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CONTENTS

GOVERNMENT NOTICE

	<i>Page</i>
No. 76 Regulations made under the Judges' Remuneration Act, 1990 (Act 18, 1990)	1

Government Notice

DEPARTMENT OF JUSTICE

No. 76 1990

REGULATIONS MADE UNDER THE JUDGES' REMUNERATION ACT, 1990

The President has under section 5 of the Judges' Remuneration Act, 1990 (Act 18 of 1990), made the regulations set out in the Schedule.

SCHEDULE

Definitions.

1. In these regulations, unless the context indicates otherwise, any word to which a meaning has been assigned to in the Act, shall have that meaning, and -

“actual service” includes -

- (a) every vacation of the court;
- (b) every period of leave of absence granted under regulation 2(3), but excluding any period of leave referred to in regulation 2(2) or 2(4); and

(c) continuous service as acting judge immediately preceding service in a permanent capacity;

“Chief Justice” means the Chief Justice of the Supreme Court of Namibia;

“court” means the High Court or the Supreme Court of Namibia, as the case may be;

“effects” means household or personal effects, but excluding motor vehicles;

“family” means the spouse and any child of a judge who is not self supporting;

“judge” in relation to regulations 2(1) and (2), 3(1)(a) and 5(5)(a)(ii) and (iii), does not include an acting judge or an *ad hoc* judge of the Supreme Court appointed under Article 82(2), or an acting judge of the High Court appointed under Article 82(3), of the Namibian Constitution;

“Judge-President” means the Judge-President of the High Court of Namibia;

“leave of absence” means leave of absence on full pay;

“Minister of Justice” includes the holder of a post on the establishment of the Ministry of Justice acting on the authority of such Minister; and

“the Act” means the Judges’ Remuneration Act, 1990.

Leave of absence.

2. (1) The -

(a) Chief Justice shall grant any judge of the Supreme Court; and

(b) Judge-President shall grant any judge of the High Court,

whose services are in the opinion of the Chief Justice or the Judge-President, as the case may be, not required, leave of absence for not less than 50 days per annum during any vacation of the court, and the registrar of the court concerned shall keep a record of all leave of absence so granted in respect of the judges of each court.

(2) The President may, on the recommendation of -

(a) the Chief Justice and having regard to the number of judges available, grant to any judge of the Supreme Court; and

(b) the Judge-President and having regard to the number of judges available, grant to any judge of the High Court,

in addition to leave of absence referred to in subregulation (1), leave of absence for a period of 3 months for every period of 4 years actual service completed by such judge.

(3) If it appears from a certificate of a medical practitioner that owing to illness a judge is unable to carry out his or her duties for any period mentioned therein, the President may grant sick-leave for such period to the judge.

(4) If the President is satisfied in special circumstances that leave of absence should be granted in any particular case in respect of which no provision has been made for in this regulation, he or she may grant such leave subject to such conditions as he or she may deem necessary.

(5) No leave which may be granted under this regulation, shall be accumulative and no salary or allowance may be claimed in respect of any leave which could have been taken but which was not utilized.

(6) The Permanent Secretary for Justice shall keep a record of all leave granted by the President.

Allowances.

3. (1) (a) There shall be paid to any judge who is ordinarily resident in Namibia and who does not occupy a government house, a housing allowance of R650,00 per month.
- (b) There shall, during sessions of any court, be provided at government expense, suitable accommodation to any judge who is not ordinarily resident in Namibia and who does not occupy a government house.
- (2) The Chief Justice and the Judge-President, excluding an acting Chief Justice and an acting Judge-President, shall -
 - (a) in the case of the Chief Justice, receive an entertainment allowance of R2 500,00 per annum; and
 - (b) in the case of the Judge-President, receive an entertainment allowance of R1 500,00 per annum.
- (3) An acting judge shall be paid an amount of R75,00 per day for the duration of his or her appointment for maintaining his or her practice as an advocate.
- (4) Any judge who is on official duty away from Windhoek shall, during any period of actual absence, including short periods in which the judge returns to Windhoek at his or her own expense and if his or her commitments in respect of accommodation at the place where he or she performs his or her official duties continue in his or her absence, be entitled to an all inclusive subsistence allowance of R60,00 for every period of 24 hours or of a proportionate amount for any portion of such period: Provided that if the amount of such allowance is less than the amount reasonably spent by the judge in connection with accommodation, he or she shall be entitled to a subsistence allowance equal to such last-mentioned amount.

