

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**JUDICIAL MATTERS  
AMENDMENT BILL**

[B 55—2002]

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

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[B 55A—2002]

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**AMENDMENTS AGREED TO**  


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**JUDICIAL MATTERS AMENDMENT BILL**  
**[B 55—2002]**

CLAUSE 1

Clause rejected.

CLAUSE 2

Clause rejected.

CLAUSE 3

1. On page 3, in line 35, to omit “may” and to substitute “must”.

CLAUSE 12

Clause rejected.

CLAUSE 13

Clause rejected.

NEW CLAUSES

1. That the following be new Clauses:

**Amendment of section 415 of Act 61 of 1973**

**10.** Section 415 of the Companies Act, 1973, is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

“(3) No person interrogated under subsection (1) shall be entitled at such interrogation to refuse to answer any question upon the ground that the answer would tend to incriminate him or her and shall, if he or she does so refuse on that ground, be obliged to so answer at the instance of the Master or officer presiding at such meeting: Provided that the Master or officer presiding at such meeting may only oblige the person in question to so answer after the Master or officer presiding at such meeting has consulted with the Director of Public Prosecutions who has jurisdiction.”; and

- (b) by the substitution for subsection (5) of the following subsection:

“(5) Any incriminating answer or information directly obtained, or incriminating evidence directly derived from, an interrogation in terms of subsection (1) shall not be admissible as evidence in criminal proceedings in a court of law against the person concerned or the body corporate of which he or she is or was an officer, except in criminal proceedings where the person concerned is charged with an offence relating to—

- (a) the administering or taking of an oath or the administering or making of an affirmation;
- (b) the giving of false evidence;
- (c) the making of a false statement; or
- (d) a failure to answer lawful questions fully or satisfactorily.”.

**Amendment of section 417 of Act 61 of 1973, as amended by section 9 of Act 29 of 1985**

- 11.** Section 417 of the Companies Act, 1973, is hereby amended—  
 (a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) Any such person may be required to answer any question put to him or her at the examination, notwithstanding that the answer might tend to incriminate him [ and any answer given to any such question may thereafter be used in evidence against him ] or her and shall, if he or she does so refuse on that ground, be obliged to so answer at the instance of the Master or the Court: Provided that the Master or the Court may only oblige the person in question to so answer after the Master or the Court has consulted with the Director of Public Prosecutions who has jurisdiction.”; and

- (b) by the addition to subsection (2) of the following paragraph:

“(c) Any incriminating answer or information directly obtained, or incriminating evidence directly derived from, an examination in terms of this section shall not be admissible as evidence in criminal proceedings in a court of law against the person concerned or the body corporate of which he or she is or was an officer, except in criminal proceedings where the person concerned is charged with an offence relating to—

- (i) the administering or taking of an oath or the administering or making of an affirmation;
- (ii) the giving of false evidence;
- (iii) the making of a false statement; or
- (iv) a failure to answer lawful questions fully and satisfactorily.”.

**CLAUSE 21**

Clause rejected.

**CLAUSE 22**

Clause rejected.

**NEW CLAUSE**

1. That the following be a new Clause:

**Amendment of section 1 of Act 17 of 2002**

**19.** Section 1 of the Mental Health Care Act, 2002, is hereby amended by the substitution for the definition of “State patient” of the following definition:

“ ‘**State patient**’ means a person so classified by a court directive in terms of section 77(6)(a)(i) or 78(6)(i)(aa) of the Criminal Procedure Act;”.

#### CLAUSE 23

Clause rejected.

#### NEW CLAUSE

1. That the following be a new Clause:

##### **Short title and commencement**

**20.** (1) This Act is called the Judicial Matters Amendment Act, 2002.

(2) Sections 12, 13 and 19 take effect on a date set by the President by proclamation.

#### LONG TITLE

1. On page 2, in the first line, to omit “amend the Insolvency Act, 1936, so as to effect certain textual corrections; to”.
2. On page 2, in the sixteenth line, to omit all the words from “Promotion” up to and including “Republic” in the eighteenth line and to substitute:

Mental Health Care Act, 2002, so as to amend a definition