
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**NO. R. 933****07 SEPTEMBER 2018****MAGISTRATES ACT, 1993****REGULATIONS FOR JUDICIAL OFFICERS IN THE LOWER COURTS, 1993: AMENDMENT**

The Minister of Justice and Correctional Services has, under section 16 of the Magistrates Act, 1993 (Act No. 90 of 1993), on the recommendation of the Magistrates Commission, made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In this Schedule "the Regulations" means the regulations published by Government Notice No. R. 361 of 11 March 1994, as amended by Government Notices Nos. R. 644 of 1 April 1994, R. 1407 of 11 August 1994, R. 1808 of 17 October 1994, R. 1707 of 27 October 1994, R. 1791 of 17 November 1995, R. 72 of 26 January 1996, R. 331 of 1 March 1996, R. 957 of 7 June 1996, R. 1178 of 19 July 1996, R. 1242 of 2 August 1996, R. 1340 of 12 August 1996, R. 1567 of 27 September 1996, R. 1627 of 1 October 1996, R. 178 of 7 February 1997, R. 421 of 20 March 1997, R. 1081 of 8 August 1997, R. 274 of 20 February 1998, R. 997 of 7 August 1998, R. 56 of 15 January 1999, R. 1498 of 17 December 1999, R. 1339 of 26 September 2003, R. 1593 of 31 October 2003 and R. 50 of 26 January 2012.

Amendment of regulation 1 of the Regulations

1. Regulation 1 of the Regulations is hereby amended by—
 - (a) the substitution for the definition of “**appropriate experience**” of the following definition:
“**appropriate experience**” means experience gained after obtaining the appropriate qualifications referred to in section 10 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), and regarded by the Commission as appropriate;”; and
 - (b) the insertion after the definition of “**candidate**” of the following definition:
“**Council**” means the Council of the South African Judicial Education Institute established in terms of section 3 of the South African Judicial Education Institute Act, 2008 (Act No. 14 of 2008);”.

Substitution of regulation 3 of the Regulations

2. Regulation 3 of the Regulations is hereby substituted for the following regulation:

“Requirements for appointment

3. (1) A person may not be appointed as a magistrate or an additional magistrate of a district court, or as a magistrate of a regional court, unless he or she is—
 - (a) appropriately qualified;
 - (b) a fit and proper person; and
 - (c) a South African citizen.
- (2) The Commission must develop a mentorship-programme in order to guide newly appointed magistrates, in which a newly appointed magistrate is required to participate.
- (3) (a) Before commencing with the functions of a judicial officer in a court of law, any newly appointed magistrate must attend a course, the content and extent of which must be decided by the Council, or a committee of that Council.
(b) If a magistrate is appointed to a more senior office of magistrate, the Commission may require the magistrate, before or after commencing with the functions and responsibilities of such senior office, to attend a course, the content and extent of which must be decided by the Council, or a committee of that Council.
- (4) The Minister may, on the recommendation of the Commission, exempt a magistrate from the provisions of subregulation (3)(a).”.

Substitution of regulation 4 of the Regulations

3. Regulation 4 of the Regulations is hereby substituted for the following regulation:

“Application by candidates

4. (1) A candidate must make an application for appointment as magistrate in writing on a form obtained from the Commission and hand it in to the Commission.

(2) The application referred to in subregulation (1) must be accompanied by the following documents:

- (a) A certified copy of the candidate’s identity document;
- (b) certified copies of all educational qualifications;
- (c) certificates of service or, if not available, an affidavit by the candidate in respect of previous periods of service;
- (d) testimonials from previous employers, if available;
- (e) an affidavit setting out the candidate’s assets and liabilities; and
- (f) names and addresses of two references.

(3) If the Commission, after due consideration of an application, is of the opinion that the candidate is suitable for the office applied for, the Commission must forward the documents referred to in this regulation, together with a recommendation on the appointment of the candidate to the office in question, to the Minister.”.

Amendment of regulation 54A of the Regulations

4. Regulation 54A of the Regulations is hereby amended by—

- (a) the insertion of the word “JUDICIAL” after the word “OF” in the heading of PART XXI; and
- (b) the substitution for regulation 54A of the following regulation:

“**54A.** The Code of Conduct for Magistrates is the Code of Judicial Conduct contained in Schedule E to the Regulations.”.

Repeal of Form 1 in Schedule A to the Regulations

5. Form 1 in Schedule A to the Regulations is hereby repealed.

Repeal of Form 2 in Schedule A to the Regulations

6. Form 2 in Schedule A to the Regulations is hereby repealed.

Repeal of Form 3 in Schedule A to the Regulations

7. Form 3 in Schedule A to the Regulations is hereby repealed.

Substitution of Schedule E to the Regulations

8. Schedule E to the Regulations is hereby substituted for the following Schedule:

“Schedule E**CODE OF JUDICIAL CONDUCT FOR MAGISTRATES****IN TERMS OF SECTION 16(1) OF THE MAGISTRATES ACT, 1993(ACT NO. 90 OF 1993)
AND REGULATION 54A OF THE REGULATIONS FOR JUDICIAL OFFICERS IN THE
LOWER COURTS, 1993****PREAMBLE**

Whereas—

- (1) the supremacy of the Constitution, the rule of law, and the rights and freedoms enshrined in the Bill of Rights are the foundation of the democracy established by the Constitution;
- (2) section 165(1) of the Constitution provides that the judicial authority of the Republic vests in the courts;
- (3) section 165(2) of the Constitution provides that the courts are independent and subject only to the Constitution and the law, which they must apply without fear, favour or prejudice;
- (4) section 174(8) of the Constitution provides that before judicial officers begin to perform their functions, they must take an oath, or affirm, in accordance with paragraph 6(1) of Schedule 2, that they “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”;

- (5) section 180(b) of the Constitution provides that national legislation may provide for any matter concerning the administration of justice that is not dealt with in the Constitution, including procedures for dealing with complaints about judicial officers;
- (6) the Magistrates Act, 1993 (Act No. 90 of 1993) (hereinafter referred to as the Act), seeks to maintain and promote the independence of the office of magistrate and judiciary as a whole, while at the same time acknowledging that it is necessary to create an appropriate and effective balance between protecting the independence and dignity of the judiciary when considering complaints about, and the possible removal from office of, magistrates as defined in section 1 of the Act, and the overriding principles of openness, transparency and accountability that permeate the Constitution and that are equally applicable to judicial institutions and officers;
- (7) it is necessary for public acceptance of its authority and integrity in order to fulfill its constitutional obligations that the judiciary should conform to ethical standards that are internationally generally accepted, more particularly as set out in the Bangalore Principles of Judicial Conduct (2001) as revised at the Hague (2002); and
- (8) section 16(1)(e) of the Act provides that the Minister, after the Magistrates Commission has made a recommendation, may adopt a Code of Judicial Conduct, which must be promulgated by the Minister by way of regulation;

The Code of Judicial Conduct for Magistrates provides as follows:—

Article 1: Definitions

In this Code, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned to it and—

“head of the court concerned” means—

- (a) in the case of a district magistrate, the magistrate at the head of the relevant court; and
- (b) in the case of a regional magistrate, the regional court president; and

“the Regulations” means the Regulations for Judicial Officers in the Lower Courts, 1993.

