
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 1440

29 October 2021

**MAGISTRATES ACT, 1993 (ACT NO. 90 OF 1993)
REGULATIONS FOR JUDICIAL OFFICERS IN THE LOWER COURTS, 1994:
AMENDMENT**

The Minister of Justice and Correctional Services has, under section 16 of the Magistrates Act, 1993 (Act No. 90 of 1993), on the recommendation of the Magistrates Commission, made the regulations in the Schedule.

SCHEDULE**Definition**

1. In this Schedule "the Regulations" means the regulations published by Government Notice No. R. 361 of 11 March 1994, as amended by Government Notices Nos. R. 644 of 1 April 1994, R. 1407 of 11 August 1994, R. 1808 of 17 October 1994, R. 1707 of 27 October 1994, R. 1791 of 17 November 1995, R. 72 of 26 January 1996, R. 331 of 1 March 1996, R. 957 of 7 June 1996, R. 1178 of 19 July 1996, R. 1242 of 2 August 1996, R. 1340 of 12 August 1996, R. 1567 of 27 September 1996, R. 1627 of 1 October 1996, R. 178 of 7 February 1997, R. 421 of 20 March 1997, R. 1081 of 8 August 1997, R. 274 of 20 February 1998, R. 997 of 7 August 1998, R. 56 of 15 January 1999, R. 1498 of 17 December 1999, R. 1339 of 26 September 2003, R. 1593 of 31 October 2003, R. 50 of 26 January 2012, R. 933 of 7 September 2018 and R. 1692 of 20 December 2019.

Amendment of regulation 4 of the Regulations

2. Regulation 4 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

"(1) A candidate must make an application for an appointment as a magistrate on a form obtained from and to be submitted to the Commission."

Substitution of regulation 22 of the Regulations

3. Regulation 22 of the Regulations is hereby substituted for the following regulation:

"General provisions

22. (1) A Magistrate who wishes to be transferred to another Court may be considered for such transfer, only if—

- (a) a vacancy occurs in the Court in which he or she seeks to be transferred;
- (b) such vacancy has been advertised by the Commission; and
- (c) he or she applied for the vacancy as contemplated in regulation 4, where after his or her application will be considered together with any other candidate who applied for the vacancy.

(2) A transfer of a magistrate contemplated in subregulation (1) may only be effected after a decision of the Commission recommending such transfer."

Amendment of regulation 26 of the Regulations

4. Regulation 26 of the Regulations is hereby amended by—
(a) the substitution for subregulation (6) of the following subregulation:

"(6) (a) For purposes of a misconduct hearing, 'judicial presiding officer' includes a 'judicial officer' contemplated in section 1 of the Magistrates Courts Act, 1944 (Act No. 32 of 1944) and 'judicial officer' contemplated in section 1 of the Superior Courts Act, 2013 (Act No. 10 of 2013).

(b) If the Commission decides that a magistrate should be subjected to a misconduct hearing, the Commission shall appoint—

- (i) a judicial presiding officer to preside at that hearing; and
 - (ii) a magistrate or an appropriately qualified person to lead evidence at that hearing."; and
- (b) the substitution for the phrase "presiding officer" in relation to a misconduct hearing, wherever it appears, with the phrase "judicial presiding officer".

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 1440

29 Oktober 2021

**WET OP LANDDROSTE, 1993 (WET NO. 90 VAN 1993)
REGULASIES VIR REGTERLIKE BEAMPTES IN LAER HOWE, 1994:
WYSIGING**

Die Minister van Justisie en Korrektiewe Dienste het kragtens artikel 16 van die Wet op Landdroste, 1993 (Wet No. 90 van 1993), op aanbeveling van die Landdrostekommissie, die regulasies in die Bylae uitgevaardig.

BYLAE**Woordomskrywing**

1. In hierdie regulasies beteken "die Regulasies" die regulasies afgekondig by Goewermentskennisgewing No. R. 361 van 11 Maart 1994, soos gewysig by Goewermentskennisgewings Nos. R. 644 van 1 April 1994, R. 1407 van 11 Augustus 1994, R. 1808 van 17 Oktober 1994, R. 1707 van 27 Oktober 1994, R. 1791 van 17 November 1995, R. 72 van 26 Januarie 1996, R. 331 van 1 Maart 1996, R. 957 van 7 Junie 1996, R. 1178 van 19 Julie 1996, R. 1242 van 2 Augustus 1996, R. 1340 van 12 Augustus 1996, R. 1567 van 27 September 1996, R. 1627 van 1 Oktober 1996, R. 178 van 7 Februarie 1997, R. 421 van 20 Maart 1997, R. 1081 van 8 Augustus 1997, R. 274 van 20 Februarie 1998, R. 997 van 7 Augustus 1998, R. 56 van 15 Januarie 1999, R. 1498 van 17 Desember 1999, R. 1339 van 26 September 2003 en R. 1593 van 31 Oktober 2003, R. 50 van 26 Januarie 2012, R. 933 van 7 September 2018 en R. 1692 van 20 Desember 2019.

Wysiging van regulasie 4 van die Regulasies

2. Regulasie 4 van die Regulasies word hierby gewysig deur subregulasie (1) deur die volgende subregulasie te vervang:

"(1) 'n Kandidaat moet op 'n vorm van die Kommissie verkry en ingedien, aansoek doen om aanstelling as 'n landdros."

Vervanging van regulasie 22 van die Regulasies

3. Regulasie 22 van die Regulasies word hierby deur die volgende regulasie vervang:

"Algemene bepalings

22. (1) 'n Landdros wat na 'n ander Hof oorgeplaas wil word, kan vir sodanige oorplasing oorweeg word, slegs indien—

(a) daar 'n vakature ontstaan in die Hof waarna hy of sy wens oorgeplaas te word;

(b) sodanige vakature deur die Kommissie adverteer is; en

(c) hy of sy vir sodanige vakature aansoek gedoen het soos in regulasie 4 beoog,

waarna sy of haar aansoek oorweeg sal word saam met enige ander kandidaat wat vir die vakature aansoek gedoen het.

(2) 'n Oorplasing van 'n landdros soos in subregulasie (1) beoog, mag slegs uitgevoer word na 'n besluit van die Kommissie wat sodanige oorplasing aanbeveel."

Wysiging van regulasie 26 van die Regulasies

4. Regulasie 26 van die Regulasies word hierby gewysig deur—

- (a) subregulasie (6) deur die volgende subregulasie te vervang:

"(6) (a) Vir doeleindes van 'n wangedrag verhoor sluit 'geregtelike voorsittende beampte', 'n 'regterlike amptenaar' bedoel in artikel 1 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944) en 'regterlike beampte' bedoel in artikel 1 van die Wet op Hoër Howe, 2013 (Wet No. 10 van 2013), in.

(b) Indien die Kommissie besluit dat 'n landdros aan 'n wangedrag verhoor onderwerp moet word, moet die Kommissie—

- (i) 'n geregtelike voorsittende beampte om by daardie verhoor voor te sit; en
- (ii) 'n landdros of 'n toepaslik gekwalifiseerde persoon om die getuienis by daardie verhoor te lei, aanstel."; en

- (b) die frase "voorsittende beampte" ten opsigte van 'n wangedrag verhoor, waar dit voorkom met die frase "geregtelike voorsittende beampte" te vervang.