to substitute:

"(b) If the Director is a judge who has been discharged from active service as contemplated in the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), his or her service as Director constitutes service as contemplated in paragraph (c) of the definition of "service" contained in section 1 of that Act."

CLAUSE 12

1. On page 6, from line 3, to omit paragraph (b) and to substitute:
"(b) may not be used by the Department for any other purpose unless the Council has been consulted and the National Treasury approves such use."
2. On page 6, in line 8, after "1999" to insert "(Act No. 1 of 1999)".
3. On page 6, from line 15, to omit subsection (5).
4. On page 6, in line 24, to omit "on" and to substitute "in".

CLAUSE 13

1. On page 6, in line 39, to omit "and after consultation" and to substitute "who must consult".

CLAUSE 16

1. On page 7, in line 5, to omit "**Remuneration**" and to substitute "**Reimbursement**".
2. On page 7, in line 7, to omit "7(1) (n)" and to substitute "7(1)(l)".
3. On page 7, in line 8, to omit "expenses incurred during" and to substitute "reasonable expenses incurred in the course of".

PREAMBLE

Preamble rejected.

NEW PREAMBLE

1. That the following be a new Preamble:

"PREAMBLE

SINCE the need for education and training of judicial officers, whether aspirant, newly appointed or experienced, has long been recognised and that principle is practiced and entrenched in most judicial systems around the world;

AND SINCE there is a need for the education and training of judicial officers in a quest for enhanced service delivery and the rapid transformation of the judiciary;

AND SINCE the law has become much more complex and varied, develops rapidly and is increasingly influenced by the globalisation of legal systems, trade, technology, new insights and challenges;

AND SINCE education and training of judicial officers are necessary to uphold judicial independence, on the one hand, and to facilitate judicial accountability, on the other, and both are indispensable requirements of a judiciary in a functioning democracy;

AND SINCE it is desirable that the education and training of judicial officers should primarily be directed and controlled by the judiciary;

AND SINCE section 180(a) of the Constitution provides that national legislation may provide for training programmes for judicial officers,".

LONG TITLE

1. On page 2, in the penultimate line of the long title, to omit "control" and to substitute "management".