Article 2: Application

- (1) This Code applies to every magistrate falling within the definition of “magistrate” in section 1 of the Act, including an acting magistrate.
- (2) Any wilful or grossly negligent breach of this Code is a ground upon which a complaint against a magistrate may be lodged.

- (3) Complaints must be dealt with in accordance with the Regulations.

Article 3: Objects and Interpretation

- (1) The object of this Code is to assist every magistrate in dealing with ethical and professional issues, and to inform the public about the judicial ethos of the Republic.
- (2) This Code must—
- (a) be applied consistently with the Constitution and the law as embodied in the common law, statute, and precedent, having due regard to the relevant circumstances;
 - (b) not be interpreted as impinging on the constitutionally guaranteed independence of the judiciary or any magistrate or on the separation of powers;
 - (c) not be interpreted as absolute, precise, or exhaustive. Conduct may therefore be unethical which, on a strict reading of this Code, may appear to be permitted and the converse also applies.
- (3) Although international standards and those applied in comparable foreign jurisdictions may not be directly applicable, they do provide a useful source of reference for interpreting, understanding and applying this Code.
- (4) Notes to Articles of this Code are for the purpose of elucidation, explanation and guidance with respect to the purpose and meaning of the Articles.

Article 4: Judicial Independence

A magistrate must—

- (a) uphold the independence and integrity of the judiciary and the authority of the courts;
- (b) maintain an independence of mind in the performance of judicial duties;
- (c) take all reasonable steps to ensure that no person or organ of state interferes with the functioning of the courts; and
- (d) not ask for nor accept any special favour or dispensation from any person, the executive or any interest group.

Notes:

Note 4(i): A magistrate acts fearlessly and according to his or her conscience because a magistrate is only accountable to the law.

Note 4(ii): Magistrates do not pay any heed to political parties or pressure groups and perform all professional duties free from outside influence.

Note 4(iii): Magistrates do not appear at public hearings or otherwise consult with an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice.

Note 4(iv): Judicial independence is not a private right or a principle for the benefit of magistrates as individuals. It denotes freedom of conscience for magistrates and non-interference in the performance of their decision-making. It does not justify judicial misbehaviour and does not provide an excuse for failing to perform judicial functions with due diligence or for otherwise acting contrary to this Code.

Note 4(v): Organs of state are constitutionally mandated to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility, and effectiveness. The correlative is the right of every magistrate not to have his or her independence of mind disturbed by any person or organ of state.

Article 5: To act honourably

(1) A magistrate must always, and not only in the discharge of official duties, act honourably and in a manner befitting judicial office.

(2) All activities of a magistrate must be compatible with the status of judicial office.

Notes:

Note 5(i): A magistrate behaves in his or her professional and private life in a manner that enhances public trust in, or respect for, the judiciary and the judicial system.

Note 5(ii): A magistrate avoids impropriety and the appearance of impropriety in all the magistrate's activities.

Note 5(iii): A magistrate does not engage in conduct that is prejudicial to the effective and expeditious administration of the business of the court.

Note 5(iv): Judicial conduct is to be assessed objectively through the eyes of the reasonable person.

Article 6: Compliance with the law

A magistrate must at all times, also in relation to extra-judicial conduct, comply with the law of the land.

Article 7: Equality

A magistrate must at all times—

- (a) personally avoid and dissociate himself or herself from comments that are racist, sexist or otherwise manifest discrimination in violation of the right to equality guaranteed by the Constitution;
- (b) in court and in chambers act courteously and respect the dignity of others;
- (c) in conducting judicial proceedings, give special attention to the right to equality before the law and the right of equal protection and benefit of the law; and
- (d) in the performance of judicial duties refrain from being biased or prejudiced.

Notes:

Note 7(i): These provisions are aimed at promoting courtesy and ensuring a degree of decorum.

Note 7(ii): Magistrates strive to be aware of, and understand, the many differences between persons and to remain informed about changing social attitudes and values.

Note 7(iii): The multi-cultural nature of South African society calls for special sensitivity for the perceptions and sensibilities of all who are affected by court proceedings.

Article 8: Transparency

A magistrate must—

- (a) take reasonable steps to enhance the accessibility of the courts and to improve public understanding of judicial proceedings; and
- (b) unless special circumstances require otherwise—
 - (i) conduct judicial proceedings; and
 - (ii) make known his or her decisions and supporting reasons, in open court.

Notes:

Note 8(i): The legitimacy of the judiciary depends on the public understanding of, and confidence in, the judicial process.

Note 8(ii): The function of the judiciary fails if its proceedings are not understood.

Note 8(iii): Magistrates are conscious of the desirability of complying with the spirit of the requirement that proceedings should take place in open court.

Note 8(iv): Discussions with magistrates in chambers must be avoided. If what has happened in chambers has any effect on the proceedings, those facts are to be placed on record in open court.

Article 9: Fair trial

A magistrate must—

- (a) resolve disputes by making findings of fact and applying the appropriate law in a fair hearing, which includes the duty to—
 - (i) observe the letter and spirit of the *audi alteram partem* rule;
 - (ii) remain manifestly impartial; and
 - (iii) give adequate reasons for any decision;
- (b) in conducting judicial proceedings—
 - (i) maintain order;
 - (ii) act in accordance with commonly accepted decorum; and
 - (iii) remain patient and courteous to legal practitioners, parties and the public, and require them to act likewise;
- (c) manage legal proceedings in such a way as to—
 - (i) expedite their conclusion as cost-effectively as possible; and
 - (ii) not shift the responsibility to hear and decide a matter to another magistrate;
- (d) not exert undue influence in order to promote a settlement or obtain a concession from any party.

Article 10: Diligence

- 1) A magistrate must—
 - (a) perform all assigned judicial duties diligently;
 - (b) investigate the matter at hand thoroughly;

- (c) dispose of the business of the court promptly and in an efficient and businesslike manner;
 - (d) give judgment or any ruling in a case promptly and without undue delay;
 - (e) not engage in conduct that is prejudicial to the effective and expeditious administration of justice or the business of the court;
 - (f) attend chambers during normal office hours and attend court during normal court hours, unless such attendance is not reasonably required in order to perform any official duties;
 - (g) perform all official duties properly, timeously, and in an orderly manner;
 - (h) respect and comply with, the administrative requests of the head of court in question;
 - (i) take reasonable steps to maintain the necessary level of professional competence in the law; and
 - (j) upon resignation, retirement, or the expiry of an acting appointment, complete all part-heard cases and deliver all reserved judgments as soon as possible.
- (2) In the discharge of judicial office a magistrate must comply with the norms and standards determined by the Chief Justice in terms of section 8 of the Superior Courts Act, 2013.

