



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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## **STAATSKOERANT**

### **VAN DIE REPUBLIEK VAN SUID-AFRIKA**

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#### STATE PRESIDENT'S OFFICE

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No. 1162.

7 July 1993

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

No. 90 of 1993: Magistrates Act, 1993.

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#### KANTOOR VAN DIE STAATSPRESIDENT

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No. 1162.

7 Julie 1993

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

No. 90 van 1993: Wet op Landdroste, 1993.

**GENERAL EXPLANATORY NOTE:**

- [ ]** Words in bold type in square brackets indicate omissions from existing enactments.
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- Words underlined with a solid line indicate insertions in existing enactments.
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**ACT**

To provide for the establishment, constitution, objects and functions of a Magistrates Commission; to further regulate the appointment and remuneration of, and vacation of office by, magistrates; to provide that certain conditions of service of magistrates and other judicial officers may be determined by regulation; and to provide for matters in connection therewith.

*(Afrikaans text signed by the State President.)  
(Assented to 23 June 1993.)*

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

**Definitions**

1. In this Act, unless the context otherwise indicates—
  - (i) “chairman” means the chairman of the Commission appointed in terms of section 3(1)(a)(i); (x)
  - (ii) “Commission” means the Magistrates Commission established by section 2; (iii)
  - (iii) “committee” means a committee established by the Commission under section 6; (ii)
  - (iv) “lower court” means a court established under section 2 of the Magistrates’ Courts Act; (iv)
  - (v) “magistrate” means a judicial officer appointed under section 9 of the Magistrates’ Courts Act read with section 10 of this Act, excluding any person occupying that office in an acting or temporary capacity and any assistant magistrate; (v)
  - (vi) “Magistrates’ Courts Act” means the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944); (xi)
  - (vii) “Minister” means the Minister of Justice; (vi)
  - (viii) “salary” means basic salary, including an annual service bonus, legal allowance, home owner’s allowance (if any) and motor car financing benefit (if any); (vii)
  - (ix) “salary scale” means a minimum and maximum salary limit attached to a specific level of work; (viii)
  - (x) “scale”, in relation to salary, includes a salary at a fixed amount; (ix)
  - (xi) “this Act” includes the regulations under section 16. (i)

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ]** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
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- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
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**WET**

Om voorsiening te maak vir die instelling, samestelling, oogmerke en werksaamhede van 'n Landdrostekommissie; die aanstelling en besoldiging van, en ampsontruiming deur, landdroste verder te reël; voorsiening te maak dat sekere diensvoorwaardes van landdroste en ander regterlike beampies by regulasie bepaal kan word; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 23 Junie 1993.)*

**D**AAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
  - (i) "hierdie Wet" ook die regulasies kragtens artikel 16; (xi)
  - (ii) "komitee" 'n komitee kragtens artikel 6 deur die Kommissie ingestel;
  - (iii) "Kommissie" die Landdrostekommissie by artikel 2 ingestel; (ii)
  - (iv) "laer hof" 'n hof kragtens artikel 2 van die Wet op Landdroshewe ingestel; (iv)
  - (v) "landdros" 'n regterlike beampte kragtens artikel 9 van die Wet op Landdroshewe saamgelees met artikel 10 van hierdie Wet aangestel, uitgesonderd 'n persoon wat daardie amp waarnemend of tydelik beklee en 'n assistent-landdros; (v)
  - (vi) "Minister" die Minister van Justisie; (vii)
  - (vii) "salaris" basiese salaris, met inbegrip van 'n jaarlikse diensbonus, regstoelae, huiseienaarstoelae (as daar is) en motorfinansieringsvoordeel (as daar is); (viii)
  - (viii) "salarisskaal" 'n minimum en maksimum salarisperk gekoppel aan 'n bepaalde vlak van werk; (ix)
  - (ix) "skaal", met betrekking tot salaris, ook salaris teen 'n vaste bedrag; (x)
  - (x) "voorsitter" die voorsitter van die Kommissie aangestel ingevalge artikel 3(1)(a)(i); (i)
  - (xi) "Wet op Landdroshewe" die Wet op Landdroshewe, 1944 (Wet No. 32 van 1944). (vi)

**Establishment of Magistrates Commission**

**2.** There is hereby established a commission, to be known as the Magistrates Commission, with the powers and duties conferred on or assigned to it by or under this Act or any other law.

**Constitution of Commission and period of office of members**

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**3. (1) (a)** The members of the Commission to be appointed by the State President shall consist of—

- (i) a judge of the Supreme Court of South Africa, as chairman, designated by the Chief Justice;
- (ii) an officer of the Department of Justice designated by the Minister; 10
- (iii) two regional court presidents designated by the regional court presidents of the respective regional divisions established under section 2 of the Magistrates' Courts Act;
- (iv) two magistrates with the rank of chief magistrate designated by the respective magistrates with that rank; 15
- (v) the Chief Director: Justice College;
- (vi) one magistrate designated by the Magistrates' Association of South Africa;
- (vii) one advocate and one attorney designated by the General Council of the Bar of South Africa and the Association of Law Societies of the Republic of South Africa, respectively; and 20
- (viii) one legal academic designated by the Society of University Teachers of Law.

(b) The chairman shall designate one of the persons referred to in paragraph (a)(iii) to (v), inclusive, 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. 25

(2) A member of the Commission shall be appointed for a period not exceeding five years, and any such appointment may be withdrawn by the State President at any time after consultation with the Commission if in his opinion there are sound reasons for doing so. 30

(3) Any person whose period of office as a member of the Commission has expired, may be reappointed.

