

JUDICIAL OFFICERS (AMENDMENT OF CONDITIONS OF SERVICE) ACT 28 OF 2003

[ASSENTED TO 28 OCTOBER 2003] [DATE OF COMMENCEMENT: 1 NOVEMBER 2003]

(English text signed by the President)

as amended by

Judicial Matters Second Amendment Act 55 of 2003

ACT

To amend the Magistrates' Courts Act, 1944, so as to further regulate the appointment of magistrates in an acting or temporary capacity; and

To amend the Magistrates Act, 1993, so as to-

- * further regulate the remuneration of magistrates;**
- * further regulate the suspension of magistrates; and**
- * make provision generally for equal benefits to accrue to spouses and heterosexual or same-sex life partners of magistrates; and**

To amend the Independent Commission for the Remuneration of Public Office-bearers Act, 1997, so as to extend-

- * the definition of office-bearer to include judges and magistrates;**
- * the composition of the Independent Commission for the Remuneration of Public Office-bearers; and**
- * the functions of the Independent Commission for the Remuneration of Public Office-bearers; and**

To amend the Public Finance Management Act, 1999, in order to add the remuneration of magistrates to Schedule 5 thereof; and

To amend the Judges' Remuneration and Conditions of Employment Act, 2001, so as to-

- * further regulate the remuneration of judges;**
- * bring the provisions relating to benefits accruing to spouses and heterosexual or same-sex life partners of judges in line with a decision of the Constitutional Court; and**

To provide for matters incidental to the above provisions.

1 Amends section 9 of the Magistrates' Courts Act 32 of 1944 by substituting subsections (3), (4), (5) and (6) for subsections (3), (4) and (5).

2 Amends section 1 of the Magistrates Act 90 of 1993, as follows: paragraph (a) substitutes the definition of 'magistrate'; paragraph (b) deletes the definition of 'salary'; and paragraph (c) adds the definition of 'remuneration'.

3 Substitutes section 12 of the Magistrates Act 90 of 1993.

4 Amends section 13 of the Magistrates Act 90 of 1993 by substituting subsections (3), (4) and (4A) for subsections (3) and (4).

- 5** Inserts section 15A in the Magistrates Act 90 of 1993 .
- 6** Amends section 16 (1) of the Magistrates Act 90 of 1993 by inserting paragraph (*n A*) .
- 7** Amends section 1 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 by substituting the definition of 'office-bearer'.
- 8** Amends section 3 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 by substituting subsection (1).
- 9** Substitutes section 4 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 .
- 10** Amends section 7 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 by substituting subsection (3).
- 11** Amends section 8 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 by substituting subsections (3), (3A), (4), (5) and (6) for subsections (3) and (4).
- 12** Amends section 13 of the Independent Commission for the Remuneration of Public Office-bearers Act 92 of 1997 by adding subsection (3).
- 13** Amends Schedule 5 to the Public Finance Management Act 1 of 1999 by adding item 4.
- 14** Amends section 1 (1) of the Judges' Remuneration and Conditions of Employment Act 47 of 2001 , as follows: paragraph (*a*) substitutes the definition of 'annual salary'; paragraph (*b*) inserts the definition of 'partner'; and paragraph (*c*) inserts the definition of 'spouse'.
- 15** Substitutes section 2 of the Judges' Remuneration and Conditions of Employment Act 47 of 2001 .
- 16** Substitutes sections 9 and 10 of the Judges' Remuneration and Conditions of Employment Act 47 of 2001 .
- 17** Amends section 13 (1) of the Judges' Remuneration and Conditions of Employment Act 47 of 2001 , as follows: paragraph (*a*) inserts paragraphs (*c A*) and (*c B*) ; and paragraph (*b*) deletes paragraph (*e*) .
- 18**
 [S. 18 repealed by s. 33 of Act 55 of 2003.]

19 Transitional provisions

(1) Subject to subsection (2), any remuneration, including any annual salary, salary, allowance or benefit accruing immediately before the commencement of this Act to a magistrate or a judge, is deemed to have been determined in accordance with-

- (a) section 12 of the Magistrates Act, 1993 (Act 90 of 1993), as amended by this Act; or
- (b) section 2 of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001), as amended by this Act,

as the case may be.

(2) The remuneration referred to in subsection (1) does not include any amount payable-

- (a) to a magistrate under a regulation made in terms of section 16 (1) (a) or (g) of the Magistrates Act, 1993; or
- (b) to a judge under a regulation made in terms of section 13 (1) (c) or (d) of the Judges' Remuneration and Conditions of Employment Act, 2001.

(3) Any person who, immediately before the commencement of this Act, held an acting appointment as a magistrate in terms of section 9 (3) of the Magistrates' Courts Act, 1944 (Act 32 of 1944)-

- (a) is deemed to have been so appointed in terms of section 9 (3) of that Act, as amended by section 1 of this Act; and
- (b) notwithstanding section 9 (5) (a) (i) of that Act, holds that office for the period determined before the commencement of this Act.

20 Short title and commencement

This Act is called the Judicial Officers (Amendment of Conditions of Service) Act, 2003, and comes into operation on 1 November 2003 or on such earlier date as may be fixed by the President by proclamation in the *Gazette* .

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