Notes:

Note 10(i): Unnecessary postponements, point-taking, undue formality and the like must be avoided.

Note 10(ii): Litigants are entitled to judgment as soon as reasonably possible.

Note 10(iii): Criminal proceedings, especially automatic reviews, applications for leave to appeal, and matters where personal liberty is involved, must be dealt with expeditiously.

Note 10(iv): A magistrate keeps a record of all outstanding judgments and reports to the head of the particular court thereon if and when requested.

Note 10(v): A pattern of intemperate or intimidating treatment of lawyers and others, or of conduct evidencing arbitrariness and abusiveness is prejudicial to the effective administration of justice and should be avoided.

Article 11: Restraint

- (1) A magistrate must—

- (a) save in the discharge of judicial office, not comment publicly on the merits of any case pending before, or determined by, that magistrate or any other court;
 - (b) not enter into a public debate about a case, irrespective of criticism levelled against the magistrate, the judgment, or any other aspect of the case;
 - (c) refrain from any action which may be construed as designed to stifle legitimate criticism of that or any other magistrate;
 - (d) not disclose or use non-public information acquired in a judicial capacity for any purpose unrelated to his or her judicial duties;
 - (e) avoid any personality issues with colleagues, lawyers and parties, and seek to foster collegiality; and
 - (f) unless it is germane to judicial proceedings before the magistrate concerned, or to scholarly presentation that is made for the purpose of advancing the study of law, refrain from public criticism of another magistrate or branch of the judiciary.
- (2) A magistrate may participate in public debate on matters pertaining to legal subjects, the judiciary, or the administration of justice, but does not express views in a manner which may undermine the standing and integrity of the judiciary.
- (3) Formal deliberations as well as private consultations and debates among magistrates are and must remain confidential.

Notes:

Note 11(i): If it is necessary to comment on a judgment, the head of court must deal with the matter in a manner that will uphold the integrity of the judiciary as a whole. If the head of court does not deal with the matter, the magistrate concerned may, under special circumstances, issue a statement in a reasoned and dignified manner, preferably in open court or through the registrar or clerk of the court, to clarify the issue. These provisions do not prohibit academic debate of the legal issues that arose in a case.

Note 11(ii): Private consultations and debates between magistrates are necessary for the judiciary to perform its functions. However, these occasions may not be used to influence a magistrate as to how a particular case should be decided.

Note 11(iii): Personal criticism must be avoided unless it is necessary during the course of judicial proceedings.

Note 11(iv): Courtesy and collegiality towards colleagues are indispensable attributes of a magistrate.

Article 12: Association

- (1) A magistrate must not—
 - (a) hold office in any political party or belong to any secret organisation;
 - (b) become involved in any political controversy or activity;
 - (c) take part in any activities that practise discrimination inconsistent with the Constitution; and
 - (d) use or lend the prestige of the judicial office to advance the private interests of the magistrate or others.
- (2) A magistrate previously in private practice must, upon permanent appointment, immediately sever all professional links and recover speedily all fees and other amounts outstanding and organise his or her personal business affairs to minimise the potential for conflicts of interest.
- (3) A magistrate previously in private practice must not sit in any case in which he or she, or his or her former firm, is or was involved before the magistrate's appointment, and a magistrate must not sit in any case in which the former firm is involved until all indebtedness between the magistrate and the firm has been settled.
- (4) An acting magistrate who is a practising attorney or advocate—
 - (a) does not sit in any case in which he or she or his or her firm is or was involved as attorney or advocate of record or in any other capacity;
 - (b) may not represent a client in court for the duration of his or her acting appointment; and
 - (c) may not be involved in the business of his or her practice during official hours.

Notes:

Note 12(i): Social associations, including association with members of the legal profession, should be such as not to create the impression of favouritism or to enable the other party to abuse the relationship.

Note 12(ii): A magistrate does not ask for or receive any special favour or dispensation from potential litigants or members of the legal profession nor does a magistrate use the office for the attainment of personal benefit.

Article 13: Recusal

A magistrate must recuse himself or herself from a case if there is a—

- (a) real or reasonably perceived conflict of interest; or
 - (b) reasonable suspicion of bias based upon objective facts,
- and must not recuse himself or herself on insubstantial grounds.

Notes:

Note 13(i): Recusal is a matter regulated by the constitutional fair trial requirement, the common law and case law.

Note 13(ii): A magistrate hears and decides cases allocated to him or her, unless disqualified therefrom. Sensitivity, distaste for the litigation or annoyance at the suggestion to recuse himself or herself are not grounds for recusal.

Note 13(iii): A magistrate's ruling on an application for recusal and the reasons for the ruling must be stated in open court. A magistrate must, unless there are exceptional circumstances, give reasons for the decision.

Note 13(iv): If a magistrate is of the view that there are no grounds for recusal but believes that there are facts which, if known to a party, might result in an application for recusal, such facts must be made known timeously to the parties and the parties are to be given adequate time to consider the matter.

Note 13(v): Whether a magistrate ought to recuse himself or herself is a matter to be decided by the magistrate concerned and a magistrate ought not to defer to the opinion of the parties or their legal representatives.

Article 14: Extra-judicial activities of magistrates

- (1) A magistrate's judicial duties take precedence over all other duties and activities, statutory or otherwise.
- (2) A magistrate may be involved in extra-judicial activities, including those embodied in their rights as citizens, if such activities—
 - (a) are not incompatible with the confidence in, or the impartiality or the independence of, the magistrate; or
 - (b) do not affect or are not perceived to affect the magistrate's availability to deal attentively and within a reasonable time with his or her judicial obligations.
- (3) A magistrate must not—

- (a) accept any appointment that is inconsistent with or which is likely to be seen to be inconsistent with an independent judiciary, or that could undermine the separation of powers or the status of the judiciary;
 - (b) act as an advocate, attorney, or legal adviser but may, in his or her personal capacity, give informal legal advice to family members, friends, charitable organisations and the like without compensation;
 - (c) become involved in any undertaking, business, fundraising or other activity that affects the status, independence or impartiality of the magistrate or is incompatible with the judicial office;
 - (d) engage in financial and business dealings that may reasonably be perceived to exploit the magistrate's judicial position or are incompatible with the judicial office;
 - (e) sit as a private arbitrator.
- (4) A magistrate may—
- (a) act as a trustee of a family or public benefit trust but is not entitled to receive any remuneration for such services;
 - (b) be a director of a private family company or member of a close corporation but if the company or close corporation conducts business, the magistrate may not perform an executive function; and
 - (c) be a director of a non-profit company.

Notes:

Note 14(i): A magistrate conducts extra-judicial activities in a manner which minimises the risk of conflict with judicial obligations. These activities may not impinge on the magistrate's availability to perform any judicial obligations.

Note 14(ii): While magistrates should be available to use their judicial skill and impartiality to further the public interest, they must respect the separation of powers and the independence of the judiciary when considering a request to perform non-judicial functions for or on behalf of the State, or when performing such function.

Note 14(iii): Business or financial dealings with members of the legal profession are to be avoided.