(4) A vacancy in the Commission shall not affect the validity of the proceedings or decisions of the Commission. 35

**Objects of Commission**

**4.** The objects of the Commission shall be—

- (a) to ensure that the appointment, promotion, transfer or discharge of, or disciplinary steps against, judicial officers in the lower courts take place without favour or prejudice, and that the applicable laws and administrative directions in connection with such action are applied uniformly and correctly; 40
- (b) to ensure that no influencing or victimization of judicial officers in the lower courts takes place;
- (c) to endeavour to promote the continuous training of judicial officers in the respective lower courts and to make recommendations in regard thereto to the Minister; 45
- (d) to compile a code of conduct for judicial officers in the lower courts;
- (e) to advise the Minister and to make recommendations to him regarding the administrative matters applicable to magistrates, including proposals regarding legislation purporting to regulate the conditions of service and relevant matters regarding magistrates, separately; 50
- (f) to carry out investigations and make recommendations to the Minister regarding the matters mentioned in section 13(3)(a);
- (g) to advise the Minister or to make recommendations to him regarding the requirements for appointment and the appointment of judicial officers in the respective lower courts; and 55

## Instelling van Landdrostekommissie

**2.** Hierby word 'n kommissie ingestel wat die Landdrostekommissie heet, met die bevoegdhede en pligte wat by of kragtens hierdie Wet of enige ander wetsbepaling aan hom verleen of opgedra word.

### 5 Samestelling van Kommissie en ampsduur van lede

**3. (1) (a)** Die lede van die Kommissie wat deur die Staatspresident aangestel word, bestaan uit—

- (i) 'n regter van die Hooggereghof van Suid-Afrika, as voorsitter, wat deur die Hoofregter aangewys word;
  - 10 (ii) 'n beampot van die Departement van Justisie wat deur die Minister aangewys word;
  - (iii) twee streekhofpresidente wat deur die streekhofpresidente van die onderskeie streekafdelings ingestel kragtens artikel 2 van die Wet op Landdroshewe aangewys word;
  - 15 (iv) twee landdroste met die rang van hooflanddros wat deur die onderskeie landdroste met daardie rang aangewys word;
  - (v) die Hoofdirekteur: Justisie-kollege;
  - (vi) een landdros wat deur die Landdrosvereniging van Suid-Afrika aangewys word;
  - 20 (vii) een advokaat en een prokureur wat onderskeidelik deur die Algemene Balieraad van Suid-Afrika en die Vereniging van Prokureursordes van die Republiek van Suid-Afrika aangewys word; en
  - (viii) een regskademikus wat deur die Vereniging van Universiteitsdosente in die Regte aangewys word.
- 25 (b) Die voorsitter wys een van die persone in paragraaf (a)(iii) tot en met (v) bedoel as ondervoorsitter van die Kommissie aan, en wanneer die voorsitter nie beskikbaar is nie, verrig die ondervoorsitter die werksaamhede wat by of kragtens hierdie Wet aan die voorsitter opgedra is.
- (2) 'n Lid van die Kommissie word vir 'n tydperk van hoogstens vyf jaar 30 aangestel, en so 'n aanstelling kan te eniger tyd na oorleg met die Kommissie deur die Staatspresident ingetrek word indien daar na sy oordeel gegrondre redes daarvoor bestaan.
- (3) Iemand wie se ampstermyn as lid van die Kommissie verstryk het, kan heraangestel word.
- 35 (4) 'n Vakature in die Kommissie raak nie die geldigheid van die verrigtinge of besluite van die Kommissie nie.

### Oogmerke van Kommissie

**4. Die oogmerke van die Kommissie is om—**

- (a) toe te sien dat die aanstelling, bevordering, verplasing of ontslag van, of tugstappe teen, regterlike beampies in die laer howe sonder bevoordeling of benadeling geskied, en dat die toepaslike wetsbepalings en administratiewe voorskrifte in verband met sodanige optrede eenvormig en korrek toegepas word;
- 40 (b) toe te sien dat daar geen beïnvloeding of viktimisasie van regterlike beampies in die laer howe plaasvind nie;
- (c) hom te beywer vir die deurlopende opleiding van regterlike beampies in die onderskeie laer howe en aanbevelings daaromtrent aan die Minister te doen;
- 45 (d) 'n gedragskode vir regterlike beampies in die laer howe op te stel;
- (e) die Minister van advies te dien en aanbevelings aan hom te doen betreffende die administratiewe aangeleenthede wat op landdroste van toepassing is, met inbegrip van voorstelle betreffende wetgewing wat ten doel het om die diensvooraardes en verbandhoudende aangeleenthede betreffende landdroste, afsonderlik te reël;
- 50 (f) ondersoeke te doen en aanbevelings aan die Minister te doen betreffende die aangeleenthede in artikel 13(3)(a) genoem;
- (g) die Minister van advies te dien of aan hom aanbevelings te doen betreffende die aanstellingsvereistes en die aanstelling van regterlike beampies in die onderskeie laer howe; en

- (h) to advise the Minister or to make recommendations to him or to report to the Minister for the information of Parliament regarding any matter which, in the opinion of the Commission, is of interest for—  
 (i) the independence of the dispensing of justice; and  
 (ii) the efficiency of the administration of justice,  
 in the lower courts.

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### **Meetings of Commission**

5. (1) Meetings of the Commission shall be held at the times and places determined—  
 (a) by the chairman or, if he is not available, by the vice-chairman of the Commission; or  
 (b) if both the chairman and the vice-chairman of the Commission are not available, by the majority of the members of the Commission.  
 (2) The majority of the members of the Commission shall constitute a quorum for a meeting of the Commission.  
 (3) If both the chairman and the vice-chairman of the Commission are absent from a meeting of the Commission, the members present shall elect one of their number to preside at that meeting.  
 (4) The person presiding at a meeting of the Commission may regulate the proceedings and procedure thereat, including the quorum for a decision of the Commission, and shall cause minutes to be kept of the proceedings.  
 (5) The proceedings of the Commission shall take place *in camera* unless the person presiding at a meeting directs otherwise.

