

Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 732 17 June Junie 2026 No. 54864

ISSN 1682-5845



N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

NO FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

No.		*Gazette No.*	*Page No.*
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Justice and Constitutional Development, Department of / Justisie en Staatkundige Ontwikkeling, Departement van			
7613	Section 174(1) of the Constitution: Guidelines for the appointment of Judges.....	54864	3

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. 7613 **17 June 2026**

GUIDELINES FOR THE APPOINTMENT OF ACTING JUDGES IN THE SUPERIOR COURTS, SUPREME COURT OF APPEAL AND SPECIALIST COURTS

The Minister of Justice and Constitutional Development, acting under section 175(2) of the Constitution of the Republic of South Africa, 1996, and with the concurrence of the Chief Justice and after consulting the heads of courts, hereby publish the Guidelines for the appointment of Acting Judges in the Superior Courts, Supreme Court of Appeal and Specialist Courts, as set out in the Schedule for public information.

This Guideline will be implemented incrementally with effect from 1 July 2026 taking into consideration the resource implications arising therefrom.

MS M T KUBAYI, MP
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
DATE: 12/06/2026

GUIDELINES FOR THE APPOINTMENT OF ACTING JUDGES IN THE SUPERIOR COURTS, SUPREME COURT OF APPEAL AND SPECIALIST COURTS

PREAMBLE

WHEREAS section 175(2) of the Constitution of the Republic of South Africa (hereinafter referred to as the "Constitution") enjoins the Minister of Justice and Constitutional Development (the Minister) to appoint Acting Judges to all Superior Courts other than the Constitutional Court after consulting the Head of Court or the Senior Judge of the Court in which the Acting Judge will serve;

AND WHEREAS section 174(1) of the Constitution provides that an appropriately qualified woman or man who is fit and proper may be appointed as a judicial officer and where a person is appointed to the Constitutional Court, such person must be a South African citizen;

AND WHEREAS in considering the appointment of Acting Judges regard must be had to the need for the Judiciary to reflect broadly the racial and gender composition of South Africa as envisaged in section 174(4) of the Constitution;

AND WHEREAS the Minister has been in consultation with the Judiciary and the legal profession regarding the development of uniform guidelines for the appointment of Acting Judges to all Superior Courts other than the Constitutional Court, and received their comments and inputs;

NOW THEREFORE, the Minister hereby publishes these Guidelines for the appointment of Acting Judges of the Superior Courts other than the Constitutional Court, which will commence on a date to be announced by the Minister.

CONTENTS

1. DEFINITIONS
2. INTRODUCTION
3. PURPOSE OF THE GUIDELINES
4. SCOPE AND APPLICABILITY OF THE GUIDELINES
5. DISCUSSION
6. CIRCUMSTANCES UNDER WHICH ACTING JUDGES ARE TO BE APPOINTED
7. CRITERIA FOR THE APPOINTMENT OF ACTING JUDGES TO DIVISIONS OF THE HIGH COURT AND SPECIALIST COURTS
8. CRITERIA FOR THE APPOINTMENT OF ACTING JUDGES TO THE SUPREME COURT OF APPEAL
9. PROCEDURE FOR APPOINTMENT OF ACTING JUDGES IN THE HIGH COURT AND SPECIALIST COURTS WHERE APPLICABLE
10. PROCEDURE FOR APPOINTMENT OF ACTING JUDGES IN THE SUPREME COURT OF APPEAL
11. TERM OF OFFICE FOR ACTING JUDGES
12. REVIEW OF THE GUIDELINES

1. DEFINITIONS

Unless the context indicates otherwise, the following terms used herein have the meanings reflected below:

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Court" or "Superior Court" means the Supreme Court of Appeal, a Division of the High Court of South Africa, and any other Court established by or recognised in terms of an Act of Parliament of a status similar to that of the High Court of South Africa or of a status similar to that of the Supreme Court of Appeal;

"Department" means the Department of Justice and Constitutional Development;

"Head of Court", in relation to:

(a) the Supreme Court of Appeal, means the President of the Supreme Court of Appeal,

(b) any Division of the High Court, means the Judge President of that Division, and

(c) any other Court of a status similar to the High Court or of a status similar to that of the Supreme Court of Appeal, means a Judge President or the most senior Judge of such Court;

"Legal Practice Council" means the South African Legal Practice Council established in terms of section 4 of the Legal Practice Act, 2014 (Act No. 28 of 2014);

"Minister" means the Cabinet Member responsible for the administration of justice;

"Specialist Courts" means the Competition Appeal Court, Electoral Court, Land Court, Labour Court and Labour Appeal Court.