Note 14(iv): Serving on university councils or governing bodies or boards of trustees of charitable institutions and the like is acceptable.

Note 14(v): A magistrate must refrain from using official resources when dealing with private matters that are not related to the performance of his or her judicial or any other official functions.

Article 15: Extra-judicial income

- (1) In terms of section 15 of the Act, a magistrate may not perform any paid work outside his or her duties of office without the consent of the Minister.
- (2) A magistrate must not—
 - (a) receive any income or compensation that is incompatible with judicial office;
 - (b) directly or indirectly negotiate or accept remuneration, gifts, advantages or privileges which are incompatible with judicial office or which can reasonably be perceived as being intended to influence the magistrate in the performance of his or her judicial duties, or to serve as a reward for performing those duties; and
 - (c) accept, hold or perform any other office of profit, or receive in respect of any service, any fees, emoluments or other remuneration apart from the salary and allowances payable to the magistrate in a judicial capacity.

Article 16: Reporting inappropriate conduct

- (1) A magistrate with clear and reliable evidence of serious professional misconduct or gross incompetence on the part of a legal practitioner or public prosecutor must inform the relevant professional body or a Director of Public Prosecutions of such misconduct or professional incompetence.
- (2) Before commenting adversely on the conduct of a particular practitioner or prosecutor in a judgment, the magistrate must, where possible, give that person the opportunity to respond to the allegation.
- (3) A magistrate who reasonably believes that a colleague has been acting in a manner which is unbecoming of judicial office must raise the matter with that colleague or with the head of the court concerned.

Notes:

Note 16(i): The reference to the appropriate authority is to be made in a neutral fashion and may not be judgmental.”.

Commencement

9. These Regulations come into operation on the date of publication of this Notice.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 933

07 SEPTEMBER 2018

WET OP LANDDROSTE, 1993**REGULASIES VIR REGTERLIKE BEAMPTES IN DIE LAER HOWE, 1993: WYSIGING**

Die Minister van Justisie en Korrektiewe Dienste het, kragtens artikel 16 van die Wet op Landdroste, 1993 (Wet No. 90 van 1993), op aanbeveling van die Landdrostekommissie, die regulasies in die Bylae uitgevaardig.

BYLAE**Woordomskrywing**

1. In hierdie Bylae beteken “die Regulasies” die Regulasies gepubliseer by Goewermentskennisgewing No. R. 361 van 11 Maart 1994, soos gewysig by Goewermentskennisgewings No's. R. 644 van 1 April 1994, R. 1407 van 11 Augustus 1994, R. 1808 van 17 Oktober 1994, R. 1707 van 27 Oktober 1994, R. 1791 van 17 November 1995, R. 72 van 26 Januarie 1996, R. 331 van 1 Maart 1996, R. 957 van 7 Junie 1996, R. 1178 van 19 Julie 1996, R. 1242 van 2 Augustus 1996, R. 1340 van 12 Augustus 1996, R. 1567 van 27 September 1996, R. 1627 van 1 Oktober 1996, R. 178 van 7 Februarie 1997, R. 421 van 20 Maart 1997, R. 1081 van 8 Augustus 1997, R. 274 van 20 Februarie 1998, R. 997 van 7 Augustus 1998, R. 56 van 15 Januarie 1999, R. 1498 van 17 Desember 1999, R. 1339 van 26 September 2003, R. 1593 van 31 Oktober 2003 en R. 50 van 26 Januarie 2012.

Wysiging van regulasie 1 van die Regulasies

1. Regulasie 1 van die Regulasies word hierby gewysig—
 - (a) deur die omskrywing van "gepaste ervaring" deur die volgende omskrywing te vervang:
"‘**gepaste ervaring**’ ervaring opgedoen na die verkryging van die gepaste kwalifikasies bedoel in artikel 10 van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), en deur die Kommissie as gepas beskou;" en
 - (b) deur die volgende omskrywing na die omskrywing van "persoonlike besittings" in te voeg:
"‘**Raad**’ die Raad van die Suid-Afrikaanse Regterlike Opleidingsinstituut, gestig ingevolge artikel 3 van die Wet op die Suid-Afrikaanse Regterlike Opleidingsinstituut, 2008 (Wet No. 14 van 2008);".

Vervanging van regulasie 3 van die Regulasies

2. Regulasie 3 van die Regulasies word hierby deur die volgende regulasie vervang:

"Aanstellingsvereistes

3. (1) Niemand mag as 'n landdros of 'n bykomende landdros van 'n distrikshof, of as 'n landdros van 'n streekshof, aangestel word nie, tensy hy of sy—

- (a) gepas gekwalifiseer is;
- (b) 'n gepaste en geskikte persoon is; en
- (c) 'n Suid-Afrikaanse burger is.

(2) Die Kommissie moet 'n mentorskapprogram ontwikkel ten einde nuut aangestelde landdroste te lei, waaraan 'n nuut aangestelde landdros moet deelneem.

(3) (a) Voordat 'n nuut aangestelde landdros die werksaamhede van 'n regterlike beampte in 'n geregshof opneem, moet hy of sy 'n kursus bywoon waarvan die inhoud en omvang deur die Raad, of 'n komitee van daardie Raad, bepaal moet word.

(b) Indien 'n landdros tot 'n meer senior landdrosamp aangestel word, kan die Kommissie vereis dat die landdros, voor of nadat die landdros die werksaamhede en verantwoordelikhede van sodanige senior amp opneem, 'n kursus bywoon waarvan die inhoud en omvang deur die Raad of 'n komitee van daardie Raad, bepaal moet word.

(4) Die Minister kan, op aanbeveling van die Kommissie, 'n landdros van die bepalings van subregulasie (3)(a) vrystel.”.

Vervanging van regulasie 4 van die Regulasies

3. Regulasie 4 van die Regulasies word hierby deur die volgende regulasie vervang:

“Aansoek deur kandidate

4. (1) 'n Kandidaat moet skriftelik op 'n vorm van die Kommissie verkry aansoek doen om aanstelling as landdros en dit by die Kommissie indien.

(2) Die aansoek in subregulasie (1) bedoel, moet van die volgende dokumente vergesel gaan:

- (a) 'n Gewaarmerkte afskrif van die kandidaat se identiteitsdokument;
- (b) gewaarmerkte afskrifte van alle opvoedkundige kwalifikasies;
- (c) dienssertifikate of, indien nie beskikbaar nie, 'n beëdigde verklaring deur die kandidaat in verband met vorige dienstydperke;
- (d) getuigskrifte, indien beskikbaar, van vorige werkgewers;
- (e) 'n beëdigde verklaring waarin die kandidaat se bates en laste uiteengesit word; en
- (f) die name en adresse van twee verwysings.

(3) Indien die Kommissie, na behoorlike oorweging van 'n aansoek, van oordeel is dat die kandidaat gepas is vir die amp waarom aansoek gedoen is, moet die Kommissie die dokumente in hierdie regulasie bedoel, vergesel van 'n aanbeveling oor die aanstelling van die kandidaat in die betrokke amp, na die Minister aanstuur.”.

