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GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 894

5 July 2002

JUDGES' REMUNERATION AND CONDITIONS OF EMPLOYMENT
ACT, 2001 (ACT NO. 47 OF 2001): REGULATIONS

The President has under section 13 of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), made the regulations in the Schedule.

SCHEDULE

DEFINITIONS

1.(1) In these regulations any expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates -

“actual service” includes -

- (a) an administrative recess;

- (b) every period of leave granted in terms of regulation 6, but excluding any period of leave referred to in regulation 3;
- (c) service in an acting capacity for any continuous period immediately prior to assuming office as a judge in a permanent capacity;
- (d) uninterrupted service after discharge from active service; and
- (e) service by a Constitutional Court judge;

“administrative recess” means every period during which a court is in recess;

“division” means a division as contemplated in the Supreme Court Act, 1959 (Act No. 59 of 1959);

“effects” means household or personal effects;

“headquarters” means, with regard to -

- (a) a judge of the Constitutional Court, the seat of the Constitutional Court;
- (b) a judge of the Supreme Court of Appeal, the seat of the Supreme Court of Appeal; and
- (c) a judge of a High Court, the seat of the division in which he or she is appointed permanently or in an acting capacity or, in the case of the Transvaal Provincial Division, the Natal Provincial Division and the Eastern Division and of a judge discharged from active service, such place as may be assigned by the Minister to a particular judge as his or her headquarters;

“judge president” includes an acting judge president;

“leave” means leave on full pay unless expressly otherwise indicated;

“Minister” includes, for the purposes of regulation 17, an officer acting on the authority of the Minister for Justice;

“official duties” means active service and service for the purposes of section 7 of the Act and service as a Constitutional Court judge;

“High Court” means the High Courts of South Africa;

“term” means a term determined for the sessions of court;

“the Act” means the Judges’ Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001).

(2) For the purposes of these regulations, unless the context otherwise indicates, a judge shall be deemed to be resident at his or her headquarters.

ADMINISTRATIVE RECESSES

2.(1) Administrative recesses in any provincial or local division shall not exceed a total of 14 weeks per year.

(2) The judge president concerned, shall, prior to the commencement of an administrative recess, determine how many and which judges are to perform the functions in his or her division during the recess.

LEAVE

Vacation leave

3.(1) The Minister may, on the recommendation of the Chief Justice, the President of the Supreme Court of Appeal or the judge president concerned, as the case may be, grant leave to a Constitutional Court judge or a judge for a

period of three and a half months for every period of four years' actual service completed by the Constitutional Court judge or judge or for a shorter period and subject to such conditions as the Minister may in any particular case deem fit.

(2) Leave referred to in subregulation (1) shall, in the case of a judge of a provincial or local division, be taken in such a way that it does not extend over more than one term of that division, except with the consent of the Minister granted on the recommendation of the judge president concerned.

Additional Leave

4. If a Constitutional Court judge or judge waives in writing his or her right to unreduced remuneration in terms of section 176(3) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), the Minister may in terms of regulation 3 and on the recommendation of the Chief Justice, the President of the Supreme Court of Appeal or the judge president concerned, grant such Constitutional Court judge or judge additional leave on half pay for a period not exceeding one and a half months.

Special Leave

5. If in exceptional circumstances the Minister is satisfied that leave for which no provision has been made in these regulations should be granted in a specific case, he or she may, on the recommendation of the Chief Justice, the President of the Supreme Court of Appeal or the judge president concerned, grant such leave on such conditions as he or she may deem necessary, whether it be leave with full remuneration or leave with reduced or no remuneration, provided that the Constitutional Court judge or judge concerned has, in the case of leave with reduced remuneration or leave without remuneration, in writing waived his or her right to unreduced remuneration in terms of section 176(3) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

Sick leave

6. If, according to a certificate of a medical practitioner, it appears that owing to illness a Constitutional Court judge or judge cannot perform his or her duties for a specified period the Minister may grant the judge sick leave for that period.

