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DEPARTMENT OF JUSTICE DEPARTEMENT VAN JUSTISIE

No. R. 111

2 February 1996

NOTICE OF DETERMINATION OF THE REMUNERATION AND CONDITIONS OF EMPLOYMENT OF JUDGES OF THE LAND CLAIMS COURT ESTABLISHED IN TERMS OF SECTION 22 OF THE RESTITUTION OF LAND RIGHTS ACT, 1994 (ACT No. 22 OF 1994)

It is hereby notified that the President of the Republic in consultation with the Judicial Service Commission on 6 January 1996 determined the remuneration and conditions of employment of the judges of the Land Claims Court, established in terms of section 22 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), details of which appear in the Schedule.

SCHEDULE

DEFINITIONS

1. In this determination any expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates—

“**court**” means the Land Claims Court established by section 22 of the Act;

“**effects**” means household or personal effects;

“**judge**” means any person not being a judge of the Supreme Court of South Africa, holding the office of—

- (a) the President of the court appointed under section 22 (3) of the Act; or
- (b) a judge of the court appointed under section 22 (4) and (8) of the Act;

“**leave**” means leave on full pay unless expressly otherwise indicated;

“**Minister**” means the Minister of Justice and includes, for the purposes of paragraphs 3 and 16, an officer acting on the authority of the Minister of Justice; and

“**the Act**” means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

REMUNERATION

2. Any person who holds office as a judge, whether in an acting or permanent capacity, shall in respect thereof, be paid an allowance at the rate of R3 500 per annum and a monthly salary—

(a) in the case of the President of the court at a rate equal to that of a Judge President of the Supreme Court of South Africa; and

(b) in the case of a judge of the court at a rate equal to that of a judge of the Supreme Court of South Africa.

3. Salaries payable in terms of this determination shall be paid monthly from revenue and on such dates and in such manner as the Minister may from time to time determine.

4. If a judge to whom a salary is paid dies, the payment of his or her salary shall cease with effect from the first day of the month following the month in which he or she died.

5. No judge shall, without the consent of the Minister accept, hold or perform any other office of profit or receive in respect of any service any fees, emoluments or other remuneration apart from his or her salary and any amount which may be payable to him or her in his or her capacity as such a judge.

GRATUITY PAYABLE TO JUDGES AFTER VACATION OF OFFICE

6. (1) A judge who has vacated his or her office upon the expiry of his or her term or consecutive terms of appointment contemplated in section 22 (5) of the Act, shall be paid a gratuity calculated in accordance with the formula—

$$\frac{D}{5} \times 2 \times (T + 2)$$

in which formula the factor—

(a) D represents the salary which at the time of his or her vacation of office was applicable to the office concerned; and

(b) T represents the period in years of the term, including any consecutive terms for which he or she has been appointed.

(2) A judge who has vacated his or her office upon acceptance by the President of the Republic of South Africa of his or her resignation, shall be paid a gratuity calculated in accordance with the formula—

$$\frac{D}{5} \times 2 \times E$$

in which formula the factor—

(a) D represents the salary which at the time of his or her vacation of office was applicable to the office concerned; and

(b) E represents the period of his or her term in such office, which shall be calculated by the year and the month, and fractions of a month shall be taken into account.

(3) The total amount of any gratuity payable in terms of this paragraph to a judge shall not exceed three times his or her highest salary during the period of his or her office.

7. The surviving spouse of a judge who died before his or her term of office as a judge has expired or the estate of a judge who is not survived by a spouse, shall be paid an amount equal to the amount of the gratuity which would in terms of paragraph 6 (2) have been payable to such judge had he or she not died but, on the date of his death, vacated his or her office in terms of that paragraph: Provided that factor E in the formula referred to in paragraph 6 (2) shall be deemed to be not less than 4.

LEAVE

8. (1) The President of the court, and in the case of the President of the court, the Minister, may grant leave to a judge for a maximum of 36 days per annum.

(2) The registrar of the court shall inform the Director-General of Justice of leave granted to judges.

(3) When considering applications for leave the President of the court shall endeavour to make such arrangements as will obviate as far as possible the need to make acting appointments.

9. If, according to a certificate of a medical practitioner, it appears that owing to illness a judge cannot perform his or her duties for a specified period the Minister may grant the judge sick leave for that period.

10. If in exceptional circumstances the Minister is satisfied that leave for which no provision has been made in this determination should be granted in a specific case, he or she may grant such leave on such conditions as he or she may deem necessary, whether it be leave with full remuneration or leave with reduced or no remuneration, provided the judge concerned has, in the case of leave with reduced remuneration or leave without remuneration, in writing waived his or her right to unreduced remuneration in terms of section 26 (1) of the Act.

