

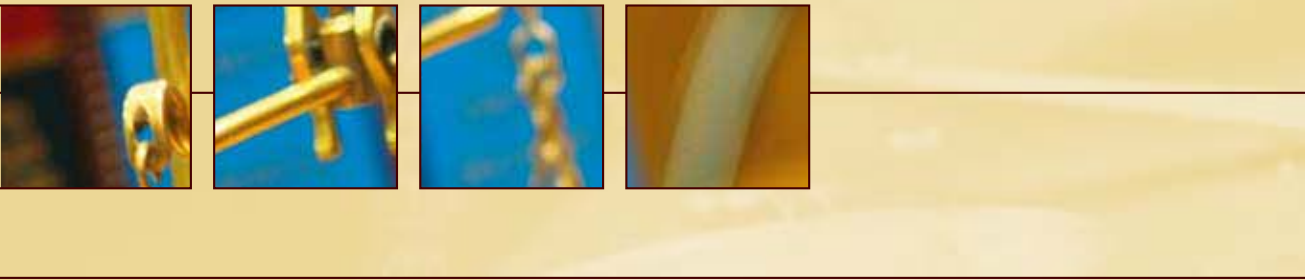
JUDICIAL SERVICE COMMISSION

ANNUAL REPORT 2006

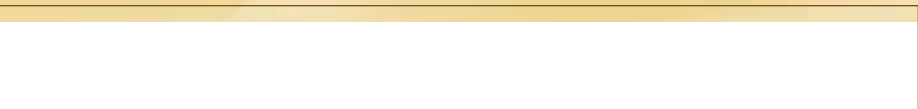


the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



To the Speaker of the National Assembly and the
Chairperson of the National Council of Provinces



I have the honour to present, in terms of Section 6 of the Judicial Service Commission Act 9 of 1994, the following report on the activities of the Judicial Service Commission for the year ended 30 July 2006.

P N Langa
Chief Justice of South Africa
Chairperson: Judicial Service Commission

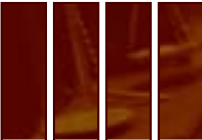
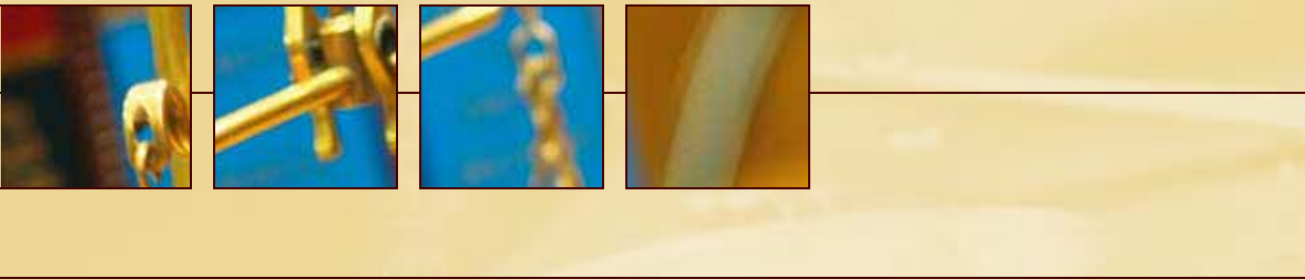


Table of Contents

Condolences	4
Meetings of the Commission	4
Meetings of the Heads of Courts	4
Draft Legislation	4
Racism and Sexism in the Judiciary	4
Judicial Education	5
Transfer of Judges	5
Consultation with the Commission regarding the appointment of retired judges	5
Venue for meetings of the Commission	5
Rules governing complaints	6
Resignation of Judge I Hussain	6
10th Year of the Constitution	6
Interviewing of candidates	6
Complaints	6
Finance	7
Appointment of Judges	8
Constitutional Court	8
Members of the Commission	9



Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

Condolences

During the year under review the Commission extended heartfelt condolences to Justice B M Ngoepe and his family on the tragic death of his granddaughter, to Minister L Hendricks on the passing of her mother and to Deputy Chief Justice D Moseneke and Judge President V Tshabalala on the untimely passing of their sons.

Meetings of the Commission

The full Commission met twice during the year, on the following dates:

17 – 19 October 2005 and 4 – 5 April 2006

Both meetings were held at the Conference Centre of the Vineyard Hotel in Cape Town.

A further three meetings were held during the year under review on the following dates:

3 February 2006, 6 May 2006 and 27 June 2006

These meetings were held at the Conference Centre of the Johannesburg International Airport without the presence of the members of Parliament and in accordance with the requirements of the Constitution whereby Commission members who are members of Parliament do not participate in

decisions dealing with matters other than those relating to the appointment of judges.

Meetings of the Heads of Courts

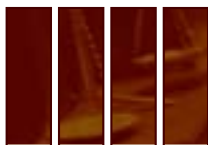
The Commission has continued to arrange for the Heads of Courts to meet with the Minister of Justice at times when the Commission holds its meetings. Reports on these discussions are made to the Commission. These meetings are of importance and enable the Minister and heads of the judiciary to discuss matters of mutual concern.

