



Minutes of the Portfolio Committee on Justice and Constitutional Development

Date: 29 January 2014

Time: 09:00

Venue: M 514, First Floor, Marks Building, Parliament

Agenda: Deliberations on the State Attorney Amendment Bill [B52-2013]; Briefing by the Department of Justice and Constitutional Development on the Draft notice and schedule determining the rate, with effect from 1 April 2013, at which salaries, allowances and benefits are payable to Constitutional Court Judges and Judges annually, for approval by Parliament in terms of section 2(4) of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No 47 of 2001); Briefing by the Department of Justice and Constitutional Development on the Draft notice and schedule determining the rate, with effect from 1 April 2013, at which salaries, allowances and benefits are payable to magistrates annually, for approval by Parliament in terms of section 12(3) of the Magistrates Act, 1993 (Act No 90 of 1993); Meeting with Khulumani Support Group.

Attendance by Committee Members

Status	Name of Member	Political Party	Province
Present	Mr L Landers (Chairperson)	African National Congress (ANC)	<i>[Applicable to NCOP Committees]</i>
	Dr M Motshekga		
	Ms M Pilane-Majake		
	Ms D Schafer	Democratic Alliance (DA)	
	Ms D Smuts		
	Ms L Adams	Congress of the People (Cope)	
	Mr S Swart	African Christian Democratic Party (ACDP)	
Apologies	Mr P Holomisa	African National Congress (ANC)	
	Prof G Ndabandaba		

Officials in attendance

Name of delegate	Organisation	Designation
Ms I Botha	Department Of Justice and Constitutional Development	Senior State Law Adviser
Ms K Pillay	Department of Justice and Constitutional Development	DDG: Legislative Development
Mrs Sneydman Ms N Bonase	Khulumani Support Group	NGO

Parliamentary support staff

Parliamentary support staff	Designation
Mr B M Mantyi	Committee Secretary
Mr V Ramaano	Committee Secretary
Ms C Silkstone	Content Adviser
Ms G Nesbitt	Committee Researcher
Ms S Goba	Committee Assistant

1. Introduction

The Chairperson welcomed all in attendance and confirmed the agenda of the meeting.

2. Consideration of minutes of the previous meeting(s)

Not applicable.

3. Deliberations on the State Attorney Amendment Bill

The Department took the Committee through the Bill, noting all amendments that the Committee made in previous meetings.

4. Resolutions of the Portfolio Committee (State Attorney A/B)

- Clause 2 – The Committee decided that, at a minimum, the candidate for Solicitor-General must be an admitted attorney. The Committee expressed discomfort with the inclusion of the words “and entitled” in 2(1)(a). Further to this, it was suggested that words be included to the effect that the Minister, when exercising control over this office, should have “due regard to the ethical norms and standards of the profession”.
- Clause 2 (2) – The Committee agreed that the words “any further period” is vague; hence the Bill should indicate a five-year renewable term of office.
- Clause 2(4) – The Committee agreed on the amendments as reflected.
- Clause 3(1) – The Committee agreed on the deletion as indicated.
- Clause 3(4) – The Committee agreed to the amendments. It was noted that the drafting in this section should make it clear that it is Minister’s responsibility to make policy; hence the consultation process should not stifle this objective.
- Clause 4 (4) – The Committee agreed on the deletions reflected.
- Clause 5 – The Committee agreed to all the deletions regarding to the reference to stamp duties.
- Clause 6 – The Committee agreed to all the amendments.
- Clause 7 – The Committee agreed to all the amendments, including the insertion of section 7(3)(b).
- Clauses 8 – 12 – The Committee agreed to the reflected amendments.

5. Briefing by the Department on the Draft Notice and Schedule determining the rate, with effect from 1 April 2013, at which salaries, allowances and benefits are payable to Constitutional Court Judges, Judges *and* Magistrates annually.

The Department advised the Committee that the Independent Remuneration Commission had initially recommended that judicial officers earning more than a R1 million, not receive an annual increment; while lower earning judicial officers receive a 5% increment with effect from the 1 April 2013. However, as this would amount to a *de facto* reduction in the salary of judges, who all earn more than a R1 million, the President decided not to follow the Independent Commission’s recommendation and granted a 5% increase for all judges.

In view of this, the Portfolio Committee agreed to the DA’s request for an opportunity to refer the issue to its Caucus before the Committee made its final recommendation on the issue.

6. Meeting with Khulumani Support Group

This meeting was a continuation of the morning session, which had taken a break and reconvened at 12:00 for the Committee to meet with Khulumani Support Group. The Chair advised the representatives from Khulumani Support Group that the Committee felt that Parliament had appointed a Committee to deal with the issue of the TRC's recommendations and had adopted a report that made recommendations relating to the reparations process. However, the Committee decided to allow Khulumani Support Group to approach it. Further, the Committee does not have the mandate to alter decisions that were reached by previous structures that dealt with the issue.

It was also noted that in the letter to the Committee, Khulumani Support Group indicated that in November 2013 they handed a memorandum for the attention of the Committee to an official of the Department. The memorandum never reached the Portfolio Committee; and that the person who received the memorandum did not have the mandate to do so on behalf of the Committee.

In response, representatives from Khulumani Support Group noted the following areas of concern:

- They were under the impression that this meeting with the Committee was convened in response to issues raised in the memorandum.
- A number of victims, most of whom are their members, were excluded from the list of declared victims.
- The Department has not consulted enough on the regulations published on the reparations process.

As the Committee had not received the initial petition, it decided that it was unable to engage meaningfully with Khulumani. In addition, the issue of declared victims had been dealt with at the time of the TRC: these were the people that appeared and testified before it. The Committee does not have jurisdiction to 'reopen' this matter. Moreover, the Committee decided it would be premature for it to deal with complaints related to the regulations, as the Department is engaged with a consultation process with stakeholders: the closing date being Friday, 31 January 2014. Therefore Khulumani still has an opportunity to contribute to the final product by making a submission to the Department.

7. Presentation documents are available on request from the Committee Secretary.

- State Attorney Amendment Bill [B52 – 2013].
- Khulumani Support Group presentation.
- Khulumani Support Group: Ten Arguments against the DOJ&CD's 'closed list'.
- Draft Notice and Schedule determining the rate, with effect from 1 April 2013, at which salaries, allowances and benefits are payable to Constitutional Court Judges, Judges annually for approval by Parliament in terms of s 2(4) of the Judges Remuneration and Conditions of Employment Act 2001.
- Draft Notice and Schedule determining the rate, with effect from 1 April 2013, at which salaries, allowances and benefits are payable to Magistrates annually, for approval by Parliament in terms of section 12(3) of the Magistrates Act, 1993.

8. Closing Remarks by the Chairperson

The Chair advised the Committee of next week's meetings and closed the meeting.

9. Adjournment

The Committee ended at 13:20.

Mr L. Landers

Chairperson: PC on Justice and Constitutional Development

Date