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### **Committees of Commission**

6. (1) The Commission may establish one or more committees consisting of one or more members of the Commission designated by the Commission and one or more other persons, if any, whom the Commission may appoint for that purpose and for the period determined by it.  
 (2) The Commission may extend the period of an appointment made by it under subsection (1) or withdraw such appointment during the period referred to in that subsection.  
 (3) The Commission shall designate a chairman for every committee and, if it deems it necessary, a vice-chairman.  
 (4) A committee shall, subject to the directions of the Commission, perform such functions of the Commission as the Commission may assign to it.  
 (5) On completion of the functions assigned to it in terms of subsection (4), a committee shall submit a written report thereon to the Commission, whereupon the committee shall automatically dissolve.  
 (6) The Commission may at any time dissolve any committee.  
 (7) The provisions of section 5 shall *mutatis mutandis* apply to a meeting of a committee.

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### **Functions of Commission**

7. (1) The Commission may, in order to achieve its objects mentioned in section 4—  
 (a) carry out or cause to be carried out any investigation that it deems necessary;  
 (b) obtain access to official information or documents;  
 (c) hear any person or summon any person to appear before it for questioning, or require from any person a written explanation in respect of any matter falling within the ambit of its objects;  
 (d) advise the Minister with regard to any matter or provide him with a recommendation;  
 (e) make known any finding, point of view or recommendation of the Commission in the manner which and to whom it deems fit; and  
 (f) subject to the provisions of subsection (2), report to the Minister for the information of Parliament on any matter it deems fit.

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- 5 (h) die Minister van advies te dien of aanbevelings aan hom te doen of aan die Minister ter inligting van die Parlement verslag te doen betreffende enige aangeleentheid wat, na die oordeel van die Kommissie, vir—  
 (i) die onafhanklikheid van die beoefening van regsspraak; en  
 (ii) die doeltreffendheid van die regspleging,  
 in die laer howe, van belang is.

### Vergaderings van Kommissie

- 10 5. (1) Vergaderings van die Kommissie word gehou op die tye en plekke—  
 (a) deur die voorsitter of, indien hy nie beskikbaar is nie, die ondervoorsitter van die Kommissie bepaal; of  
 (b) indien sowel die voorsitter as die ondervoorsitter van die Kommissie nie beskikbaar is nie, deur die meerderheid van die lede van die Kommissie bepaal.  
 (2) Die meerderheid van die lede van die Kommissie maak 'n kworum vir 'n vergadering van die Kommissie uit.  
 (3) Indien sowel die voorsitter as die ondervoorsitter van die Kommissie van 'n vergadering van die Kommissie afwesig is, kies die aanwesige lede iemand uit hul geledere om by dié vergadering voor te sit.  
 (4) Die persoon wat by 'n vergadering van die Kommissie voorsit, kan die verrigtinge en prosedure aldaar, met inbegrip van die kworum vir 'n besluit van die Kommissie, reël en moet notule van die verrigtinge laat hou.  
 (5) Die verrigtinge van die Kommissie geskied *in camera* tensy die persoon wat by 'n vergadering voorsit anders gelas.

### Komitees van Kommissie

- 25 6. (1) Die Kommissie kan een of meer komitees instel wat bestaan uit een of meer lede van die Kommissie wat die Kommissie aanwys en een of meer ander persone, as daar is, wat die Kommissie vir daardie doel en vir die tydperk deur hom bepaal, aanstel.  
 (2) Die Kommissie kan 'n aanstelling kragtens subartikel (1) deur hom gedoen, verleng of gedurende die tydperk in daardie subartikel bedoel, intrek.  
 (3) Die Kommissie wys vir elke komitee 'n voorsitter en, indien hy dit nodig ag, 'n ondervoorsitter aan.  
 (4) 'n Komitee verrig, behoudens die voorskrifte van die Kommissie, die werksaamhede van die Kommissie wat die Kommissie aan hom opdra.  
 (5) By afhandeling van die werksaamhede wat ingevolge subartikel (4) aan hom opgedra is, lê 'n komitee 'n skriftelike verslag daaroor aan die Kommissie voor, waarna die komitee outomatis onttbind.  
 (6) Die Kommissie kan enige komitee te eniger tyd onttbind.  
 (7) Die bepalings van artikel 5 is *mutatis mutandis* op 'n vergadering van 'n komitee van toepassing.

### Werksaamhede van Kommissie

- 40 7. (1) Die Kommissie kan, ten einde sy oogmerke vermeld in artikel 4 te bereik—  
 (a) enige ondersoek doen of laat doen wat hy nodig ag;  
 (b) insae verkry in amptelike inligting of stukke;  
 (c) enige persoon aanhoor of skriftelik aansê om voor hom te verskyn vir ondervraging, of van enige persoon 'n skriftelike verduideliking ten opsigte van enige aangeleentheid wat binne die omvang van sy oogmerke val, vereis;  
 (d) die Minister betreffende enige aangeleentheid adviseer of hom van 'n aanbeveling voorsien;  
 (e) enige bevinding, standpunt of aanbeveling van die Kommissie, op die wyse wat en aan wie hy goedvind, bekend maak; en  
 (f) behoudens die bepalings van subartikel (2), aan die Minister ter inligting van die Parlement oor enige aangeleentheid wat hy goedvind, verslag doen.

(2) A report regarding a matter contemplated in subsection (1)(f), shall be tabled in Parliament by the Minister within 14 days after it was presented to him, 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.