Wysiging van regulasie 54A van die Regulasies

4. Regulasie 54A van die Regulasies word hierby gewysig

- (a) deur die opskrif van Deel XXI deur die volgende opskrif te vervang:

“DEEL XXI: KODE VIR REGTERLIKE GEDRAG VAN LANDDROSTE”; en

- (b) deur regulasie 54A deur die volgende regulasie te vervang:

“**54A.** Die Gedragskode vir Landdroste is die Kode vir Regterlike Gedrag soos vervat in Bylae E tot die Regulasies.”.

Herroeping van Vorm 1 in Bylae A tot die Regulasies

5. Vorm 1 in Bylae A tot die Regulasies word hierby herroep.

Herroeping van Vorm 2 in Bylae A tot die Regulasies

6. Vorm 2 in Bylae A tot die Regulasies word hierby herroep.

Herroeping van Vorm 3 in Bylae A tot die Regulasies

7. Vorm 3 in Bylae A tot die Regulasies word hierby herroep.

Vervanging van Bylae E tot die Regulasies

8. Bylae E tot die Regulasies word hierby deur die volgende Bylae vervang:

“BYLAE E

**KODE VIR REGTERLIKE GEDRAG VAN LANDDROSTE INGEVOLGE ARTIKEL 16(1) VAN
DIE WET OP LANDDROSTE, 1993 (WET NO. 90 VAN 1993) EN REGULASIE 54A VAN DIE
REGULASIES VIR REGTERLIKE BEAMPTES IN DIE LAER HOWE, 1993**

AANHEF

Nademaal—

- (1) die oppergesag van die Grondwet, die reg, en die regte en vryhede in die Handves van Regte verskans, die grondslag is van die demokrasie deur die Grondwet ingestel;
- (2) artikel 165(1) van die Grondwet bepaal dat die regsprekende gesag van die Republiek by die howe berus;
- (3) artikel 165(2) van die Grondwet bepaal dat die howe onafhanklik en onderworpe slegs aan die Grondwet en die reg is, wat hulle sonder vrees, begunstiging of vooroordeel moet toepas;
- (4) artikel 174(8) van die Grondwet bepaal dat voor regterlike amptenare begin om hul funksies te verrig, hulle 'n eed of plegtige verklaring moet aflê ooreenkomstig paragraaf 6(1) van Bylae 2, dat hulle “die Grondwet en die menseregte daarin verskans sal handhaaf

- en beskerm en aan alle persone op gelyke voet reg sal laat geskied, sonder vrees, bevoordeling of vooroordeel, ooreenkomstig die Grondwet en die reg”;
- (5) artikel 180(b) van die Grondwet bepaal dat nasionale wetgewing voorsiening kan maak vir enige aangeleentheid aangaande die regspleging wat nie in die Grondwet mee gehandel word nie, met inbegrip van prosedures vir die hantering van klagtes oor regterlike beamptes;
- (6) die Wet op Landdroste, 1993 (Wet No. 90 van 1993) (hierna die Wet genoem), beoog om die onafhanklikheid van die amp van landdros en die regbank as ’n geheel te handhaaf en te bevorder, terwyl terselfdertyd erken word dat dit nodig is om ’n gepaste en doeltreffende balans te skep tussen die beskerming van die onafhanklikheid en waardigheid van die regbank by die oorweging van klagtes oor, en die moontlike ontheffing uit die amp, van landdroste soos omskryf in artikel 1 van die Wet, en die oorheersende beginsels van openlikheid, deursigtigheid en aanspreeklikheid wat die Grondwet deurdring en wat ewe toepaslik is op regterlike instellings en beamptes;
- (7) dit nodig is vir openbare aanvaarding van die regbank se gesag en integriteit dat die regbank sy grondwetlike verpligtinge nakom deur te voldoen aan algemeen aanvaarde internasionale etiese standaarde, in die besonder soos in die “Bangalore Principles of Judicial Conduct” (2001) uiteengesit soos by Den Haag (2002), hersien; en
- (8) artikel 16(1)(e) van die Wet bepaal dat die Minister, nadat die Landdrostekommissie ’n aanbeveling gedoen het, ’n Kode van Regterlike Gedrag kan aanvaar, wat by regulasie deur die Minister gepromulgeer moet word;

Bepaal die Kode vir Regterlike Gedrag van Landdroste soos volg:—

Artikel 1: Woordomskrywing

In hierdie Kode, tensy uit die samehang anders blyk, het enige woord of uitdrukking of woord waaraan ’n betekenis in die Wet toegeskryf is, daardie betekenis en beteken—

“hoof van die betrokke hof”—

- (a) in die geval van ’n distrikslanddros, die landdros aan die hoof van die tersaaklike hof; en
(b) in die geval van ’n streeklanddros, die president van die streekshof; en

“die Regulasies” die Regulasies vir Geregtelike Beamptes in die Laer Howe, 1993.

Artikel 2: Toepassing

- (1) Hierdie Kode is van toepassing op elke landdros wat onder die omskrywing van "landdros" in artikel 1 van die Wet val, met inbegrip van 'n waarnemende landdros.
- (2) Enige opsetlike of growwe nalatige verbreking van hierdie Kode is gronde vir 'n klagte teen 'n landdros.
- (3) Klagtes moet ooreenkomstig die Regulasies mee gehandel word.

Artikel 3: Oogmerke en Uitleg

- (1) Die oogmerk van hierdie Kode is om elke landdros by te staan in die hantering van etiese en professionele kwessies, en om die publiek in te lig oor die regterlike etos van die Republiek.
- (2) Hierdie Kode moet—
 - (a) toegepas word bestaanbaar met die Grondwet en die reg soos in die gemenerereg, wetgewing, en presedent, met behoorlike inagneming van die tersaaklike omstandighede, beliggaam;
 - (b) nie uitgelê word dat dit inbreuk maak op die grondwetlik gewaarborgde onafhanklikheid van die regbank of enige landdros of op die skeiding van magte nie;
 - (c) nie uitgelê word as absoluut, eksak of omvattend nie. Gedrag kan dus oneties wees wat, by 'n streng lees van hierdie Kode, skynbaar toegelaat word en die teenoorgestelde geld ook.
- (3) Alhoewel internasionale standaarde en standaarde van toepassing in vergelykbare vreemde jurisdiksies moontlik nie direk toegepas kan word nie, voorsien dit wel 'n nuttige verwysingsbron vir die uitleg, begrip en toepassing van hierdie Kode.
- (4) Notas by artikels van hierdie Kode is ter toeligting, verduideliking en leiding ten opsigte van die doel en betekenis van die Artikels.

Artikel 4: Regterlike onafhanklikheid

'n Landdros moet—

- (a) die onafhanklikheid en integriteit van die regbank en die gesag van die howe handhaaf;
- (b) onafhanklike denke tydens die verrigting van regterlike pligte handhaaf;
- (c) alle redelike stappe doen om te verseker dat geen persoon of staatsorgaan met die funksionering van die howe inmeng nie; en
- (d) nie enige spesiale guns of vrystelling van enige persoon, die Uitvoerende Gesag of enige belangegroep versoek of aanvaar nie.