General provisions: Leave

7. When considering applications for leave the Chief Justice, the President of the Supreme Court of Appeal or the judge president concerned shall endeavour to make such arrangements as will obviate as far as possible the need to make acting appointments.

8. No leave which may be granted in terms of these regulations shall be accumulative and no salary or allowance shall be claimed in respect of leave which could have been taken but which was not utilised.

9. The Director-General of Justice and Constitutional Development shall keep a record of leave granted to Constitutional Court judges and judges by the Minister.

10. Regulations 3, 6, 8 and 9 shall not apply to any acting judge.

**TRANSPORT, AND ALLOWANCES IN RESPECT OF TRANSPORT,
TRAVELLING AND SUBSISTENCE****Transport: Official duties**

11.(1) When a Constitutional Court judge, judge or acting judge is required to perform official duties away from his or her headquarters, he or she may make use of Government transport.

(2) When a motor vehicle owned by the State as contemplated in section 12 of the Act is used for purposes of subregulation (1), an official driver must be made available -

- (a) to the Chief Justice or acting Chief Justice, or the President or acting President of the Supreme Court of Appeal; and
- (b) to any other Constitutional Court judge, judge or acting judge if such other Constitutional Court judge, judge or acting judge certifies that he or she cannot reasonably dispense with the services of an official driver.

(3) If a Constitutional Court judge, judge or acting judge uses private transport in performing any official duties referred to in subregulation (1), he or she is to be compensated at a tariff of R1,80 per kilometre.

Benefits for spouses

12.(1) The Chief Justice or acting Chief Justice or the President or acting President of the Supreme Court of Appeal is entitled to be accompanied by his or her spouse on official journeys at State expense and to claim in respect of his or her spouse the subsistence allowance prescribed in regulation 14(1).

(2) A Constitutional Court judge, judge or acting judge is entitled to be accompanied by his or her spouse on official journeys at State expense if she or he uses the same motor vehicle as the Constitutional Court judge, judge or acting judge, and to claim in respect of his or her spouse the subsistence allowance prescribed in regulation 14(1) if the Constitutional Court judge, judge or acting judge -

- (a) is on circuit court duty;
- (b) is on official duties as contemplated by section 3(4) of the Supreme Court Act, 1959 (Act No. 59 of 1959), with the exception of official duties in the Witwatersrand Local Division of the High Court of South Africa;

- (c) is on official duties as contemplated by section 3(5) of the Supreme Court Act, 1959 (Act No. 59 of 1959);
- (d) performs service away from his or her headquarters after being discharged from active service; or
- (e) attends occasions in his or her official capacity.

Travelling

13.(1)(a) Any judge or acting judge of the Supreme Court of Appeal or any judge or acting judge of the Constitutional Court who is not permanently resident at his or her headquarters is entitled to travel once to his or her headquarters from his or her place of permanent residence, and once from his or her headquarters to his or her place of residence in respect of each term at State expense by public transport or, if such judge or acting judge uses private transport, for a consideration of R1,80 per kilometre.

(b) In addition to the travelling referred to in paragraph (a), every such judge or acting judge is per annum entitled to 12 aeroplane, bus or train tickets either way between his or her headquarters and his or her home for the use of himself or herself or any person so designated by him or her or to be compensated at the rate of R1,80 per kilometre if private transport is used in lieu of an aeroplane, a bus or train.

(2) A subsistence allowance in accordance with regulation 14(1) shall be paid to the judge or acting judge and his or her spouse when they are travelling as referred to in subregulation(1)(a) as if he or she were absent from his or her headquarters on official duties for the duration of each such journey.

(3) When a person is appointed an acting judge to perform duties in a division, in the Supreme Court of Appeal or in the Constitutional Court away from his or her home, he or she may, when assuming his or her duties, travel to such division or to the seat of the Supreme Court of Appeal or the

Constitutional Court and, at the conclusion of his or her duties, return to his or her home at State expense in the manner and at the rate of compensation prescribed in subregulations (1) and (2), and the allowance prescribed in regulation 14(1) shall be paid in respect of the acting judge as if he or she were absent from his or her headquarters on official duties for the duration of the journey concerned.