(3) A committee may, subject to the directions of the Commission, exercise any of the powers referred to in subsection (1)(a), (b) or (c). 5

(4) Any person who intentionally obstructs the Commission or a committee in the exercising of its powers under subsection (1)(a), (b) or (c), shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding three months. 10

#### **Remuneration and expenses of members of Commission and committees**

**8. (1)** The chairman of the Commission or a member of a committee who is a judge of the Supreme Court, may be paid such allowances for travelling and subsistence expenses incurred by him in the performance of his functions in terms of this Act as the Minister may determine with the concurrence of the Minister of State Expenditure. 15

(2) A member of the Commission or a committee who is not a judge or magistrate and who is not subject to the laws governing the public service, may be paid such remuneration, including allowances for travelling and subsistence expenses incurred by him in the performance of his functions in terms of this Act, as the Minister may determine with the concurrence of the Minister of State Expenditure. 20

#### **Secretary and staff of Commission**

**9.** The work incidental to the performance by the Commission of its functions shall be performed by officers of the Department of Justice designated by the Director-General: Justice, of whom one shall be designated by him as secretary of the Commission. 25

#### **Appointment of magistrates**

**10.** The Minister shall, after consultation with the Commission, appoint magistrates in respect of lower courts under and subject to the Magistrates' Courts Act. 30

#### **Conditions of service of magistrates, except salary and vacation of office**

**11.** Subject to the provisions of this Act, the conditions of service of a magistrate shall be determined in accordance with the regulations under section 16.

#### **Salaries of magistrates**

**12. (1) (a)** Subject to the provisions of this section, any person occupying the office of magistrate shall, in respect of that office, be paid a salary in accordance with the scale determined from time to time for his rank and grade by the Minister by notice in the *Gazette* in consultation with the Commission and after consultation with the Commission for Administration and with the concurrence of the Minister of State Expenditure. 40

(b) Different categories of salaries and salary scales may be so determined in respect of different categories of magistrates.

(2) A notice in terms of subsection (1) or any provision thereof may commence with effect from a date which may not be more than one year before the date of publication thereof. 45

(3) The first notice in terms of subsection (1) shall be issued as soon as possible after the commencement of this Act, and thereafter such a notice shall be issued if circumstances, including any revision and adjustment of salaries and allowances of public servants since the latest revision and adjustment of salaries of magistrates, so justify. 50

(4) (a) A notice issued in terms of subsection (1) shall be tabled in Parliament within 14 days after publication thereof, 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. 55

(2) 'n Verslag betreffende 'n aangeleentheid in subartikel (1)(f) beoog, word deur die Minister binne 14 dae nadat dit aan hom voorgelê is in die Parlement ter Tafel gelê indien die Parlement dan byeen is, of, indien die Parlement nie dan byeen is nie, binne 14 dae na die aanvang van die eersvolgende sessie van die Parlement.

(3) 'n Komitee kan, behoudens die voorskrifte van die Kommissie, enige van die bevoegdhede in subartikel (1)(a), (b) of (c) bedoel, uitoefen.

(4) Iemand wat die Kommissie of 'n komitee in die uitoefening van sy bevoegdhede kragtens subartikel (1)(a), (b) of (c) opsetlik belemmer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

#### Vergoeding en uitgawes van lede van Kommissie en komitees

8. (1) Die voorsitter van die Kommissie of 'n lid van 'n komitee wat 'n regter van die Hooggereghof is, kan die toelaes vir reis- en verblyfuitgawes deur hom aangegaan by die verrigting van sy werksaamhede ingevolge hierdie Wet betaal word wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.

(2) 'n Lid van die Kommissie of 'n komitee wat nie 'n regter of landdros is nie en wat nie aan die wetsbepalings op die staatsdiens onderworpe is nie, kan die vergoeding, met inbegrip van toelaes vir reis- en verblyfuitgawes aangegaan deur hom by die verrigting van sy werksaamhede ingevolge hierdie Wet betaal word wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.

#### Sekretaris en personeel van Kommissie

25 9. Die werk bykomstig by die verrigting van sy werksaamhede deur die Kommissie word verrig deur beampies van die Departement van Justisie wat deur die Direkteur-generaal: Justisie aangewys word, van wie een deur hom as sekretaris van die Kommissie aangewys word.

#### Aanstelling van landdroste

30 10. Die Minister stel, na oorleg met die Kommissie, ten opsigte van laer howe landdroste kragtens en behoudens die Wet op Landdroshewe aan.

#### Diensvoorwaardes van landdroste, behalwe salaris en ampsontruiming

11. Behoudens die bepalings van hierdie Wet word die diensvoorwaardes van 'n landdros bepaal ooreenkomsdig die regulasies kragtens artikel 16.

#### 35 Salarisse van landdroste

12. (1) (a) Behoudens die bepalings van hierdie artikel moet aan iemand wat die amp van landdros beklee, ten opsigte van daardie amp 'n salaris betaal word ooreenkomsdig die skaal wat van tyd tot tyd vir sy rang en graad by kennisgewing in die *Staatskoerant* bepaal word deur die Minister in oorleg met die Kommissie en na oorleg met die Kommissie vir Administrasie en met die instemming van die Minister van Staatsbesteding.

(b) Verskillende kategorieë salaris en salarisskale kan aldus ten opsigte van verskillende kategorieë landdroste bepaal word.

(2) 'n Kennisgewing ingevolge subartikel (1) of enige bepaling daarvan kan in werking tree met ingang van 'n datum wat hoogstens een jaar vroeër as die datum van die afkondiging daarvan kan wees.

(3) Die eerste kennisgewing ingevolge subartikel (1) word so spoedig moontlik na die inwerkingtreding van hierdie Wet uitgereik, en daarna word so 'n kennisgewing uitgereik indien omstandighede, met inbegrip van enige hersiening en aanpassing van salaris en toelaes van staatsamptenare sedert die jongste hersiening en aanpassing van salaris van landdroste, dit regverdig.

(4) (a) 'n Kennisgewing ingevolge subartikel (1) uitgereik, moet in die Parlement ter Tafel gelê word binne 14 dae na afkondiging daarvan, indien die Parlement dan byeen is, of, indien die Parlement nie dan byeen is nie, binne 14 dae na die aanvang van sy eersvolgende sessie.

