

---

**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

---

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

NO. R. 4714

12 April 2024

**INVITATION FOR PUBLIC COMMENTS ON THE DRAFT LAND COURT REGULATIONS****1. INVITATION**

1.1 The Department of Justice and Constitutional Development (the Department) invites interested parties to submit written comments on the draft Regulations under the Land Court Act, 2023 (Act No. 6 of 2023) (the Act).

1.2 The draft Regulations are issued in terms of section 37 of the Act and are available on the website of the Department at:

<https://www.justice.gov.za/legislation/invitations/invites.htm>

**2. COMMENTS**

2.1 The comments must be submitted not later than **Friday, 10 May 2024**, marked for the attention of **Mr M Mokulubete**, and—

(a) if they are forwarded by post, be addressed to—

**The Department of Justice and Constitutional Development  
Private Bag X81, Pretoria, 0001**

(b) if they are delivered by hand, be delivered at—

**The Department of Justice and Constitutional Development  
SALU Building, 316 Thabo Sehume Street, Pretoria**

(c) if they are delivered by email, be emailed to [MMokulubete@justice.gov.za](mailto:MMokulubete@justice.gov.za)

(d) if they are faxed, be faxed to **012 406 4632 / 086 519 8972**.

2.2 For more information, please contact Mr M Mokulubete on **012 406 4755 / 084 842 5780**

**GOVERNMENT NOTICE****DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT****No. R.****2024****LAND COURT ACT, 2023****LAND COURT REGULATIONS, 2024**

(a) The Minister of Justice and Correctional Services has, in terms of section 37 of the Land Court Act, 2023 (Act No. 6 of 2023), and subject to paragraph (b), made the regulations in the Schedule hereto.

(b) The Minister of Justice and Correctional Services has, in terms of section 37(1)(f) and (g), read with section 37(2) of the Land Court Act, 2023 (Act No. 6 of 2023), and in consultation with the Minister of Finance, made regulations 5, 9 and 10 in the Schedule hereto.

## SCHEDULE

### ARRANGEMENT OF REGULATIONS

1. Definitions and interpretation
2. Criteria for determination of judges of Court
3. Appointment of assessors
4. Form of oath or affirmation of assessors
5. Remuneration and allowances of mediator not in full time service of State
6. Form of oath or affirmation of person appointed judge of Court and who is not judge of High Court
7. Appointment of officers of Court
8. Functions of officers of Court
9. Fees and allowances of assessor not in full time employ of State
10. Provision of legal assistance
11. Short title and commencement

### ANNEXURE

Form 1: Form of oath or affirmation of assessors

Form 2: Form of oath or affirmation of person appointed judge of Court and who is not judge of High Court

#### **Definitions and interpretation**

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates, **'the Act'** means the Land Court Act, 2023 (Act No. 6 of 2023).

#### **Criteria for determination of judges of Court (section 4(1)(c))**

2. The regulations published under Government Notice No. R. 26 of 14 January 2016 apply with the necessary changes required by the context to the appointment of the judges of the Court.

#### **Appointment of assessors (sections 12(2)(a) and 37(1)(d))**

3. (1) The Court may, from time to time, frame a list of persons who, having regard to the nature of the business of the Court and to their ability and reputation, appear to

be qualified and willing to act as assessors upon reasonable notice and upon payment of the fee prescribed in regulation 9.

(2) (a) Every person who, prior to the commencement of the regulations, appears on the list of qualified and willing assessors continues to be an assessor of the Court until a new list is prepared or such person submits a written resignation to the registrar.

(b) Upon receipt of such resignation, the registrar must remove the name of such assessor from the list referred to in subregulation (1).

(c) An assessor appointed to act as such in any matter may not, without the leave of the Court, resign during the trial or hearing of the matter.

(3) Nothing in this regulation prevents the Court from appointing persons not included in the list of qualified and willing assessors to act as assessors in any particular matter.

(4) If at the time and place appointed for the trial or hearing either of the appointed assessors does not attend, the Court may either proceed to try the matter with the assistance of the assessor, if any, who is in attendance, or without assistance of an assessor, if none attended, or may adjourn the trial or hearing.

