

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**PROMOTION OF
EQUALITY AND PREVENTION
OF UNFAIR DISCRIMINATION
AMENDMENT BILL**

[B 41—2002]

*(As agreed to by the Portfolio Committee on Justice and Constitutional Development
(National Assembly))*

[B 41A—2002]

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AMENDMENTS AGREED TO

PROMOTION OF EQUALITY AND PREVENTION OF UNFAIR DISCRIMINATION AMENDMENT BILL [B 41—2002]

CLAUSE 1

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 16 of Act 4 of 2000

1. The following section is hereby substituted for section 16 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (hereinafter referred to as the principal Act):

“Equality courts and presiding officers

16. (1) For the purposes of this Act, but subject to section 31—

- (a) every High Court is an equality court for the area of its jurisdiction;
- (b) any judge may, subject to subsection (2), be designated in writing by the Judge President as a presiding officer of the equality court of the area in respect of which he or she is a judge;
- (c) the Minister must, after consultation with the head of an administrative region defined in section 1 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), by notice in the *Gazette*—
 - (i) designate one or more magistrate’s courts as equality courts for the administrative region concerned;
 - (ii) define the area of jurisdiction of each equality court, which may consist of any number of districts, sub-districts or other areas of jurisdiction created in terms of section 2 of the Magistrates’ Courts Act, 1944;
 - (iii) increase or reduce the area of jurisdiction of each equality court;
 - (iv) appoint one or more places within the area of jurisdiction of each equality court for the holding of equality court sittings;
 - (v) withdraw or vary any notice under this paragraph; and
- (d) the head of an administrative region contemplated in paragraph (c) must, subject to subsection (2), designate in writing any magistrate or additional magistrate as a presiding officer of the equality court.

(2) Only a judge, magistrate or additional magistrate who has completed a training course as a presiding officer of an equality court—

- (a) before the date of commencement of section 31; or

(b) as contemplated in section 31(4), and whose name has been included on the list contemplated in subsection (4)(a), may be designated as such in terms of subsection (1).

(3) The Judges President and the heads of administrative regions must—

(a) take all reasonable steps within available resources to designate at least one presiding officer for each equality court within his or her area of jurisdiction; and

(b) without delay, inform the Director-General of the Department of any judge, magistrate or additional magistrate who has completed a training course as contemplated in section 31(4) and (5) or who has been designated in terms of subsection (1).

(4) The Director-General of the Department must compile and keep a list of every judge, magistrate and additional magistrate who has—

(a) completed a training course as contemplated in section 31(4) and (5); or

(b) been designated as a presiding officer of an equality court in terms of subsection (1).

(5) A presiding officer must perform the functions and duties and exercise the powers assigned to or conferred on him or her under this Act or any other law.”.

CLAUSE 2

1. On page 4, from line 36, to omit subsection (2) and to substitute:

“(2) Only an officer or person contemplated in subsection (1)(a) who has completed a training course as clerk of an equality court—

(a) before the date of commencement of section 31; or

(b) as contemplated in section 31(6),

and whose name has been included on the list contemplated in subsection (3), may be appointed or designated as such under subsection (1)(a).

(3) The Director-General of the Department must compile and keep a list of every officer or person who has—

(a) completed a training course as contemplated in section 31(6); or

(b) been designated or appointed as a clerk of an equality court in terms of subsection (1)(a).”.

CLAUSE 3

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 31 of Act 4 of 2000

3. The following section is hereby substituted for section 31 of the principal Act:

“Implementation of Act

31. (1) Despite section 16(1) no proceedings may be instituted in any court unless a presiding officer and one or more clerks are available.

(2) For purposes of giving full effect to this Act and making the Act as accessible as possible—

(a) and in giving effect to subsection (1), judges, magistrates or additional magistrates, as the case may be, and clerks referred to in subsection (1) may be—

(i) designated as presiding officers; and

(ii) appointed or designated as clerks,

respectively, for one or more equality courts;

(b) the Minister must make the Act available in all official languages in the prescribed manner within a period of two years after the commencement of this Act.

(3) The Director-General of the Department must take all reasonable steps within the available resources of the Department to ensure that a clerk is available for each court in the Republic.

(4) The Chief Justice must, in consultation with the Judicial Service Commission and Magistrates Commission, develop the content of training courses with a view to building a dedicated and experienced pool of trained and specialised presiding officers, for purposes of presiding in court proceedings as contemplated in this Act, by providing—

(a) social context training for presiding officers; and

(b) uniform norms, standards and procedures to be observed by presiding officers in the performance of their functions and duties and in the exercise of their powers.

(5) The Chief Justice must, in consultation with the Judicial Service Commission, Magistrates Commission and the Minister, implement the training courses contemplated in subsection (4).

(6) The Director-General of the Department must develop and implement a training course for clerks of equality courts with the view to building a dedicated and experienced pool of trained and specialised clerks, for purposes of performing their functions and duties as contemplated in this Act, by providing—

(a) social context training for clerks; and

(b) uniform norms, standards and procedures to be observed by clerks in the performance of their functions and duties.

(7) The Minister must table a report in Parliament, as prescribed, relating to the content and implementation of the training courses referred to in subsections (4) and (5).”

LONG TITLE

1. On page 2, in the second line, to omit “regulate the” and to substitute “provide for the training and”.
2. On page 2, in the third line, after the first “courts” to insert “for purposes of the Act”.
3. On page 2, in the third line, after the third “courts” to insert:

to further regulate the training of the clerks of equality courts;