Draft Legislation

In the exercise of its power under section 178(5) of the Constitution and its function in terms of paragraph 16(6) of Schedule 6 of the Constitution the Judicial Service Commission furnished advice for consideration by the National Government in terms of the Fourteenth Constitutional Amendment Bill, the Superior Courts' Bill and the Judicial Complaints Legislation.

Racism and Sexism in the Judiciary

A sub committee had been appointed to look into allegations of racism and sexism in the judiciary. This committee has now compiled a report which has been published. It contains rec-



Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

ommendations and it is proposed that judges in all divisions be exposed to training sessions on matters of diversity and sensitivity on an ongoing basis.

Judicial Education

The whole question of judicial education is being investigated and ways and means of developing the training of judges, aspirant judges and magistrates will be examined. It is envisaged that Justice College will in future be utilized in the training of court managers, interpreters, registrars and other officials connected with the courts and the prosecuting authority. The training of judicial officers, however, is to be undertaken by the judiciary itself.

Part of judicial training which must be emphasized is the training of women practitioners who have been in practice for at least ten years and it is hoped that this will increase the pool of women aspirant judges. The Minister's initiative is to obtain R1.5 million for fast tracking the training of women judges and the Heads of Courts are to be involved in finding suitable candidates.

Transfer of Judges

The regulation governing the practice of the Commission

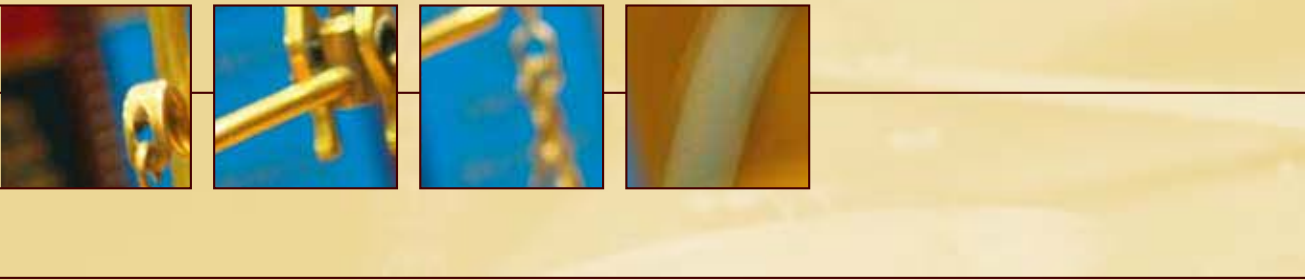
on the transfer of judges from one division to another was amended to provide that a fresh application must be made when a vacancy occurs and this will be in competition with other candidates for the position.

Consultation with the Commission regarding the appointment of retired judges

The Commission resolved that all avenues should be explored before making acting appointments of retired judges and such appointments must be in consultation with the Minister of Justice and the Judicial Service Commission.

Venue for meetings of the Commission

The full Commission meets in April and October each year and a study has shown that there is a compelling consideration of economy and practical convenience for holding these meetings in Cape Town. Members of Parliament serving on the Commission are generally in Cape Town when the Commission meets and the dates chosen coincide with the times when the Constitutional Court, the Supreme Court of Appeal and various divisions of the High Court are in recess making it easier for judges and practitioners who are involved in the meetings to attend.



Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

Rules governing complaints

Rules governing complaints and enquiries in terms of section 177(1)(a) of the Constitution were drawn up and form part of the procedures of the Commission.

Resignation of Judge I Hussain

The resignation of Judge Hussain on 1 April 2006 was preceded by a decision of the Judicial Service Commission that a charge of gross misconduct within the meaning of Section 177(1)(a) of the Constitution be preferred against him. The charge related to a complaint that while acting as an arbitrator after his judicial appointment he received and misused moneys intended to be dealt with in the arbitration award. The charge was to allege that the money was intended to be held in an attorney's trust account pending the award and that instead of paying the money into an attorney's trust account he received it into his own bank account and in the course of time used the money for his own purposes. In view of the Judge's resignation it is no longer within the competence of the Commission to proceed with the charge and the Commission's duties and functions in this regard are accordingly at an end.

10th Year of the Constitution

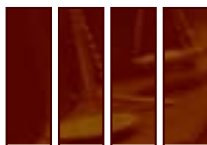
This is the 10th year of the Constitution and discussions were held as how best it can be celebrated. It is felt that the public knows very little about how judges and courts work and the most constructive way of celebrating a decade of the Constitution is to encourage members of the judiciary to engage with leading members of the public, government and leadership generally to explain the work that judges do.

Interviewing of candidates

The Commission has reiterated that it is committed to the values of the Constitution and gave an assurance that inappropriate questioning of candidates will not be permitted.

Complaints

During the year under review seventeen complaints were received. In all but one of the complaints it was resolved that there were no grounds for the Commission to take them any further.



Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

Finance

Subsistence expenditure, including lunch and teas at meetings of the Commission	180 414.60
Telephone, fax machine and cell phone	32 554.79
Commission reimbursements	230 966.48
Courier Services	52 601.15
Stationery	40 185.72
Rent Photo Copier	40 518.32
Translation & Transcriptions	6 327.00
Travel and Subsistence – Daily allowance	10 647.79
Travel and Subsistence – Incidental Cost	1 895.00
Car Rental	49 496.91
Private Transport	16 903.26
Airfares	238 083.20
Government & Road Transport	2 129.29
Venues & facilities	77 134.48
	979 857.99



Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

Appointment of Judges

Constitutional Court

In terms of section 174(4)(b) of the Constitution the President as head of the National Executive appoints judges to fill the vacancies on this court after consulting the Chief Justice and leaders of parties represented in the National Assembly. The appointment must be made from a list of nominees provided by the Judicial Service Commission with three names more than the vacancy to be filled. The President is required to advise the Judicial Service Commission, with reasons if any of the nominees are unacceptable and if any appointment remains to be made.

The Commission resolved to submit the names of the following persons for consideration for appointment to the one vacancy in the Court:

Professor C H Albertyn

Professor G C Fick

Professor C E Hoexter

Ms Justice B E Nkabinde

The President subsequently appointed Ms Justice B E Nkabinde as a Judge of the Constitutional Court.

In terms of section 174(6) of the Constitution the President

must appoint judges of all courts with the exception of the Constitutional Court on the advice of the Judicial Service Commission. The advice of the Commission in respect of vacancies which occurred during the year under review is as follows:

Supreme Court of Appeal:

Ms Justice M M L Maya

Cape Provincial Division:

Ms P L Goliath

Ms T C Ndita

Eastern Cape Division:

Ms N C Dambusa

Free State Provincial Division:

Adv C van Zyl

Natal Provincial Division – Deputy Judge President:

Mr Justice P Levinsohn

Natal Provincial Division:

Mr D S V Ntshangase

Transvaal Provincial Division – Deputy Judge President:

Mr Justice J B Shongwe

Transvaal Provincial Division:

Mr A P Ledwaba

Mr R S Mathopo

Report on activities of the Judicial Service Commission

for the year ended 30 June 2006

Mr J R Murphy

Adv L M Molopa SC

Adv C Pretorius SC

Members of the Commission

Section 178(1)(a) of the Constitution Chief Justice:

Mr Justice P N Langa

Section 178(1)(b) President of the Supreme Court of Appeal:

Mr Justice C T Howie

Section 178(1)(c) Judge President:

Mr Justice B M Ngoepe

Section 178(1)(d) Minister of Justice and Constitutional

Development:

Ms B S Mabandla

Section 178(1)(e) Two Practising Advocates:

Adv M Seligson SC

Adv M T K Moerane SC

Section 178(1)(f) Two Practising Attorneys:

Mr S Nkanunu

Mr J von Klemperer

Section 178(1)(g) Professor of Law:

Professor J Neethling

Section 178(1)(h) Six persons designated by the National

Assembly:

Minister L B Hendricks

Mr J H van der Merwe

Adv T M Masutha

Mrs S Camerer

Mr J B Sibanyoni

Dr C Mulder

Section 18(1)(i) Four permanent delegates to the National

Council of Provinces:

Mr M J Mahlangu

Mr M L Mokoena

Mr T S Setona

Dr F van Heerden

Section 178(1)(j) Four persons designated by the President:

Adv G Bizos SC

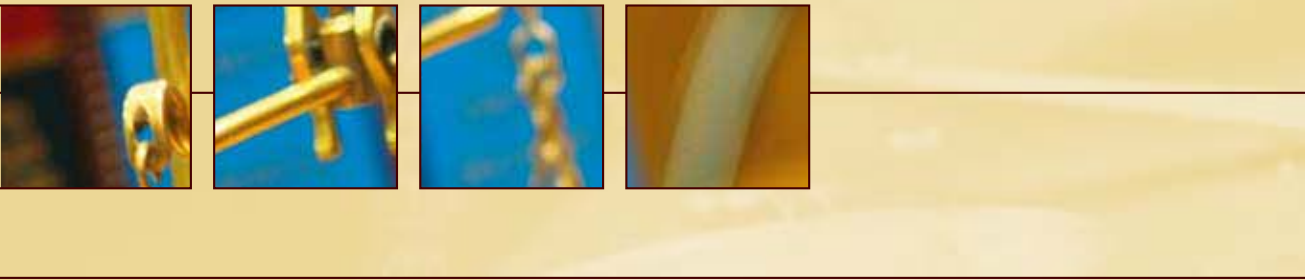
Adv K D Moroka SC

Mr J H Ernstzen

Adv S Nthai

Secretary:

Mrs I H Greenstein



PO Box 258 - Bloemfontein - 9300
Tel: 051 447 2769
Fax: 051 447 0836

