



# JUDICIAL SERVICE COMMISSION

ANNUAL REPORT 2007



**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 June 2007.

### **PN Langa**

Chief Justice of South Africa

Chairperson: Judicial Service Commission

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# Report on activities of the Judicial Service Commission for the year ended 30 June 2007

## **Meeting of the Commission**

The full Commission met twice during the year, on the following dates:  
09 - 11 October 2006 and 10 - 13 April 2007.

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

A further two meetings were held during the year under review on the following dates:  
08 December 2006 and 08 June 2007. These meetings, which, in terms of section 178(5) did not include the members designated in terms of subsection (1)(h) and (i), were held at the Conference Centre of the OR Tambo International Airport, Johannesburg, 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 the matters other than those relating to the appointment of judges.

## **Meeting 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 on pending legislation, namely, the South African Judicial Education Institute Bill and the Judicial Service Commission Amendment Bill.

## **Judicial Education**

The South African public not only deserves a representative Bench, but also one that will in fact

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deliver quality justice. The Constitution requires that only suitably qualified people be appointed as judges. Competence and excellence are accordingly basic to the adjudication process. In making its recommendations for appointment to judicial office, the Judicial Service Commission is obliged to consider not only the imperative of transformation, in particular in terms of race and gender, but also competence.

The recurring imbalance in the number of serving women judges as compared to men has made it necessary that special measures be undertaken to increase the pool of qualified women from which appointments of judges can be made. A national programme focusing on the judicial training of legally qualified women was instituted with effect from the beginning of June 2007 with an initial intake of 20 women trainees. It is a full time course and appropriate financial arrangements had to be made, with funding being made available for those practitioners in private practice who stand to lose income from their participation in the programme. The first phase of the training will be completed in August 2007 and the second phase will then commence. It is stressed that admission to the programme is no guarantee for appointment to the bench; rather, the names of the successful candidates will be supplied to the Judge Presidents for possible appointment as acting Judges in the respective divisions.

The first intake is in the process of receiving tutoring for a period of three months, on a full time basis and will be subjected to an assessment at the end of that period. Successful trainees only will proceed to the next phase, while the participation of the unsuccessful candidates will be discontinued.

The initial phase of training is centralised in premises of the Law Society of South Africa in Johannesburg. It is an admirable gesture on their part and it has greatly facilitated the launching of this valuable project.

Retired Judge Ivor Schwartzman was appointed as the mentor judge to conduct the training.

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## **Venue for meetings of the Commission**

The full Commission meets in April and October each year. For reasons of economy and practical convenience, the meetings are held in Cape Town. Members of Parliament who serve 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 the judges and practitioners who are involved in the meetings to attend. As already stated, two special meetings of the Commission, meeting without were held at the OR Tambo International Airport in Johannesburg.

## **Rules governing complaints**

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

## **Interviewing of candidates**

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

## **Complaints**

During the year under review twenty three complaints against Judges were received. In all the complaints it was resolved that there were no grounds for the Commission to take them any further.

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## Finance

Subsistence expenditure, including lunch and teas at meetings of the Commission	44,806.20
Telephone, fax and cell phone	28,517.56
Commission reimbursements	269,433.27
Courier Services	47,761.09
Rent Photo Copier	30,418.95
Stationery	6,712.66
Translation & Transcriptions	2,199.33
Travel & Subsistence – Daily allowance	12,693.43
Travel & Subsistence – Incidental Cost	2, 933.88
Car Rental	29,549.69
Private Transport	22, 905.54
Airfares	274, 291.50
Government & Road Transport	1,349 96
Venues & facilities	158, 680 .93
<b>Total</b>	<b>932,253.99</b>

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## **Appointment of Judges**

In terms of section 174(6) of the Constitution the President must appoint judges of all courts, with the exception of 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*

Mr Justice Azhar Cachalia

Mr. Justice Peter Carl Combrink

### *Natal Provincial Division*

Adv. Petrus Arnolus Koen SC

Adv Mjabuliseni Isaac Madondo SC

### *Eastern Cape Division*

Ms. Justice Elna Revelas

### *Cape Provincial Division*

Mr Andre Le Grange

Mr Dumisani Halmilton Zondi

### *Transvaal Provincial Division*

Adv Colin Gordon Lamont SC

Mr Ratha Tathapedi David Mokgoathheng

### *Transkei Division*

Adv Sytze Alkema SC



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## *Labour Appeal Court*

Judge Achmat Naaim Jappie

Judge John Raymond Murphy

Judge Hendrik Mmolli Thekiso Musi

Judge Chimanlal Narotam Patel

Judge Basheer Wagley

Judge John Raymond Murphy subsequently withdrew his consent to be nominated and appointed before his name was sent to the President.

## *Labour Court*

Prof Annali Christelle Basson

Mr Edwin Mogomotsi Molahlehi

## **Members of the Commission**

*In terms of section 178(1)(a) of the Constitution, the Chief Justice of South Africa:*

Mr Justice P N Langa. He is also chairperson of the Commission;

*In terms of section 178(1)(b), the President of the Supreme Court of Appeal:*

Mr Justice C T Howie;

*In terms of Section 178(1)(c), a judge president: Mr Justice B M Ngoepe;*

*In terms of section 178(1)(d), the Minister of Justice and Constitutional Development: Ms. B S Mabandla*

*In terms of section (1)(e) two practicing advocates:*

Adv MTK Moerane SC

Adv M Seligson SC

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*In terms of section 178(1)(f), two practising attorneys:*

Mr. E M Ngubane  
Mr. J von Klemperer

*In terms of section 178 (1)(g), a professor of law:*

Professor J Neethling

*In terms of section (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

*In terms of section 178(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

*In terms of section 178(1)(j), four persons designated by the President:*

Adv G Bizos SC  
Mr J H Ernstzen  
Adv KD Moroka SC  
Adv. S Nthai

*Secretary to the Judicial Service Commission:*

Ms. V. Masangwana