Notas:

Nota 4(i): 'n Landdros tree vreesloos en volgens sy of haar gewete op omdat 'n landdros slegs aan die reg verantwoordbaar is.

Nota 4(ii): Landdroste slaan geen ag op politieke partye of drukgroepe nie en verrig alle professionele pligte vry van invloede van buite.

Nota 4(iii): Landdroste verskyn nie by openbare verhore nie en pleeg nie andersins oorleg met 'n uitvoerende gesag of wetgewende liggaam of beamppte nie, behalwe oor aangeleenthede aangaande die reg, die regstelsel of die regspleging.

Nota 4(iv): Regterlike onafhanklikheid is nie 'n private reg of 'n beginsel tot voordeel van landdroste as individue nie. Dit beteken vryheid van gewete vir landdroste en nie-inmenging in die verrigting van hul besluitneming. Dit regverdig nie regterlike wangedrag nie en is nie 'n verskoning vir versuim om regterlike werksaamhede met behoorlike sorg te verrig of om andersins in stryd met hierdie Kode op te tree nie.

Nota 4(v): Staatsorgane het 'n grondwetlike opdrag om die howe by te staan en te beskerm om hul onafhanklikheid, onpartydigheid, waardigheid, toeganklikheid en doeltreffendheid te verseker. Die korrelaat is die reg van elke landdros om nie sy of haar onafhanklike denke deur enige persoon of staatsorgaan te laat versteur nie.

Artikel 5: Om eerbaar op te tree

(1) 'n Landdros moet altyd, en nie net by die verrigting van amptelike pligte nie, eerbaar en op 'n wyse wat die regterlike amp betaam, handel.

(2) Alle aktiwiteite van 'n landdros moet bestaanbaar met die status van die regterlike amp wees.

Notas:

Nota 5(i): 'n Landdros tree in sy of haar professionele en private lewe op 'n wyse op wat die publiek se vertroue in, of respek vir, die regbank en die regstelsel verhoog.

Nota 5(ii): 'n Landdros vermy onbehoorlikheid en skynbare onbehoorlikheid in alle aktiwiteite van die landdros.

Nota 5(iii): 'n Landdros begeef hom of haar nie in gedrag wat nadelig vir die doeltreffende en pront pleging van die sake van die hof is nie.

Nota 5(iv): Regterlike gedrag moet objektief uit die oogpunt van 'n redelike persoon geassesseer word.

Artikel 6: Voldoening aan die reg

'n Landdros moet te alle tye, ook in verband met buiteregtelike gedrag, aan die reg van die land voldoen.

Artikel 7: Gelykheid

'n Landdros moet te alle tye—

- (a) opmerkings wat rassisties, seksisties is of andersins diskriminasie toon wat 'n skending is van die reg op gelykheid in die Grondwet gewaarborg, persoonlik vermy en sigself daarvan distansieer;
- (b) in die hof en in kamers hoflik optree en andere se waardigheid respekteer;
- (c) in die voer van geregtelike verrigtinge, spesiale aandag skenk aan die reg op gelykheid voor die reg en die reg op gelyke beskerming en voordeel van die reg; en
- (d) in die verrigting van regterlike pligte sigself van bevooroordeeldheid en partydigheid weerhou.

Notas:

Nota 7(i): Hierdie bepalings is daarop gemik om hoflikheid te bevorder en 'n mate van fatsoenlikheid te verseker.

Nota 7(ii): Landdroste streef daarna om bewus te wees van die vele verskille tussen persone en om dit te verstaan en om ingelig te bly oor veranderende sosiale houdings en waardes.

Nota 7(iii): Die multikulturele aard van die Suid-Afrikaanse samelewing verg spesiale sensitiwiteit teenoor die opvattinge en gevoelens van almal wat deur hofverrigtinge geraak word.

Artikel 8: Deursigtigheid

'n Landdros moet—

- (a) redelike stappe doen om die toeganklikheid van die howe te versterk en om openbare begrip van geregtelike verrigtinge te verbeter; en
- (b) tensy spesiale omstandighede iets anders verg, in die ope hof—
 - (i) geregtelike verrigtinge voer; en
 - (ii) sy of haar beslissings en stawende redes bekend maak.

Notas:

Nota 8(i): Die legitimiteit van die regbank is afhanklik van die openbare begrip van, en vertroue in, die regterlike proses.

Nota 8(ii): Die funksie van die regbank misluk indien die verrigtinge daarvan nie verstaan word nie.

Nota 8(iii): Landdroste is bewus van die wenslikheid daarvan om aan die gees van die vereiste dat verrigtinge in die ope hof moet plaasvind, te voldoen.

Nota 8(iv): Besprekings met landdroste in kamers moet vermy word. Indien wat in kamers gebeur het, enige uitwerking op die verrigtinge het, moet daardie feite in die ope hof op rekord geplaas word.

Artikel 9: Regverdige verhoor

'n Landdros moet—

- (a) geskille besleg deur feitebevindings te maak en die toepaslike reg in 'n regverdige verhoor toe te pas, met inbegrip van die plig om—
 - (i) die letter en gees van die *audi alteram partem*-reël te handhaaf;
 - (ii) sigbaar onpartydig te bly; en
 - (iii) genoegsame redes vir enige besluit te gee;
- (b) by die voer van geregtelike verrigtinge—
 - (i) orde handhaaf;
 - (ii) ooreenkomstig algemeen aanvaarde fatsoenlikheid optree; en
 - (iii) geduldig en hoflik teenoor regspraktisyns, partye en die publiek bly, en van hulle vereis om ook so op te tree;
- (c) geregtelike verrigtinge bestuur op so 'n wyse wat—

- (i) die afhandeling daarvan so koste-doeltreffend as moontlik bespoedig; en
 - (ii) nie die verantwoordelikheid om 'n aangeleentheid aan te hoor en daaroor te beslis na 'n ander landdros verskuif nie;
- (d) nie onbehoorlike invloed uitoefen ten einde 'n skikking te bevorder of 'n toegewing van enige party te kry nie.