11. No leave which may be granted in terms of this determination shall be accumulative and no salary or allowance shall be claimed in respect of leave which could have been taken but which was not utilised.

12. The Director-General of Justice shall keep a record of leave granted to judges.

MEDICAL SCHEME

13. A contribution is made towards a medical scheme equal to the contribution made in respect of a Judge of the Supreme Court.

TRANSPORT AND OTHER ALLOWANCES

14. If a practising advocate or attorney is appointed an acting judge he or she shall be paid an amount of R140 per day for the maintenance of his or her practice as advocate or attorney for the duration of such appointment.

15. (1) All claims for the payment of allowances in terms of this determination shall, where applicable, state the nature of the services and such other information as may be necessary to calculate the amount payable.

(2) A claim referred to in subparagraph (1) shall be signed and certified correct by the judge concerned.

16. (1) When a person is appointed a judge and the seat of the court is not situated at the place where he or she resides on appointment, the cost of the transport of that judge and his or her family, domestic workers and effects to the seat of the court shall be defrayed from public funds.

(2) The cost of transport of such judge or his or her family and domestic workers referred to in subparagraph (1) may not exceed the cost of first class train tickets, unless authority for the use of other transport has been granted by the Minister.

(3) If the Minister has granted authority under subparagraph (2) for a judge to use private transport, such judge may be compensated at a tariff of R1,00 per kilometre.

(4) (a) When effects have to be transported the registrar of the court or any other registrar of the Supreme Court shall obtain written tenders from at least three cartage contractors for the packing, loading, unloading and unpacking of the effects for transport by train and, should the judge or person concerned so prefer, for the transport thereof by road.

(b) The lowest tender for the packing, loading, unloading and unpacking of the effects shall be accepted by the registrar, but the Minister may approve the acceptance of a higher tender if, in his or her opinion, there are good reasons for rejecting the lowest tender.

(5) The State shall not be responsible for any insurance premiums in respect of the transportation of effects: Provided that premiums in respect of insurance cover in the case of the transport of effects by road may be paid from public funds if the lowest tender for road transport includes such premiums as an integral part thereof.

(6) (a) Not more than two motor vehicles of a judge referred to in subparagraph (1) may be transported by train at State expense, provided they are transported at the owner's risk.

(b) Such judge may be reimbursed from public funds for actual incidental expenses incurred in loading and unloading the vehicle or vehicles referred to in (a).

(7) The transportation of the effects of a judge referred to in subparagraph (1) shall take place within 12 months after the appointment of the judge concerned, unless the Minister grants permission for the postponement of the transport thereof.

(8) The Minister may in exceptional cases approve the transportation of the effects of a judge referred to in subparagraph (1) at State expense and their storage in a warehouse for a period not exceeding 12 months and, thereafter, their transportation to his or her new home: Provided that the registrar shall call for at least three tenders for the performance of the services and the lowest tender shall be accepted by him or her: Provided further that the Minister may approve the acceptance of a higher tender if, in his or her opinion, there are good reasons for rejecting the lowest tender.

(9) A judge who is not permanently resident in Gauteng may, subject to the provisions of subparagraphs (1), (3) and (5), transport part of his or her effects and library, separately or together, once to Gauteng at State expense to meet his or her office and accommodation needs.

17. (1) On—

- (i) removal from office;
- (ii) resignation from office;
- (iii) vacation of his or her office upon the expiry of his or her term of appointment contemplated in section 22 (5) of the Act; or
- (iv) the death of a judge,

his or her effects may be transported, once only, at State expense to any place in the Republic of South Africa where he or she or the surviving spouse, as the case may be, is to settle, in which case the provisions of paragraph 16 shall *mutatis mutandis* apply.

(2) The transportation referred to in subparagraph (1) shall be effected not earlier than two months prior to and not later than 12 months after the date of such removal, resignation or vacation and, in the case of death, not later than 12 months after the date of death, unless the Minister is satisfied that owing to exceptional circumstances the transportation of effects in terms of subparagraph (1) must be effected earlier than two months prior to the date of such removal, resignation or vacation or later than 12 months after the date of removal, resignation, vacation or death, in which case he or she may grant permission for the effects to be transported earlier or grant an extension of time for such transportation.

MAKING AVAILABLE OF MOTOR VEHICLES TO A JUDGE

18. A motor vehicle owned by the State may, on such conditions as the Minister may determine with the concurrence of the Minister of Transport in respect of judges of the Supreme Court, be made available to a judge for use, in accordance with the conditions so determined, in the course of his or her official functions as well as for his or her private purposes.