(4) When a judge is required to perform official duties in a division away from his or her headquarters or an acting judge is required to perform official duties in a division away from his or her home, he or she may once a month at State expense travel to and fro between such division and his or her headquarters or home, as the case may be, in the manner prescribed in subregulations (1) and (2).

(5) The registrar of the court concerned shall make the travel arrangements in connection with a Constitutional Court judge, judge or acting judge.

Subsistence

14.(1)(a) A Constitutional Court judge, judge or acting judge on official duties away from his or her headquarters or on circuit court duty and an acting judge whose headquarters are situated outside the district in which he or she permanently resides is entitled to an all-inclusive subsistence allowance of R600 for every 24 hours that he or she is actually absent from his or her headquarters or home during his or her appointment, as the case may be.

(b) The allowance for an uncompleted period of 24 hours is calculated proportionately according to the number of full hours of absence.

(2) The subsistence allowance mentioned in subregulation (1) may also be paid in respect of short periods during which a Constitutional Court judge or judge returns to his or her headquarters or when or she pays a visit elsewhere:

Provided that his or her commitments in respect of accommodation continue at the place where he or she performs his or her duties.

(3) For a period of absence on official duties of less than 24 hours in the circumstances referred to in subregulation (1), an all-inclusive subsistence allowance of R110 is payable.

Settlement allowance

15.(1) An allowance of R700 for every completed period of 24 hours of actual presence for the purposes of a session of the Supreme Court of Appeal in Bloemfontein or at the seat of the Constitutional Court, as the case may be, and, if applicable, an allowance calculated in terms of subregulation (3) for an uncompleted part of such a period, is payable to the Chief Justice or acting Chief Justice or the President or acting President of the Supreme Court of Appeal if he or she resides permanently elsewhere than in Bloemfontein or Gauteng, as the case may be: Provided that if he or she resides permanently in Bloemfontein or Gauteng, as the case may be, an allowance of R 5 600 per month will be paid to him or her.

(2) The following allowances are payable to any judge (other than the Chief Justice or acting Chief Justice or the President or acting President of the Supreme Court of Appeal) performing active service or service in the Constitutional Court or the Supreme Court of Appeal, as the case may be:

(a) If he or she resides permanently in Bloemfontein or Gauteng, R5000 per month; or

(b) if he or she resides permanently elsewhere than in Bloemfontein or Gauteng-

(i) R600 for every completed period of 24 hours of actual presence in Bloemfontein or Gauteng and, if applicable, an allowance calculated in terms of subregulation (3) for an uncompleted part of such a period;

- (ii) R5 000 per month if he or she purchases a home in Bloemfontein or Gauteng; or
- (iii) R5 000 per month for each month during which he or she leases a home in Bloemfontein or Gauteng, provided such home is leased for a continuous period of six months or longer.

(3) The allowance for an uncompleted period of 24 hours is calculated proportionately according to the number of full hours of presence.

Actual expenses

16. If an amount payable in terms of regulation 14 or 15(1), (2)(b)(i) or (3) is less than the amount which a Constitutional Court judge, judge or acting judge reasonably had to spend in respect of subsistence, an amount equal to the amount so spent may be paid to such Constitutional Court judge or judge.

Maintenance of practice

17. Anyone appointed an acting judge is paid an amount of R273 per day for the maintenance of his or her practice as advocate or attorney for the duration of such appointment.

Transport

18.(1) When a judge of one division is permanently appointed in any other division or is appointed as a judge of the Constitutional Court or Supreme Court of Appeal or when a person is appointed a judge and his or her headquarters are not situated at the place where he or she resides on appointment, the cost of the transport of that judge or person and his or her family, domestic workers and effects to his or her new headquarters is defrayed from public funds.