- (b) If Parliament by resolution disapproves such a notice or any provision thereof, that notice or that provision, as the case may be, shall lapse to the extent to which it is so disapproved with effect from the date on which it is so disapproved.
- (c) The lapsing of such a notice or provision shall not affect—  
 (i) the validity of anything done under the notice or provision up to the date on which it so lapsed;  
 (ii) any right, privilege, obligation or liability acquired, accrued or incurred as at that date under or by virtue of the notice or provision.
- (5) The amount of any salary payable in terms of subsection (1), shall be paid from moneys appropriated by Parliament for that purpose. 10
- (6) The salary payable to a magistrate shall not be reduced except by Act of Parliament: Provided that a disapproval contemplated in subsection (4)(b) shall, for the purposes of this subsection, not be deemed to result in a reduction of such salary. 15
- (7) If an officer or employee in the public service is appointed as a magistrate, the period of his service as a magistrate shall be reckoned as part of and continuous with his service in the public service for the purposes of leave, pension and any other condition of service.
- Vacation of office and discharge of magistrates** 20
13. (1) A magistrate shall vacate his office on attaining the age of 65 years: Provided that if he attains the said age after the first day of any month, he shall be deemed to attain that age on the first day of the next ensuing month.
- (2) A magistrate shall not be suspended or removed from office except in accordance with the provisions of subsections (1), (3), (4) and (5). 25
- (3) (a) The Minister may suspend a magistrate on the recommendation of the Commission and, subject to the provisions of this subsection, remove him from office—  
 (i) for misconduct;  
 (ii) on account of continued ill-health; or  
 (iii) on account of incapacity to carry out his duties of office efficiently. 30
- (b) A magistrate so suspended from office shall receive, for the duration of such suspension, no salary or such salary as may be determined by the Minister on the recommendation of the Commission.
- (c) A report in which the suspension of a magistrate and the reason therefor are made known, shall be tabled in Parliament by the Minister within 14 days after such suspension, 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. 35
- (d) If Parliament, within 21 days after the report referred to in paragraph (c) was tabled in Parliament, passes a resolution in which the restoration to his office of a magistrate so suspended is recommended, such magistrate shall be restored to his office accordingly. 40
- (e) If Parliament does not pass a resolution in accordance with paragraph (d), the Minister shall confirm the suspension and remove the magistrate concerned from his office. 45
- (4) The Minister shall remove a magistrate from his office if Parliament passes a resolution recommending such removal on the ground of misconduct of the magistrate or on account of his continued ill-health or his incapacity to carry out his duties of office efficiently.
- (5) (a) The Minister may, at the request of a magistrate, allow such magistrate to vacate his office—  
 (i) on account of continued ill-health; or  
 (ii) for any other reason which the Minister deems sufficient. 50
- (b) Any request of a magistrate contemplated in paragraph (a)(ii) shall be addressed to the Minister so that he receives it at least six calendar months before the date on which the magistrate wishes so to vacate his office, unless the Minister approves a shorter period in a specific case. 55
- (c) If a magistrate—

(b) Indien die Parlement by besluit so 'n kennisgewing of enige bepaling daarvan afkeur, verval daardie kennisgewing of daardie bepaling, na gelang van die geval, vir sover dit aldus afgekeur word, met ingang van die datum waarop dit aldus afgekeur word.

5 (c) Die verval van so 'n kennisgewing of bepaling raak nie—

- (i) die geldigheid van enigsy gedoen kragtens die kennisgewing of bepaling tot die datum waarop dit aldus verval het nie;
- (ii) enige reg, voorreg, verpligting of aanspreeklikheid wat op daardie datum kragtens of uit hoofde van die kennisgewing of bepaling verkry is of ontstaan of opgeloop het nie.

10 (5) Die bedrag van 'n salaris betaalbaar ingevolge subartikel (1), word betaal uit geldie deur die Parlement vir daardie doel bewillig.

(6) Die salaris betaalbaar aan 'n landdros mag nie verminder word nie behalwe by Wet van die Parlement: Met dien verstande dat 'n afkeuring beoog 15 in subartikel (4)(b), by die toepassing van hierdie subartikel nie geag word 'n vermindering van sodanige salaris mee te bring nie.

(7) Indien 'n beampte of werknemer in die staatsdiens as 'n landdros aangestel word, word die tydperk van sy diens as landdros gereken as deel van en as aaneenlopend met sy diens in die staatsdiens vir die doeleindes van verlof, 20 pensioen en enige ander diensvoorraarde.

### Ampsontruiming en ontslag van landdroste

13. (1) 'n Landdros moet sy amp neerlê wanneer hy die leeftyd van 65 jaar bereik: Met dien verstande dat indien hy genoemde leeftyd na die eerste dag van 'n maand bereik, hy geag word bedoelde leeftyd op die eerste dag van die 25 eersvolgende maand te bereik.

(2) 'n Landdros mag nie in sy amp geskors of daarvan onthef word nie behalwe ooreenkomsdig die bepalings van subartikels (1), (3), (4) en (5).

(3) (a) Die Minister kan op aanbeveling van die Kommissie 'n landdros in sy amp skors en, behoudens die bepalings van hierdie subartikel, hom daarvan 30 onthef—

- (i) weens wangedrag;
- (ii) weens voortdurende swak gesondheid; of
- (iii) weens onvermoë om sy ampspligte op 'n bekwame wyse uit te voer.

(b) 'n Landdros wat aldus in sy amp geskors is, ontvang vir die duur van 35 sodanige skorsing geen salaris nie of die salaris wat die Minister op aanbeveling van die Kommissie bepaal.

(c) 'n Verslag waarin die skorsing van 'n landdros en die rede daarvoor bekend gemaak word, word deur die Minister binne 14 dae na sodanige skorsing in die Parlement ter Tafel gelê, indien die Parlement dan byeen is, of, indien die 40 Parlement nie dan byeen is nie, binne 14 dae na die aanvang van sy eersvolgende sessie.