#### **Form of oath or affirmation of assessors (sections 12(3) and 37(1)(e))**

4. (1) Before a person appointed as an assessor of the Court begins to perform the functions of an assessor of the Court, that person must take an oath or make an affirmation that such assessor will, on the evidence placed before that assessor, give a true verdict or considered opinion upon the issues to be tried.

(2) The oath or affirmation must be on a form that corresponds substantially with Form 1 of the Annexure.

(3) The oath or affirmation is administered by presiding judge at the commencement of the hearing of every matter, before any evidence is led.

(4) The oath or affirmation must be taken, made or administered in the manner prescribed for the taking of an oath or affirmation.

#### **Remuneration and allowances of mediator not in full time service of State (section 29(7))**

5. (1) A mediator who is not in the full time employ of the State must be paid by the State a daily sum of R3 500, which sum must be pro-rated in accordance with the time spent by that mediator while acting as such in a particular case.

(2) The sum of R3 500 prescribed in subregulation (1) increases automatically in accordance with the consumer price index on 1 April of each year following upon the year on which these regulations came into operation.

**Form of oath or affirmation of person appointed judge of Court and who is not judge of High Court (section 37(1)(a))**

6. (1) Before a person appointed as a judge of the Court, who is not a judge of the High Court, begins to perform the functions of a judge of the Court, that person must take an oath or make an affirmation that such person will uphold and protect the Constitution.

(2) The oath or affirmation must be on a form that corresponds substantially with Form 2 of the Annexure.

(3) The oath or affirmation is taken only once and for the first time before the person assumes the duties as a judge of the Court.

(4) The oath or affirmation must be taken, made or administered in the manner prescribed for the taking of an oath or affirmation.

**Appointment of officers of Court (section 37(1)(b))**

7. The appointment of officers of the Court must be made in accordance with the Public Service Act, 1994 and the regulations promulgated in Government Notice No. R. 877 of July 2016.

**Functions of officers of Court (section 37(1)(c))**

8. Officers of the Court must perform such functions of the Court as may be assigned to such officer from time to time by the Chief Justice or the Secretary-General of the Office of the Chief Justice.

**Fees and allowances of assessor not in full time employ of State (section 37(1)(f) and 37(2))**

9. (1) An assessor who is not in the full time employ of the State must be paid by the State a daily sum of R3 500, which sum must be pro-rated in accordance with the time spent by that assessor while acting as such in a particular case.

(2) The sum of R3 500 prescribed in paragraph (a) increases automatically in accordance with the consumer price index on 1 April of each year following upon the year on which these regulations came into operation.

**Provision of legal assistance (section 37(1)(g))**

10. The regulations promulgated in Government Notice No. R. 745 of July 2017, in so far as they may be applicable to land related matters, and the expenditure related thereto, apply with necessary changes required by the context to parties who wish to exercise their right to have a dispute resolved through mediation as contemplated in the Act.

**Short title**

11. These Regulations are called the Land Court Regulations, 2024.

## ANNEXURE

### **Form 1 Form of oath or affirmation of assessors**

[Regulation 4(2)]  
SECTIONS 12(3) and 37(1)(e) OF THE LAND COURT ACT, 2023 (ACT NO. 6 OF 2023)

Each assessor, before the presiding judge or another judge designated by the Chief Justice, must swear or affirm as follows:

I, A.B., swear/affirm that, as an assessor of the Land Court, I will, on the evidence placed before me, give a true verdict or considered opinion upon the issues to be tried by the Court, and will act in relation to all persons alike without fear, favour or prejudice, in accordance with the Constitution and the law.

(In the case of an oath: So help me God.)

(In the case of an affirmation: So I affirm.)

### **Form 2 Form of oath or affirmation of person appointed judge of Court and who is not judge of High Court**

[Regulation 6(2)]  
SECTION 37(1)(a) OF THE LAND COURT ACT, 2023 (ACT NO. 6 OF 2023)

Each judge or acting judge, before the Chief Justice or another judge designated by the Chief Justice, must swear or affirm as follows:

I, A.B., swear/affirm that, as a judge of the Land Court, I will be faithful to the Republic of South Africa, will uphold and protect the Constitution and the human rights entrenched in it, and will administer justice to all persons alike without fear, favour or prejudice, in accordance with the Constitution and the law.

(In the case of an oath: So help me God.)

(In the case of an affirmation: So I affirm.)