Artikel 10: Noulettendheid

- (1) 'n Landdros moet —
- (a) alle regterlike pligte aan hom of haar toegewys, noulettend verrig;
 - (b) die betrokke aangeleentheid deeglik ondersoek;
 - (c) die sake van die hof sonder oponthoud en op 'n doeltreffende en saaklike wyse afhandel;
 - (d) spoedig en sonder onnodige oponthoud in 'n saak uitspraak lewer;
 - (e) nie gedrag openbaar wat nadelig vir die doeltreffende en spoedige regspleging of die sake van die hof is nie;
 - (f) in kamers wees tydens normale kantoorure en in die hof wees tydens normale hofure tensy sodanige teenwoordigheid nie redelik vereis word ten einde enige amptelike pligte te verrig nie;
 - (g) amptelike pligte behoorlik, betyds, en op 'n ordelike manier verrig;
 - (h) die administratiewe versoeke van die betrokke hoof van die hof respekteer en daaraan voldoen;
 - (i) redelike stappe doen om die nodige vlak van professionele bevoegdheid in die reg te handhaaf; en
 - (j) by bedanking, aftrede, of die verstryking van 'n waarnemende aanstelling, alle gedeeltelik verhoorde sake afhandel en alle voorbehoude uitsprake so gou as moontlik lewer.
- (2) By die uitvoering van die regterlike amp, moet 'n landdros voldoen aan die norme en standaarde ingevolge artikel 8 van die Wet op Hoër Howe, 2013, deur die Hoofregter bepaal.

Notas:

Nota 10(i): Onnodige uitstelle, puntstelling, oordrewe formaliteit en diesulke moet vermy word.

Nota 10(ii): Gedingvoerders is geregtig op uitspraak so gou as redelik moontlik.

Nota 10(iii): Straftelike verrigtinge, veral outomatiese hersienings, aansoeke om verlof om te appelleer, en aangeleenthede waar persoonlike vryheid ter sprake is, moet spoedig hanteer word.

Nota 10(iv): 'n Landdros hou 'n rekord van alle uitstaande uitsprake en doen verslag aan die hoof van die betrokke hof daaroor indien en wanneer versoek.

Nota 10(v): 'n Patroon van onbeheersde of intimiderende behandeling van prokureurs en andere, of van gedrag wat wispelturigheid en belediging aan die dag lê, is nadelig vir doeltreffende regspleging en moet vermy word.

Artikel 11: Selfbeheersing

- (1) 'n Landdros moet—
 - (a) behalwe in die vervulling van die regterlike amp, nie in die openbaar kommentaar lewer oor die meriete van enige saak hangende voor, of beslis deur, daardie landdros of enige ander hof nie;
 - (b) nie by 'n openbare debat betrokke raak oor 'n saak nie, ongeag die kritiek teen die landdros, die uitspraak, of enige ander aspek van die saak;
 - (c) sigself weerhou van enige handeling wat vertolk kan word as dat dit bedoel is om regmatige kritiek teenoor daardie of enige ander landdros te onderdruk;
 - (d) inligting wat in 'n regterlike hoedanigheid verkry is en wat nie openbaar is nie, bekend maak of gebruik vir enige doel wat nie met sy of haar regterlike pligte verband hou nie;
 - (e) enige persoonlikheidskwessies met kollegas, prokureurs en partye vermy en poog om kollegialiteit te bevorder; en
 - (f) tensy dit tersake is by geregtelike verrigtinge voor die betrokke landdros, of 'n vakkundige voorlegging is wat gemaak word met die doel om die regstudie te bevorder, sigself weerhou van openbare kritiek teen 'n ander landdros of tak van die regbank.
- (2) 'n Landdros kan aan openbare debat oor aangeleenthede wat verband hou met regsonderwerpe of die regspleging deelneem, maar druk nie menings uit op 'n wyse wat die stand en integriteit van die regbank kan ondergrawe nie.
- (3) Formele beraadslagings asook private raadplegings en debatte tussen landdroste is vertroulik en moet vertroulik bly.

Notas:

Nota 11(i): Indien dit nodig is om op 'n uitspraak kommentaar te lewer, moet die hoof van die hof die aangeleentheid hanteer op 'n wyse wat die integriteit van die regbank as 'n geheel sal handhaaf. Indien die hoof van die hof nie die aangeleentheid hanteer nie, kan die betrokke landdros, onder spesiale omstandighede, 'n beredeneerde en waardige verklaring uitreik, verkieslik in ope hof of deur die griffier of klerk van die hof, om die aangeleentheid uit te klaar. Hierdie bepalings verbied nie akademiese debat van die regskwessies wat in 'n saak na vore gekom het nie.

Nota 11(ii): Private raadplegings en debatte tussen landdroste is nodig vir die regbank om sy funksies te verrig. Hierdie geleenthede mag egter nie gebruik word om 'n landdros te beïnvloed oor hoe 'n sekere saak beslis moet word nie.

Nota 11(iii): Persoonlike kritiek moet vermy word tensy dit deur die loop van geregtelike verrigtinge nodig word.

Nota 11(iv): Hoflikheid en kollegialiteit teenoor kollegas is onontbeerlike eienskappe vir 'n landdros.

Artikel 12: Assosiasie

- (1) 'n Landdros moet nie —
 - (a) 'n amp in enige politieke party beklee of aan enige geheime organisasie behoort nie;
 - (b) by enige politieke polemiek of aktiwiteit betrokke raak nie;
 - (c) aan enige aktiwiteite deelneem wat diskriminasie, in stryd met die Grondwet, aan die dag lê nie; en
 - (d) die aansien van die regterlike amp gebruik om die private belange van die landdros of andere te bevorder nie.
- (2) 'n Landdros wat voorheen in die private praktyk was moet, by permanente aanstelling, onmiddellik alle professionele bande verbreek en spoedig alle gelde en ander uitstaande bedrae invorder, en sy of haar persoonlike sake organiseer om die potensiaal vir botsings van belange tot 'n minimum te beperk.
- (3) 'n Landdros wat voorheen in die private praktyk was, moet nie sit in enige saak waarin hy of sy, of sy of haar voormalige firma, betrokke is of was voor die landdros se aanstelling nie, totdat alle verpligtinge tussen die landdros en die firma afgehandel is.
- (4) 'n Waarnemende landdros wat 'n praktiserende prokureur of advokaat is—

- (a) sit nie voor in enige saak waarin hy of sy of sy of haar firma betrokke is of was as prokureur of advokaat van rekord of in enige ander hoedanigheid nie;
- (b) mag nie 'n kliënt in 'n hof verteenwoordig vir die duur van sy of haar waarnemende aanstelling nie; en
- (c) mag nie tydens amptelike ure betrokke wees in die besigheid van sy of haar praktyk nie.

Notas:

Nota 12(i): Sosiale assosiasies, met inbegrip van assosiasie met lede van die regsprofessie moet sodanig wees dat dit nie die indruk van partydigheid skep nie of die ander party in staat stel om van die verhouding misbruik te maak nie.

Nota 12(ii): 'n Landdros mag nie enige spesiale guns of vrystelling van potensiële gedingvoerder of lede van die regsprofessie vra of ontvang nie en 'n landdros mag ook nie die amp gebruik vir die verkryging van persoonlike voordeel nie.

Artikel 13: Onttrekking

'n Landdros moet sigself aan 'n saak onttrek indien daar 'n—

- (a) werklike of redelik waargenome botsing van belange is; of
- (b) redelike verdenking bestaan van bevooroordeeldheid gegrond op objektiewe feite, en moet sigself nie op geringe gronde onttrek nie.