(2) When a Constitutional Court judge or judge performs service in terms of section 7 of the Act away from his or her home for a period longer than six

months, that Constitutional Court judge or judge and his or her family, domestic workers and effects may be transported to the designated place of service and, after completion of such service, back to his or her home at State expense.

(3) If a Constitutional Court judge, judge or person uses private transport in terms of subregulations (1) or (2) he or she is to be compensated at a tariff of R1,80 per kilometre.

(4)(a) When effects have to be transported the registrar of the Constitutional Court, Supreme Court of Appeal or of the division from which the effects are to be transported shall obtain written tenders from at least three cartage contractors for the packing, loading, unloading and unpacking of the effects for transport by train and, should the Constitutional Court judge, judge or person concerned so prefer, for the transport thereof by road.

(b) The lowest tender for the packing, loading, unloading and unpacking of the effects is to be accepted by the registrar, but the Minister may approve the acceptance of a higher tender if, in his or her opinion, there are good reasons for rejecting the lowest tender.

(5) The State is not responsible for any insurance premiums in respect of the transportation of effects: Provided that premiums in respect of insurance cover in the case of the transport of effects by road may be paid from public funds if the lowest tender for road transport includes such premiums as an integral part thereof.

(6)(a) Not more than two motor vehicles of a Constitutional Court judge, judge or person referred to in subregulations (1) or (2) may be transported by train at State expense, provided that they are transported at the owner's risk.

(b) The Constitutional Court judge, judge or person may be reimbursed from public funds for actual incidental expenses incurred in loading and unloading the vehicle or vehicles referred to in paragraph (a).

(7) The transportation of the effects of a Constitutional Court judge, judge or person referred to in subregulation (1) shall take place within 12 months after the transfer or appointment of the Constitutional Court judge, judge or person concerned, unless the Minister grants permission for the postponement of the transport thereof.

(8) The Minister may in exceptional cases approve the transportation of the effects of a Constitutional Court judge, judge or person referred to in subregulation (1) at State expense and their storage in a warehouse at his or her previous headquarters or home or at his or her new headquarters for a period not exceeding 12 months and, thereafter, their transportation to his or her new home: Provided that the registrar concerned shall call for at least three tenders for the performance of the services and the lowest tender shall be accepted by him or her: Provided further that the Minister may approve the acceptance of a higher tender if, in his or her opinion, there are good reasons for rejecting the lowest tender.

(9) A judge of the Supreme Court of Appeal or of the Constitutional Court performing active service and who is not permanently resident in Bloemfontein or Gauteng, as the case may be, may, subject to the provisions of subregulations (3) and (5), transport part of his or her effects and library, separately or together, once to Bloemfontein or Johannesburg at State expense to meet his or her office and accommodation needs.

19.(1) On -

- (i) discharge from active service;
- (ii) resignation from office in terms of section 11(1) of the Act;

(iii) vacation of his or her office in terms of section 11(2) of the Act;

or

(iv) the death of a Constitutional Court judge or judge,

his or her effects may be transported, once only, at State expense to any place in the Republic of South Africa where he or she or the surviving spouse, as the case may be, is to settle, in which case the provisions of regulation 18 shall *mutatis mutandis* apply.

(2) The transportation referred to in subregulation (1) shall be effected not earlier than two months prior to and not later than 12 months after the date of such discharge, resignation or vacation and, in the case of death, not later than 12 months after the date of death, unless the Minister is satisfied that owing to exceptional circumstances the transportation of effects in terms of subregulation (1) must be effected earlier than two months prior to the date of such discharge, resignation or vacation or later than 12 months after the date of discharge, resignation, vacation or death, in which case he or she may grant permission for the effects to be transported earlier or grant an extension of time for such transportation.

General provisions: Claims

20.(1) All claims for the payment of allowances in terms of these regulations shall, where applicable, state the nature of the services, the exact time of departure and arrival and all other information as may be necessary to calculate the amount payable.

(2) A claim referred to in subregulation (1) shall be signed and certified correct by the Constitutional Court judge, judge or acting judge concerned.