Claims for payment of allowances.

4. (1) All claims for payment of allowances in terms of these regulations shall, where applicable, state the nature of the services, the exact time of departure and arrival, and such other information as may be necessary to calculate the amount payable.

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

Transport.

5. (1) Any judge performing official duty outside Windhoek, but within Namibia, may use official transport, but if he or she uses his or her own private transport, he or she may be reimbursed at the rate of R0,50 per kilometre.

- (2) (a) If any sitting of the court takes place outside Windhoek, air transport may be used if the Chief Justice, in the case of the Supreme Court, or the Judge-President, in the case of the High Court, deems it to be necessary or expedient in the interests of the administration of justice.
- (b) (i) Any judge of the Supreme Court, other than the Chief Justice, who is not ordinarily resident in Namibia, shall be entitled to the costs of air travel to and from his or her place of permanent residence on as many occasions as are considered reasonable in all the circumstances by the Chief Justice acting in consultation with the Minister of Justice.
- (ii) If the Chief Justice is not ordinarily resident in Namibia, he or she shall be entitled to the costs of air travel to and from his or her place of permanent residence on as many occasions as are considered reasonable in all the circumstances by the Judicial Service Commission.
- (3) (a) If the Chief Justice or the Judge-President has to attend any function in Windhoek, or elsewhere in Namibia where they may be on official duty, they and their spouses may use official transport to attend such function.
- (b) If any other judge is elsewhere than in Windhoek, but within Namibia, on official duty and he or she has to attend any function there, he or she and his or her spouse may use official transport to attend such function.
- (4) (a) The Chief Justice and the Judge-President shall be entitled to be accompanied by their spouses on official journeys within Namibia which lasts for 5 days or more, at government expense and to claim in respect of their spouses the subsistence allowance referred to in regulation 3(4).

- (b) Any other judge shall be entitled to be accompanied by his or her spouse on official journeys within Namibia -
- (i) for a sitting of the court elsewhere than in Windhoek which lasts for 5 days or more;
 - (ii) to any occasion approved by the President,
- at government expense if such spouse uses the same vehicle as the judge, and to claim in respect of such spouse the subsistence allowance referred to in regulation 3(4).
- (5) (a) If any person who is not ordinarily resident in Namibia, is appointed as a judge, there shall be defrayed from the State Revenue Fund, the costs connected with -
- (i) his or her journey and that of his or her family to Windhoek, in so far as such costs do not exceed the costs of air transport;
 - (ii) the transport to Windhoek or to or from a warehouse for or after storing, of his or her effects and those of his or her family, or connected with the storing of such effects, subject to the provisions of paragraph (b), (c) and (d);
 - (iii) the transport to Windhoek of not more than two of his or her motor vehicles or those of his or her family by goods train at owner's risk and incidental expenses on loading or unloading of the vehicles, not exceeding R23,00 per vehicle.
- (b) If any effects have to be transported or stored, the registrar of the court in respect of whom such person has been appointed as a judge, shall obtain tenders in writing beforehand from not less than three cartage contractors for the packing, loading, transporting, unloading or unpacking, or the storage in a warehouse of such effects and for insurance cover thereof while being transported or stored, and unless the Minister of Justice for good reasons otherwise directs, the lowest tender shall be accepted.
- (c) If the Minister of Justice for good reasons grants his or her permission thereto, effects may, prior to or after transporting thereof to Windhoek, be stored in a warehouse for a period not exceeding 6 months.
- (d) Subject to the provisions of paragraph (c), effects or motor vehicles shall be transported to Windhoek before the expiration of a period of 2 months after the judge concerned has assumed office, unless the Minister of Justice within such period grants an extension of time for the transporting thereof.
- (6) On the retirement or death of any judge, his or her effects may be transported only once to any place in Namibia or, in the case of a judge who was ordinarily resident outside Namibia before his or her appoint-

ment, to a place where he or she, or his or her widow or widower, as the case may be, intends settling, and the provisions of subregulation (5) shall *mutatis mutandis* apply: Provided that the transporting shall not take place earlier than 2 months prior to or later than 6 months after the date of retirement, or later than 6 months after the date of death.

Repeal

6. Government Notices AG. 160 of 1981 and 21 of 1988 are hereby repealed.
