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It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 77 of 1997: Judges' Remuneration and Conditions of Employment Amendment Act. 1997.

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 77 van 1997: Wysigingswet op Besoldiging en Diensvoorwaardes van Regters. 1997.

Act No. 77.1997

JUDGES' REMUNERATION AND CONDITIONS OF
EMPLOYMENT AMENDMENT ACT. 1997

discharged from active service in terms of section 3(1)(a),(c) or (d) or 4 shall not be less than 40 per cent of his or her highest salary during the period of his or her active service and shall not exceed such salary.

(b) Subject to the provisions of subsection (2) and of paragraph (d), the aggregate of the salary payable in terms of subsection (1) to a judge who was or is discharged from active service in terms of section 3(1)(b), shall be 80 per cent of his or her highest salary during the period of his or her active service. plus '2 per cent of that salary for every year of active service which he or she performs after attaining the age of 65 years.

(c) Subject to the provisions of subsection (2) and of paragraph (d), the aggregate of the salary payable in terms of subsection (1) to a judge who was or is discharged from active service in terms of section 3(1)(c) or (d) before he or she attains the age of 65 years. shall be not more than 80 per cent of his or her highest salary during the period of his or her active service.

(d) Subject to the provisions of subsection (2), the aggregate of the salary payable in terms of subsection (1) to a judge who was or is discharged from active service in terms of section 3(1) and has performed active service for a period of not less than 20 years. shall be equivalent to the salary applicable to the office held by him or her on discharge from active service."

Amendment of section 7 of Act 88 of 1989, as amended by section 4 of Act 10 of 1994

3. Section 7 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1)(a) A judge who has been discharged from active service—

(i) except a judge who has been so discharged [from active service] in terms of section 3(1)(b),(c) or (d), shall, subject to subsection (2A), be available to perform service until he or she attains the age of 75 years. for a period or periods which, in the aggregate, amount to three months a year; or

(ii) who has already attained the age of 75 years. may perform further service, if his or her services are, after consultation with the Minister, requested by the Chief Justice or the judge president in whose area of jurisdiction he or she resides or of the division to which he or she was attached when discharged from active service, or with his or her consent, any other judge president, in consultation with the Chief Justice or the said judge president, as the case may be, and that judge's mental and physical health enable him or her to perform such service [: **Provided that a judge shall not be precluded from voluntarily performing more than three months' service, if his or her services are so requested: Provided further that a judge shall perform service as mentioned in paragraph (b), (c), (d) or (e) of subsection (2) only with his or her consent**].

(b) A judge may voluntarily perform more than three months' service a year, if his or her services are so requested.

(c) Service as mentioned in paragraph (b), (c), (d) or (e) of subsection (2) may be performed only with the consent of the judge concerned."

Amendment of section 10A of Act 88 of 1989, as inserted by section 7 of Act 10 of 1994

4. Section 10A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Any person who is not a judge of the Supreme Court and who holds office as a constitutional judge shall in respect thereof, in addition to the amounts referred to in section 12 and an allowance at the rate of R3 500 per annum, be paid a monthly salary at a rate determined from time to time by the President by proclamation in the *Gazette*: Provided that such salary shall not be less than that of a judge of the Appellate Division of the Supreme Court."; and

(b) by the insertion after subsection (4) of the following subsection:

"(4A) The allowance payable in terms of subsection (1) shall not be taxable, unless Parliament expressly provides otherwise."

Act No. 77.1997

JUDGES' REMUNERATION AND CONDITIONS OF
EMPLOYMENT AMENDMENT ACT, 1997**Amendment of section 10D of Act 88 of 1989, as inserted by section 7 of Act 10 of 1994**

5. Section 10D of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) If such constitutional judge is not survived by a spouse, the amount referred to in subsection (1) shall be payable to his or her estate.”.

Short title and commencement

6. (1) This Act shall be called the Judges' Remuneration and Conditions of Employment Amendment Act. 1997.

(2) Sections 1, 4 and 5 shall be deemed to have come into operation on 13 July 1994. 10