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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1479.

18 Julie 1984

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18 July 1984

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

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

No. 85 van 1984: Wysingswet op die Suid-Afrikaanse Regskommissie, 1984.

No. 85 of 1984: South African Law Commission Amendment Act, 1984.

GENERAL EXPLANATORY NOTE:

[**]** Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the South African Law Commission Act, 1973, so as to further regulate the constitution of the Commission, the period of office of its members and the arrangements at meetings of the Commission; provide for the establishment of committees of the Commission; make further provision in relation to the remuneration, allowances, benefits and privileges of members of the Commission; and substitute or delete certain references, words and expressions; to amend the General Law Amendment Act, 1974, so as to repeal an obsolete provision; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 28 June 1984.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 3 of the South African Law Commission Act, 1973 (hereinafter referred to as the principal Act), is hereby 5 amended—

Amendment of section 3 of Act 19 of 1973.

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

“(1) (a) The Commission shall consist of the following members, appointed by the State President:

10 [(a)] (i) A judge of the Supreme Court of South Africa, as chairman;

 [(b) a judge of the Supreme Court of South Africa, as vice-chairman;

15 (c) (ii) [not less than two but not more than four] six persons who appear to the State President to be [suitably qualified by] fit for appointment on account of the tenure of a judicial

20 office or [by] on account of experience as an advocate or as an attorney or as a professor of law at any university, or on account of any other qualification relating to the objects of the Commission.

25 [(d) an officer in the service of the Department of Justice.]

30 (b) The State President shall designate one of the persons referred to in paragraph (a) (ii) as vice-chairman of the Commission, and when the chairman is not available, the vice-chairman shall perform the functions assigned to the chairman by or under this Act.

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- (c) Not more than three members of the Commission designated by the State President, shall hold their office as members of the Commission, and shall perform their functions under this Act, in a full-time capacity.”;
- 5 (b) by the substitution for subsection (2) of the following subsection:
 “(2) The State President may appoint one or more additional members if he deems it necessary for the [consideration] investigation of any particular [project] matter by the Commission.”; and
- 10 (c) by the substitution for subsection (3) of the following subsection:
 “(3) A member of the Commission—
 (a) referred to in subsection (1), shall be appointed for a period of not more than five years;
 (b) [or, in the case of a member] referred to in subsection (2), [for the period of the duration of the particular project] shall be appointed for a period determined by the State President,
 20 and any such appointment may be revoked at any time by the State President if in his opinion good reasons exist therefor.”.
2. Section 6 of the principal Act is hereby amended—
- 25 (a) by the substitution for subsection (1) of the following subsection:
 “(1) Meetings of the Commission shall be held at the times and places appointed by the chairman [or, if he is not available, by the vice-chairman] of the Commission.”;
- 30 (b) by the substitution for subsection (2) of the following subsection:
 “(2) [One half] The majority of the members of the Commission [plus one] shall constitute a quorum for a meeting.”; and
- 35 (c) by the substitution for subsection (3) of the following subsection:
 “(3) If [the chairman is absent from a meeting, the vice-chairman shall act as chairman and if] both the chairman and the vice-chairman are absent from a meeting, the members present shall choose one of their number to preside at that meeting.”.
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3. Section 7 of the principal Act is hereby amended—
- 45 (a) by the substitution in subsection (2) of the Afrikaans text for the word “werkzaamhede” of the word “bedrywighehede”; and
- (b) by the substitution for subsection (3) of the following subsection:
 “(3) The report referred to in subsection (2) shall be laid upon the Table in [the Senate and the House of Assembly] Parliament within fourteen days after it was submitted to the Minister, if Parliament is then in session, or, if Parliament is not then in session, within 14 days after the commencement of its next ensuing session.”.
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4. The following section is hereby inserted in the principal Act after section 7:
- 60 “Committees of Commission. 7A. (1) The Commission may, if it deems it necessary for the proper performance of its functions—
 (a) establish a working committee, which shall consist of such members of the Commission as the Commission may designate;
 (b) establish such other committees as it may deem necessary, and which shall consist of—
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Amendment of section 6 of Act 19 of 1973.