(d) Indien die Parlement binne 21 dae nadat die verslag in paragraaf (c) bedoel in die Parlement ter Tafel gelê is, 'n besluit aanneem waarin die herstel in sy amp van 'n landdros wat aldus geskors is, aanbeveel word, moet sodanige 45 landdros dienooreenkomsdig in sy amp herstel word.

(e) Indien die Parlement nie 'n besluit ooreenkomsdig paragraaf (d) aanneem nie, bekratig die Minister die skorsing en onthef hy die betrokke landdros van sy amp.

(4) 'n Landdros word deur die Minister van sy amp onthef indien die 50 Parlement 'n besluit aanneem waarin op grond van wangedrag van die landdros of weens sy voortdurende swak gesondheid of sy onvermoë om sy ampspligte op 'n bekwame wyse uit te voer, sodanige ontheffing aanbeveel word.

(5) (a) Die Minister kan op versoek van 'n landdros so 'n landdros toelaat om sy amp neer te lê—

- 55 (i) weens voortdurende swak gesondheid; of
- (ii) om enige ander rede wat die Minister voldoende ag.

(b) 'n Versoek van 'n landdros beoog in paragraaf (a)(ii) moet aan die Minister gerig word sodat hy dit ontvang minstens ses kalendermaande voor die datum waarop die landdros sy amp aldus wil neerlê, tensy die Minister in 'n 60 bepaalde geval 'n korter tydperk goedkeur.

(c) Indien 'n landdros—

- (i) is allowed to vacate his office in terms of paragraph (a)(i), he shall be entitled to such pension benefits as he would have been entitled to under the pensions Act applicable to him if his services had been terminated on the ground of continued ill-health occasioned without his being instrumental thereto; or 5
- (ii) is allowed to vacate his office in terms of paragraph (a)(ii), he shall be deemed—
- (aa) to have been removed from office to promote efficiency for reasons other than his own unfitness or incapacity; or
- (bb) to have been retired in accordance with section 15(4) of the Public Service Act, 1984 (Act No. 111 of 1984), 10 as the Minister may direct, and he shall be entitled to such pension benefits as he would have been entitled to under the pensions Act applicable to him if he had been so removed from office or had been so retired, according to the direction of the Minister. 15

### **Powers and duties of magistrates**

**14.** A magistrate shall possess the powers and perform the duties conferred on or assigned to him by or under the laws of the Republic or, in any specific case, by the Minister after consultation with the Commission.

### **Magistrates shall not perform other paid work**

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**15.** No magistrate shall, without the consent of the Minister, perform any paid work outside his duties of office.

### **Regulations**

**16.** (1) The Minister may, after the Commission has made a recommendation, make regulations regarding the following matters in relation to judicial officers in the lower courts: 25

- (a) (i) The requirements for appointment and the appointment, promotion, transfer, discharge and disciplinary steps;
- (ii) the recognition of appropriate qualifications and experience for the purposes of the determination of salary; 30
- (iii) the procedure and manner of and criteria for evaluation and the conditions or requirements for the purposes of promotion;
- (iv) transfer and resettlement costs;
- (b) the duties, powers, conduct, discipline, hours of attendance, leave of absence, including leave gratuity, and pension, including contributions to a pension fund, and any other condition of service, including the occupation of official quarters; 35
- (c) the creation of posts on the fixed establishment, and the number, grading, regrading, designation, redesignation or conversion of posts on the fixed establishment of any magistrate's office;
- (d) the training of judicial officers in the various lower courts, including financial assistance for such training; 40
- (e) a code of conduct to be complied with by judicial officers;
- (f) the provision of official transport;
- (g) the conditions on which and the circumstances under which remuneration for overtime duty, and travel, subsistence, climatic, local and other allowances, may be paid; 45
- (h) the circumstances under which a medical examination shall be required for the purposes of any provision of this Act or any other law, and the form of medical reports and certificates;
- (i) the legal liability of any judicial officer in respect of any act done in terms of this Act or any other law and the legal liability emanating from the use of official transport; 50
- (j) the circumstances under which and the conditions and manner in which a judicial officer may be found guilty of misconduct, or to be suffering 55

- (i) toegelaat word om ingevolge paragraaf (a)(i) sy amp neer te lê, is hy geregtig op die pensioenvoordele waarop hy kragtens die Pensioenwet wat op hom van toepassing is, geregtig sou gewees het indien sy dienste weens voortdurende swak gesondheid wat sonder sy toedoen veroorsaak is, beëindig is; of
- 5 (ii) toegelaat word om ingevolge paragraaf (a)(ii) sy amp neer te lê, word hy geag—  
 (aa) van sy amp onthef te wees om doeltreffendheid te bevorder weens ander redes as sy eie ongeskiktheid of onvermoë; of
- 10 (bb) verplig te gewees het om af te tree ooreenkomsdig artikel 15(4) van die Staatsdienswet, 1984 (Wet No. 111 van 1984), na gelang die Minister gelas, en is hy geregtig op die pensioenvoordele waarop hy kragtens die Pensioenwet wat op hom van toepassing is, geregtig sou gewees het indien hy aldus van sy amp onthef sou gewees het of verplig sou gewees het om af te tree, na gelang van die Minister se lasgewing.
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### **Bevoegdhede en pligte van landdroste**

**14.** 'n Landdros besit die bevoegdhede en verrig die pligte wat by of kragtens die wette van die Republiek of, in 'n bepaalde geval, na oorleg met die 20 Kommissie, deur die Minister aan hom verleen of opgedra word.