APPLICABILITY OF DETERMINATION

19. Paragraphs 5 up to and including 9, 11 up to and including 13, 16 and 17 shall not apply to any additional or acting judge.

No. R. 111

2 Februarie 1996

KENNISGEWING VAN BEPALING VAN DIE BESOLDIGING EN DIENSVOORWAARDES VAN REGTERS VAN DIE GRONDEISEHOF INGESTEL KRAGTENS ARTIKEL 22 VAN DIE WET OP HERSTEL VAN GRONDREGTE, 1994 (WET No. 22 VAN 1994)

Hierby word bekendgemaak dat die President van die Republiek, in ooreenstemming met die Regterlike Dienskommissie, op 6 Januarie 1996 die besoldiging en diensvoorwaardes van die regters van die Grondeisehof, ingestel by artikel 22 van die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 1994), bepaal het, waarvan die besonderhede in die Bylae verskyn.

BYLAE

WOORDOMSKRYWING

1. In hierdie bepaling het 'n uitdrukking waaraan 'n betekenis in die Wet geheg is, die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken —

“besittings” huishoudelike of persoonlike besittings;

“die Wet” die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 1994);

“Hof” die Grondeisehof ingestel by artikel 22 van die Wet;

“Minister” die Minister van Justisie en, by die toepassing van paragrawe 3 en 16, ook 'n beampte wat op gesag van die Minister van Justisie handel;

“regter” 'n persoon wat nie 'n regter van die Hooggeregshof van Suid-Afrika is nie en wat die amp beklee van —

(a) die President van die Hof kragtens artikel 22 (3) van die Wet; of

(b) 'n regter van die Hof kragtens artikel 22 (4) en (8) van die Wet; en

“verlof” verlof met volle besoldiging, tensy uitdruklik anders bepaal word.

BESOLDIGING

2. Aan iemand wat die amp van regter beklee, hetsy in 'n waarnemende of permanente hoedanigheid, word ten opsigte daarvan 'n toelae teen die skaal van R3 500 per jaar betaal, asook 'n maandelikse salaris —

(a) in die geval van die President van die Hof, teen 'n skaal gelyk aan dié van 'n regter-president van die Hooggeregshof van Suid-Afrika; en

(b) in die geval van 'n regter van die Hof, teen 'n skaal gelyk aan dié van 'n regter van die Hooggeregshof van Suid-Afrika.

3. Salarisse betaalbaar ingevolge hierdie bepaling word maandeliks uit inkomste en op sodanige datums en sodanige wyse as wat die Minister van tyd tot tyd bepaal, betaal.

4. Indien 'n regter aan wie 'n salaris betaalbaar is, te sterwe kom, word die betaling van sy of haar salaris gestaak met ingang van die eerste dag van die maand wat volg op die maand waarin hy of sy te sterwe gekom het.

5. Geen regter mag sonder die toestemming van die Minister 'n ander winsbetrekking aanvaar, beklee of daarin dien of ten opsigte van enige diens enige gelde, emolumente of ander besoldiging ontvang nie benewens sy of haar salaris en enige bedrag wat aan hom of haar in sy of haar hoedanigheid van regter betaalbaar is.

GRATIFIKASIE BETAALBAAR AAN REGTERS NA AMPSONTRUIMING

6. (1) Aan 'n regter wat sy of haar amp ontruim het by die verstryking van sy of haar termyn of opeenvolgende termynne van aanstelling soos beoog in artikel 22 (5) van die Wet, word 'n gratifikasie betaal ooreenkomstig die formule—

$$\frac{D}{5} \times 2 \times (T + 2)$$

in watter formule die faktor—

(a) D die salaris voorstel wat ten tyde van die ontruiming van sy of haar amp op die betrokke amp van toepassing was; en

(b) T die tydperk in jare van die termyn, insluitende enige opeenvolgende termynne, voorstel waarvoor hy of sy aangestel is.

(2) Aan 'n regter wat sy of haar amp ontruim het by aanvaarding deur die President van die Republiek van Suid-Afrika van sy of haar bedanking, word 'n gratifikasie betaal ooreenkomstig die formule—

$$\frac{D}{5} \times 2 \times E$$

in watter formule die faktor—

(a) D die salaris voorstel wat ten tyde van die ontruiming van sy of haar amp op die betrokke amp van toepassing was; en

(b) E die tydperk van sy of haar termyn in die betrokke amp voorstel, wat by die jaar en die maand bereken word, en breukdele van 'n maand word in aanmerking geneem.