Amendment of section 7 of Act 19 of 1973.

Insertion of section 7A in Act 19 of 1973.

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- (i) such members of the Commission as the Commission may designate; or
 - (ii) such members of the Commission as the Commission may designate and the other persons appointed by the Minister for the period determined by the Minister.
- (2) The Minister may at any time extend the period of an appointment referred to in subsection (1) (b) (ii) or, if in his opinion good reasons exist therefor, revoke any such appointment.
- (3) The Commission shall designate the chairman and, if the Commission deems it necessary, the vice-chairman of a committee established under subsection (1).
- (4) (a) A committee referred to in subsection (1) shall, subject to the directions of the Commission, perform those functions of the Commission assigned to it by the Commission.
- (b) Any function so performed by the working committee referred to in subsection (1) (a) shall be deemed to have been performed by the Commission.
- (5) The Minister or the Commission may at any time dissolve any committee established by the Commission.
- (6) The provisions of sections 5 (4) and 6 shall *mutatis mutandis* apply to a committee of the Commission.
- (7) In the application of section 9 a member of a committee who is not a member of the Commission, shall be deemed to be a member of the Commission."

5. Section 8 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 8 of Act 19 of 1973.

"(2) The Commission may, with the approval of the Minister in consultation with the Minister of Finance, on a temporary basis or for a particular **[project]** matter which is being investigated by it, employ any person with special knowledge of any matter relating to the work of the Commission, or obtain the co-operation of any body, to advise **[and]** or assist the Commission in the performance of its **[duties]** functions under this Act, and fix the remuneration, including reimbursement for travelling, subsistence and other expenses, of such person or body."

6. The following section is hereby substituted for section 9 of the principal Act:

Substitution of section 9 of Act 19 of 1973, as amended by section 20 of Act 29 of 1974.

9. (1) A member of the Commission who—

(a) is a judge of the Supreme Court of South Africa shall, notwithstanding anything to the contrary contained in any other law, in addition to his salary and any allowance, including any allowance for reimbursement of travelling and subsistence expenses, which may be payable to him in his capacity as such a judge, be entitled to such allowance (if any) in respect of the performance of his functions as such a member as the State President may determine;

(b) is not such a judge and is not subject to the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), shall be entitled to such remuneration, allowances (including allowances for reimbursement of travelling and subsistence expenses incurred by him in the performance of his functions under this Act), benefits and privileges as the Minister in consultation with the Minister of Finance may determine.

"Remuneration, allowances, benefits and privileges of members.

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(2) The remuneration, allowances, benefits or privileges of different members of the Commission may differ according to—

- 5 (a) the different offices held by them in the Commission; or
 (b) the different functions performed, whether in a part-time or full-time capacity, by them from time to time.

10 (3) In the application of subsections (1) and (2), the State President or the Minister, as the case may be, may determine that any remuneration, allowance, benefit or privilege contemplated in those subsections, shall be the remuneration, allowance, benefit or privilege determined from time to time by or
 15 under any law in respect of any person or category of persons."

7. Section 20 of the General Law Amendment Act, 1974, is hereby repealed.

Repeal of section 20 of Act 29 of 1974.

8. The amendment of section 3 of the principal Act by this 20 Act does not affect the appointment under subsection (2) of the said section of a member of the Commission contemplated in the said subsection, which was in force immediately prior to the commencement of section 1 of this Act, or the period of that appointment.

Savings.

25 9. (1) This Act shall be called the South African Law Commission Amendment Act, 1984, and shall come into operation on a date determined by the State President by proclamation in the *Gazette*.

Short title and commencement.

(2) Different dates may be so fixed in respect of different provisions of this Act.
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