#### **Landdroste verrig geen ander besoldigde werk nie**

**15.** 'n Landdros mag nie sonder toestemming van die Minister enige besoldigde werk buite sy ampspligte verrig nie.

#### **Regulasies**

- 16.** (1) Die Minister kan, nadat die Kommissie 'n aanbeveling gedoen het, regulasies uitvaardig betreffende die volgende aangeleenthede met betrekking tot regterlike beamptes in die laer howe:
- (a) (i) Die aanstellingsvereistes en die aanstelling, bevordering, verplasing, ontslag en tugstappe;
- 30 (ii) die erkenning van toepaslike kwalifikasies en ondervinding vir doeleinades van salarisbepaling;
- (iii) die prosedure en wyse van en kriteria vir beoordeling en die voorwaardes of vereistes vir doeleinades van bevordering;
- (iv) verplasing- en hervestigingskoste;
- 35 (b) die pligte, bevoegdhede, gedrag, dissipline, diensure, verlof, met inbegrip van verlofgratifikasie, en pensioen, met inbegrip van bydraes tot 'n pensioenfonds, en enige ander diensvoorraarde, met inbegrip van die bewoning van amptelike kwartiere;
- (c) die skepping van poste op die vaste diensstaat, en die getal, gradering, hergradering, benaming, herbenaming of omskepping van poste op die vaste diensstaat van 'n landdroskantoor;
- 40 (d) die opleiding van regterlike beamptes in die onderskeie laer howe, met inbegrip van finansiële bystand vir sodanige opleiding;
- (e) 'n gedragskode wat deur regterlike beamptes nagekom moet word;
- 45 (f) die verskaffing van amptelike vervoer;
- (g) die voorwaardes waarop en die omstandighede waaronder besoldiging vir oortyddiens, en reis-, verblyf-, klimaats-, plaaslike en ander toelaes, betaal kan word;
- (h) die omstandighede waaronder 'n geneeskundige ondersoek vir die doeleinades van 'n bepaling van hierdie Wet of 'n ander wet vereis word, en die vorm van geneeskundige verslae en sertifikate;
- 50 (i) die regsaanspreeklikheid van 'n regterlike beampte ten opsigte van 'n handeling ingevolge hierdie Wet of 'n ander wet verrig en die regsaanspreeklikheid voortspruitend uit die gebruikmaking van amptelike vervoer;
- (j) die omstandighede waaronder en die voorwaardes en wyse waarop bevind kan word dat 'n regterlike beampte aan wangedrag skuldig is, of
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- from continued ill-health, or of incapacity to carry out his duties of office efficiently;
- (k) the procedure for dealing with complaints and grievances of judicial officers, and the manner in which and time when or period wherein and person to whom documents in connection with requests and communications of such judicial officers shall be submitted; 5
- (l) the recognition of any professional society;
- (m) the membership or conditions of membership of a particular medical aid scheme or medical aid society and the manner in and the conditions on which membership fees and other moneys which are payable or owing by or in respect of judicial officers or their dependants, to a medical aid scheme or medical aid society, may be recovered from the salaries of such judicial officers and paid to such medical aid scheme or medical aid society; 10
- (n) the contributions to and the rights, privileges and obligations of judicial officers or their dependants with regard to such a medical aid scheme or medical aid society; 15
- (o) in general, any matter, which is not in conflict with this Act, which is reasonably necessary for the regulation of the conditions of service of judicial officers or any matter in connection with the rights, powers, 20 functions and duties of a judicial officer. 20
- (2) (a) A regulation made under this section shall be in force unless and until Parliament during the session in which the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), which relates to that regulation, has been laid upon the Table in Parliament, by resolution disapproves the regulation, 25 in which event the regulation shall lapse with effect from a date to be specified in the resolution.
- (b) The lapsing of a regulation in terms of this subsection shall not affect the validity of anything done under the regulation prior to the date mentioned in the resolution. 30
- (c) The provisions of this subsection shall not affect the power of the Minister to make a new regulation regarding the matter dealt with by a regulation that has lapsed in terms of paragraph (a).
- (3) Any regulation under this section which results in State expenditure, shall be made with the concurrence of the Minister of State Expenditure. 35
- (4) No regulation made under subsection (1), shall contain any provision which affects the service benefits of any magistrate as they existed prior to the date of commencement of this section to his detriment.
- (5) Different regulations may be made under subsection (1) in respect of magistrates and other judicial officers. 40
- Amendment of section 9 of Act 32 of 1944, as substituted by section 2 of Act 8 of 1967 and amended by section 4 of Act 53 of 1970, section 8 of Act 102 of 1972, section 11 of Act 29 of 1974, section 24 of Act 94 of 1974, section 1 of Act 28 of 1981 and section 2 of Act 34 of 1986**
17. Section 9 of the Magistrates' Courts Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph: 45
- “(a) Subject to the [provisions of the law governing the public service] Magistrates Act, 1993, and the provisions of paragraph (b) of this subsection and of section 10, the Minister may appoint for any district or subdistrict a magistrate, one or more additional magistrates or one or more assistant magistrates and for every regional division a magistrate or magistrates.”. 50

#### Transitional provisions and saving

18. (1) Any person who immediately before the date of commencement of section 10 occupied the office of magistrate or held the substantive rank of magistrate or regional magistrate, shall as from the said date be deemed to have been duly appointed in terms of the provisions of section 9 of the Magistrates' Courts Act read with section 10 of this Act, and the provisions of this Act shall be applicable to such person. 55
- (2) The salary paid to a magistrate immediately before the date of commencement of the first notice contemplated in section 12(1), or any provision thereof 60