(3) Die totale bedrag van enige gratifikasie ingevolge hierdie paragraaf aan 'n regter betaalbaar, mag nie drie keer sy of haar hoogste salaris gedurende sy of haar ampstermyn oorskry nie.

7. Aan die oorlewende gade van 'n regter wat te sterwe kom voor sy of haar ampstermyn as regter verstryk het, of aan die boedel van 'n regter wat nie deur 'n gade oorleef word nie, word 'n bedrag betaal wat gelyk is aan die bedrag van die gratifikasie wat ingevolge paragraaf 6 (2) aan daardie regter betaalbaar sou gewees het indien hy of sy nie te sterwe gekom het nie maar op die datum van sy of haar afsterwe sy of haar amp ingevolge daardie paragraaf ontruim het: Met dien verstande dat faktor E in die formule in paragraaf 6 (2) bedoel, geag word nie minder as 4 te wees nie.

VERLOF

8. (1) Die President van die Hof, en in die geval van die President van die Hof, die Minister, kan verlof vir 'n maksimum van 36 dae per jaar aan 'n regter toestaan.

(2) Die griffier van die Hof moet die Direkteur-generaal van Justisie in kennis stel van verlof wat aan regters toegestaan is.

(3) By die oorweging van aansoeke om verlof poog die President van die Hof om sodanige reëlings te tref dat die noodsaaklikheid van die aanstelling van waarnemende regters sover moontlik uitgeskakel word.

9. Indien dit uit 'n sertifikaat van 'n geneesheer blyk dat 'n regter weens siekte vir 'n gemelde tydperk nie sy of haar pligte kan vervul nie, kan die Minister siekteverlof vir daardie tydperk aan die regter toestaan.

10. Indien die Minister in buitengewone omstandighede oortuig is dat verlof waarvoor daar nie in hierdie bepaling voorsiening gemaak is nie, in 'n bepaalde geval toegestaan behoort te word, kan hy of sy sodanige verlof toestaan op die voorwaarde wat hy of sy nodig ag, hetsy dit verlof is met volle besoldiging of verlof met verminderde besoldiging of geen besoldiging nie, mits die betrokke regter in die geval van verlof met verminderde besoldiging of verlof sonder besoldiging skriftelik afstand gedoen het van sy of haar reg op onverminderde besoldiging ingevolge artikel 26 (1) van die Wet.

11. Geen verlof wat kragtens hierdie bepaling toegestaan kan word, is oplopend nie en geen salaris of toelae mag geëis word ten opsigte van verlof wat geneem kon gewees het maar waarvan nie gebruik gemaak is nie.

12. Die Direkteur-generaal van Justisie hou 'n register van verlof wat aan regters toegestaan is.

MEDIESE SKEMA

13. 'n Bydrae ten opsigte van 'n mediese skema word gemaak gelyk aan die bydrae wat ten opsigte van 'n regter van die Hooggeregshof gemaak word.

VERVOER- EN ANDER TOELAES

14. Indien 'n praktiserende advokaat of prokureur as waarnemende regter aangestel word, word vir die duur van sodanige aanstelling 'n bedrag van R140 per dag vir die instandhouding van sy of haar praktyk as advokaat of prokureur aan hom of haar betaal.

15. (1) Alle eise vir die betaling van toelaes ingevolge hierdie bepaling moet, waar toepaslik, die aard van die dienste en sodanige ander inligting as wat nodig is om die bedrag betaalbaar te bereken, vermeld.

(2) 'n Eis in subregulasie (1) bedoel, word deur die betrokke regter onderteken en as korrek gesertifiseer.

16. (1) Wanneer 'n persoon as regter aangestel word en die setel van die Hof nie op die plek geleë is waar hy of sy by aanstelling woonagtig is nie, word die koste verbonde aan die vervoer van daardie regter en sy of haar gesin, huiswerkers en besittings na die setel van die Hof uit staatsgeld bestry.

(2) Die vervoerkoste van die regter of sy of haar gesin en huiswerkers bedoel in subparagraaf (1) mag nie die koste van eersteklassekaartjies oorskry nie, tensy magtiging vir die gebruik van ander vervoer deur die Minister verleen is.

(3) Indien die Minister kragtens subregulasie (2) magtiging verleen dat 'n regter van private vervoer gebruik maak, kan daardie regter vergoed word teen 'n tarief van R1,00 per kilometer.