Notas:

Nota 13(i): Onttrekking is 'n aangeleentheid wat deur die grondwetlike vereiste vir 'n billike verhoor, die gemenereg en presedenterereg gereël word.

Nota 13(ii): 'n Landdros hoor sake aan hom of haar toegewys aan en lewer uitspraak daaroor, tensy hy of sy daarvan gediskwalifiseer is. Sensitiwiteit, teensinnigheid oor die gedingvoering of misnoeë met die voorstel dat hy of sy sigself moet onttrek, is nie gronde vir onttrekking nie.

Nota 13(iii): 'n Landdros se uitspraak oor 'n aansoek om onttrekking en die redes vir die uitspraak moet in die ope hof gestel word. 'n Landdros moet, tensy daar buitengewone omstandighede is, redes vir die beslissing gee.

Nota 13(iv): Indien 'n landdros van oordeel is dat daar geen gronde vir onttrekking is nie, maar meen dat daar feite is wat, indien dit aan 'n party bekend is, tot 'n aansoek om onttrekking kan lei, moet daardie feite betyds aan die partye bekend gemaak word en die partye moet voldoende tyd gegee word om die aangeleentheid te oorweeg.

Nota 13(v): Hetsy 'n landdros sigself moet onttrek is 'n aangeleentheid wat deur die betrokke landdros besluit moet word en 'n landdros moet sigself nie aan die opinie van die partye of hul regsverteenwoordigers onderwerp nie.

Artikel 14: Buitegeregtelike aktiwiteite van landdroste

(1) 'n Landdros se regterlike pligte het voorkeur bo alle ander pligte en aktiwiteite, hetsy statutêr of andersins.

(2) 'n Landdros mag by buitegeregtelike aktiwiteite betrokke wees, met inbegrip van dié beliggaam in hul regte as burgers, indien sodanige aktiwiteite—

- (a) nie onbestaanbaar met die vertroue in, of onpartydigheid of die onafhanklikheid van die landdros, is nie; of
- (b) nie die landdros se beskikbaarheid raak, of gesien word sy of haar beskikbaarheid te raak, om sy of haar regterlike verpligtinge aandagtig en binne 'n redelike tyd te hanteer nie.

(3) 'n Landdros moet nie —

- (a) enige aanstelling aanvaar wat strydig is met of waarskynlik gesien kan word as strydig met 'n onafhanklike regbank nie, of wat die skeiding van magte of die status van die regbank kan ondergrawe nie;
- (b) as 'n advokaat, prokureur, of regsadviseur optree nie, maar kan, in sy of haar persoonlike hoedanigheid, sonder vergoeding, informele regsadvies aan familieleden, vriende, liefdadigheidsorganisasies en diesulke gee;
- (c) betrokke raak nie by enige onderneming, besigheid, fondsinsameling of ander aktiwiteit wat die status, onafhanklikheid of onpartydigheid van die landdros raak nie of strydig met die regterlike amp is nie;
- (d) by finansiële en sakebedrywighede betrokke raak wat redelik gesien kan word as dat dit die landdros se regterlike posisie uitbuit of strydig met die regterlike amp is;
- (e) as 'n private arbitreerder sit nie.

(4) 'n Landdros mag—

- (a) as 'n trustee van 'n familietrust of openbare weldaadstrust optree, maar is nie geregtig op enige vergoeding vir sodanige dienste nie;

- (b) 'n direkteur van 'n private familiemaatskappy of lid van 'n beslote korporasie wees, maar as die maatskappy of beslote korporasie besigheid doen, mag die landdros nie 'n uitvoerende funksie verrig nie; en
- (c) 'n direkteur van 'n maatskappy sonder winsbejag wees .

Notas:

Nota 14(i): 'n Landdros moet buiteregterlike aktiwiteite op 'n wyse voer wat die risiko van botsing met regterlike verpligtinge beperk. Hierdie aktiwiteite mag nie inbreuk maak op die landdros se beskikbaarheid om enige regterlike verpligtinge te verrig nie.

Nota 14(ii): Terwyl landdroste beskikbaar moet wees om hul regterlike vaardighede en onpartydigheid te gebruik om die openbare belang te bevorder, moet hulle die skeiding van magte en die onafhanklikheid van die regbank respekteer wanneer hulle 'n versoek oorweeg om nieregterlike werksaamhede vir of namens die staat te verrig, of wanneer sodanige funksie verrig word.

Nota 14(iii): Sake of finansiële besigheid met lede van die regsberoep moet vermy word.

Nota 14(iv): Diens op universiteitsrade of beheerliggame of kuratoriums van welsynsorganisasies en diesulke is aanvaarbaar.

Nota 14(v): 'n Landdros moet sigself daarvan weerhou om amptelike hulpbronne te gebruik wanneer hy of sy private aangeleenthede hanteer wat nie met die verrigting van sy of haar regterlike of enige ander amptelike funksies verband hou nie.

Artikel 15: Buiteregterlike inkomste

- (1) Ingevolge artikel 15 van die Wet, mag 'n landdros nie sonder die toestemming van die Minister enige betaalde werk buite sy of haar ampspligte verrig nie.
- (2) 'n Landdros moet nie—
 - (a) enige inkomste of vergoeding ontvang wat onbestaanbaar met die regterlike amp is nie;
 - (b) regstreeks of onregstreeks besoldiging, geskenke, voordele of voorregte onderhandel of aanvaar wat onbestaanbaar met die regterlike amp is of wat redelik beskou kan word as dat dit bedoel is om die landdros in die verrigting van sy of haar regterlike pligte te beïnvloed, of om as 'n beloning vir die verrigting van daardie pligte te dien nie; en

- (c) enige ander winsgewende pos aanvaar, hou of verrig, of ten opsigte van enige diens enige fooie, verdienste of ander besoldiging ontvang nie behalwe die salaris en toelaes in 'n regterlike hoedanigheid aan die landdros betaalbaar.

Artikel 16: Aanmelding van onvanpaste gedrag

- (1) 'n Landdros met duidelike en betroubare bewyse van ernstige professionele wangedrag of growwe onbevoegdheid aan die kant van 'n regspraktisyn of staatsaanklaer, moet die tersaaklike professionele liggaam of 'n Direkteur van Openbare Vervolging inlig oor sodanige wangedrag of professionele onbevoegdheid.
- (2) Voordat 'n landdros ongunstig kommentaar lewer oor die gedrag van 'n bepaalde praktisyn of aanklaer in 'n uitspraak, moet die landdros, waar moontlik, daardie persoon 'n geleentheid gun om op die bewering te reageer.
- (3) 'n Landdros wat redelik glo dat 'n kollega op 'n manier opgetree het wat onvanpas is vir die regterlike amp, moet die aangeleentheid met daardie kollega of die hoof van die betrokke hof opneem.

Notas:

Nota 16(i): Die verwysing na die gepaste owerheid moet op 'n neutrale wyse gedoen word en mag nie veroordelend wees nie."

Inwerkingtreding

9. Hierdie Regulasies tree op die datum van publikasie van hierdie Kennisgewing in werking.