- dat hy aan voortdurende swak gesondheid ly, of dat hy nie oor die vermoë beskik om sy ampspligte op 'n bekwame wyse uit te voer nie;
- (k) die prosedure vir die behandeling van klagtes en grieve van regterlike beampes, en die wyse waarop en tyd wanneer of tydperk waarbinne en persoon aan wie stukke in verband met versoeke en mededelings van sodanige regterlike beampes voorgelê moet word;
- (l) die erkenning van 'n professionele vereniging;
- (m) die lidmaatskap of voorwaardes van lidmaatskap van 'n bepaalde mediese hulpskema of mediese hulpvereniging en die wyse en voorwaardes waarop lidmaatskapgeld en ander gelde wat deur of ten opsigte van regterlike beampes of hul afhanklikes aan 'n mediese hulpskema of mediese hulpvereniging betaalbaar of verskuldig is, verhaal kan word van die salaris van sodanige regterlike beampes, en aan so 'n mediese hulpskema of mediese hulpvereniging betaal moet word;
- (n) die bydraes tot en die regte, voorregte en verpligte van regterlike beampes of hul afhanklikes teenoor so 'n mediese hulpskema of mediese hulpvereniging;
- (o) in die algemeen, enige aangeleentheid, wat nie met hierdie Wet instryd is nie, wat redelikerwys nodig is vir die reëling van die diensvoorraad van regterlike beampes of 'n aangeleentheid wat in verband staan met die regte, bevoegdhede, werksaamhede en pligte van 'n regterlike beampie.
- (2) (a) 'n Regulasie kragtens hierdie artikel uitgevaardig, is van krag tensy en totdat die Parlement gedurende die sessie waartydens die lys in artikel 17 van die Interpretasiewet, 1957 (Wet No. 33 van 1957), bedoel wat op dié regulasie betrekking het, in die Parlement ter Tafel gelê is, die regulasie by besluit afkeur, in welke geval die regulasie verval met ingang van 'n datum wat in die besluit vermeld moet word.
- (b) Die verval van 'n regulasie ingevolge hierdie subartikel raak nie die geldigheid van enigiets wat kragtens die regulasie voor die datum vermeld in die besluit gedoen is nie.
- (c) Die bepalings van hierdie subartikel raak nie die bevoegdheid van die Minister om 'n nuwe regulasie uit te vaardig betreffende die aangeleentheid waaroor 'n regulasie wat ingevolge paragraaf (a) verval het, gehandel het nie.
- (3) 'n Regulasie kragtens hierdie artikel wat 'n Staatsuitgawe tot gevolg het, word met die instemming van die Minister van Staatsbesteding uitgevaardig.
- (4) 'n Regulasie kragtens subartikel (1) uitgevaardig, bevat nie 'n bepaling wat 'n landdros se diensvoordele soos dit onmiddellik voor die datum van inwerkingtreding van hierdie artikel bestaan het, tot sy nadeel raak nie.
- (5) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van landdroste en ander regterlike beampes uitgevaardig word.

**Wysiging van artikel 9 van Wet 32 van 1944, soos vervang deur artikel 2 van Wet 8 van 1967 en gewysig deur artikel 4 van Wet 53 van 1970, artikel 8 van Wet 102 van 1972, artikel 11 van Wet 29 van 1974, artikel 24 van Wet 94 van 1974, artikel 1 van Wet 28 van 1981 en artikel 2 van Wet 34 van 1986**

17. Artikel 9 van die Wet op Landdroshewe word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

"(a) Behoudens die [wetsbepalings met betrekking tot die staatsdiens] Wet op Landdroste, 1993, en die bepalings van paragraaf (b) van hierdie subartikel en van artikel 10, kan die Minister vir enige distrik of subdistrik 'n magistraat, een of meer addisionele magistrate of een of meer assistent-magistrate, en vir elke streekafdeling 'n magistraat of magistrate aanstel.".

**Oorgangsbeplings en voorbehoud**

18. (1) 'n Persoon wat onmiddellik voor die datum van inwerkingtreding van artikel 10 die amp van landdros of die substantiewe rang van landdros of streeklanddros beklee het, word vanaf genoemde datum geag behoorlik ingevolge die bepalings van artikel 9 van die Wet op Landdroshewe saamgelees met artikel 10 van hierdie Wet aangestel te gewees het, en die bepalings van hierdie Wet is op so 'n persoon van toepassing.

which may be applicable to him, shall be deemed to have been determined in terms of that section.

(3) The conditions of service applicable to a person referred to in subsection (1) immediately before the date of commencement of section 12, shall not be affected to his detriment, and no such condition of service shall, after such date, be construed or applied in a manner which is less favourable to the person concerned than the manner in which it was construed or applied immediately before the said date. 5

(4) Subject to the provisions of this Act, any—

- (a) law regarding any condition of service;
- (b) measure regarding the duties, functions and powers; or
- (c) arrangement regarding any administrative function,

which applied to a magistrate or other judicial officer immediately before the date of commencement of any regulation under section 16 relating to such matter, shall remain in force until the date on which such regulation commences. 15

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

**19.** (1) This Act shall be called the Magistrates Act, 1993, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act. 20

- (2) Die salaris wat aan 'n landdros betaal is onmiddellik voor die datum van inwerkingtreding van die eerste kennisgewing beoog in artikel 12(1), of 'n bepaling daarvan wat op hom van toepassing mag wees, word geag ingevolge daardie artikel bepaal te gewees het.
- 5 (3) Die diensvoorraades wat van toepassing was op 'n persoon bedoel in subartikel (1) onmiddellik voor die datum van inwerkingtreding van artikel 12, word nie tot sy nadeel geraak nie, en geen sodanige diensvoorwaarde word na daardie datum uitgelê of toegepas op 'n wyse wat minder gunstig is vir die betrokke persoon as die wyse waarop dit onmiddellik voor genoemde datum 10 uitgelê of toegepas is nie.
- (4) Behoudens die bepalings van hierdie Wet, bly enige—  
(a) wetsbepaling betreffende 'n diensvoorwaarde;  
(b) maatreël betreffende die pligte, werksaamhede en bevoegdhede; of  
(c) reëling betreffende 'n administratiewe funksie,
- 15 wat onmiddellik voor die datum van inwerkingtreding van 'n regulasie kragtens artikel 16 wat op so 'n aangeleentheid betrekking het en op 'n landdros of ander regterlike beampete van toepassing was, van krag tot die datum waarop so 'n regulasie in werking tree.

**Kort titel en inwerkingtreding**

- 20 **19.** (1) Hierdie Wet heet die Wet op Landdroste, 1993, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.  
(2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