(4) (a) Wanneer besittings vervoer moet word, vra die griffier van die Hof of enige ander griffier van die Hooggeregshof skriftelike tenders van minstens drie vervoerkontraakteurs vir die pak, laai, aflaai en uitpak van die besittings vir vervoer per trein en, indien die betrokke regter of persoon dit verlang, vir die vervoer daarvan per pad.

(b) Die laagste tender vir die pak, laai, aflaai en uitpak van die besittings moet deur die griffier aanvaar word, maar die Minister kan die aanvaarding van 'n hoër tender goedkeur indien daar na sy of haar mening goeie redes bestaan vir die verwerping van die laagste tender.

(5) Die Staat is nie verantwoordelik vir enige assuransiepremies ten opsigte van die vervoer van besittings nie: Met dien verstande dat premies ten opsigte van assuransiedekking by die vervoer van besittings per pad uit staatsgeld betaal kan word indien die laagste padvervoertender sodanige premies as 'n integrerende deel daarvan insluit.

(6) (a) Hoogstens twee motorvoertuie van 'n regter in subparagraaf (1) bedoel, mag per trein op staatskoste vervoer word, mits dit op die eienaar se risiko geskied.

(b) Sodanige regter kan uit staatsgeld vergoed word vir werklike toevallige uitgawes aangegaan by die laai en aflaai van die voertuig of voertuie in paragraaf (a) bedoel.

(7) Die vervoer van die besittings van 'n regter in subparagraaf (1) bedoel, moet binne 12 maande na die aanstelling van die betrokke regter geskied, tensy die Minister toestemming verleen vir die uitstel van die vervoer daarvan.

(8) Die Minister kan in uitsonderlike gevalle goedkeur dat die besittings van 'n regter in subparagraaf (1) bedoel, op staatskoste vervoer en in 'n pakhuis opgeberg word vir 'n tydperk van hoogstens 12 maande en daarna na sy of haar nuwe tuiste vervoer word: Met dien verstande dat die griffier minstens drie tenders vir die uitvoering van die dienste vra en die laagste tender deur hom of haar aanvaar word: Met dien verstande voorts dat die Minister die aanvaarding van 'n hoër tender kan goedkeur indien daar na sy of haar mening goeie redes bestaan vir die verwerping van die laagste tender.

(9) 'n Regter wat nie permanent in Gauteng woonagtig is nie, kan, behoudens die bepalings van subparagraawe (1), (3) en (5), 'n gedeelte van sy of haar besittings en boekery, gesamentlik of afsonderlik, eenmalig op staatskoste na Gauteng laat vervoer om in sy of haar kantoor- en huisvestigingsbehoefte te voorsien.

17. (1) By—

(i) ontheffing uit sy of haar amp;

(ii) bedanking uit sy of haar amp;

(iii) ontruiming van sy of haar amp by die verstryking van sy of haar termyn van aanstelling in artikel 22 (5) van die Wet beoog; of

(iv) die afsterwe van 'n regter,

kan sy of haar besittings slegs een keer na enige plek in die Republiek van Suid-Afrika waar hy of sy of die oorlewende gade, na gelang van die geval, hom of haar gaan vestig, op staatskoste vervoer word, en in dié geval is die bepalings van paragraaf 16 *mutatis mutandis* van toepassing.

(2) Die vervoer in subparagraaf (1) bedoel, mag nie vroeër as twee maande voor en nie later as 12 maande na die datum van daardie ontheffing, bedanking of ontruiming en, in die geval van afsterwe, nie later as 12 maande na die datum van afsterwe geskied nie, tensy die Minister daarvan oortuig is dat die vervoer van besittings ooreenkomstig subparagraaf (1) weens buitengewone omstandighede vroeër as twee maande voor die datum van sodanige ontheffing, bedanking of ontruiming of later as 12 maande na die datum van sodanige ontheffing, bedanking of ontruiming of afsterwe moet geskied, in welke geval hy of sy toestemming kan verleen tot die vervroeging of die uitstel van die vervoer daarvan.

BESKIKBAARSTELLING VAN MOTORVOERTUIG AAN 'N REGTER

18. 'n Motorvoertuig waarvan die Staat die eienaar is, kan op die voorwaardes wat die Minister met die instemming van die Minister van Vervoer bepaal met betrekking tot registers van die Hooggeregshof, aan 'n regter beskikbaar gestel word vir gebruik, ooreenkomstig die voorwaardes aldus bepaal, in die loop van sy of haar amptelike werksaamhede sowel as vir sy of haar private doeleindes.

TOEPASSING VAN BEPALING

19. Paragrafe 5 tot en met 9, 11 tot en met 13, 16 en 17 is nie op 'n addisionele of waarnemende regter van toepassing nie.

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