2. INTRODUCTION

2.1. There have been widespread calls for the publication of guidelines for the appointment of Acting Judges from within the Judiciary, the legal profession and the public at large. These Guidelines will go a long way towards strengthening the relationship with the Judiciary and legal profession and fostering an environment for the enhancement of communication with stakeholders.

2.2. The Minister has compiled Guidelines on the Appointment of Acting Judges in the Superior Courts in consultation with the Judiciary in accordance with the relevant provisions of section 175 of the Constitution of the Republic of South Africa, 1996 (the Constitution).

3. PURPOSE OF THE GUIDELINES

3.1. The independence of the Courts and Judiciary is protected and guaranteed by section 165(2) of the Constitution. Section 165(4) of the Constitution further places a constitutional duty on organs of State, through legislative and other measures, to assist and protect the courts to ensure their independence, impartiality, dignity, accessibility and effectiveness.

3.2. The objectives of these Guidelines are to -

3.2.1. give effect to section 165(4) of the Constitution by setting out clear, uniform and transparent criteria and procedures for the appointment of Acting Judges, which is aimed at promoting judicial independence and effectiveness of the Courts, thus enhancing the Rule of Law;

3.2.2. regulate the process for the appointment of Acting Judges and promote equitable access to acting stints in order to increase the number and quality of candidates available for appointment to the Judiciary;

3.2.3. enhance public trust and confidence in the judicial system by providing transparency in the process of appointing Acting Judges; and

3.2.4. to assist the Minister in exercising the function of appointing Acting Judges after the Minister has consulted the relevant Heads of Court.

4. SCOPE AND APPLICABILITY OF THESE GUIDELINES

These Guidelines shall apply to the appointment of Acting Judges to the Supreme Court of Appeal, Divisions of the High Court, and Specialist Courts.

5. DISCUSSION

5.1. Acting judicial appointments are governed by Section 175 of the Constitution. The relevant section makes provision for the appointment of Acting Judges, where there is a vacancy in the court or where the Judge is absent.[1]

5.2. In terms of this practice, requests for the appointment of Acting Judges come directly from the Heads of Courts to the Minister. These requests usually take the form of a written request containing, amongst other particulars, the name of the candidate whom the Head of Court is recommending for an acting appointment in his or her jurisdiction, his or her curriculum vitae (CV) and motivation for his or her appointment. A CV and motivation are unnecessary for the appointment of a person or a Judge as an Acting Judge where he or she has previously been appointed as an Acting Judge.

---

[1] 175(1) The President may appoint a woman or man to serve as an acting Deputy Chief Justice or judge of the Constitutional Court if there is a vacancy in any of those offices, or if the person holding such an office is absent. The appointment must be made on the recommendation of the Cabinet member responsible for the administration of justice acting with the concurrence of the Chief Justice, and an appointment as acting Deputy Chief Justice must be made from the ranks of the judges of the Constitutional Court.
(2) The Cabinet member responsible for the administration of justice must appoint acting judges to other courts after consulting the senior judge of the court on which the acting judge will serve.

6. CIRCUMSTANCES UNDER WHICH ACTING JUDGES ARE TO BE APPOINTED

6.1. The appointment of Acting Judges may be made where any of the following circumstances exists -

6.1.1. there is a vacancy in the relevant Court;

6.1.2. a permanently appointed Judge is temporarily unavailable due to ill health, leave of absence, performing other official duties, or any other reason for which the law allows leave of absence; and if a Judge of one Division is temporarily assigned to another Division in terms of section 6(5) of the Superior Courts Act No 10 of 2013, such assignment must take place by way of an acting appointment.

6.2. Only under exceptional circumstances, and where there is a need, shall consideration be given to the appointment of Acting Judges to temporarily increase the judicial capacity at a Court, having regard to budgetary implications, the judicial requirements of Court, and any other factor deemed necessary by the Minister in consultation with the Head of Court or Senior Judge.

6.3. Time frames must be set. A request for Acting Appointments must be sent two weeks in advance. Late requests for Acting appointments must be accompanied by detailed motivation. Such requests may only be considered in exceptional circumstances including medical reasons and any other emergency.

6.4. The request must clearly state for what reason the acting appointment is being sought (ie a judge is on leave, a vacancy).

6.5. Information about the racial and gender composition of the Judges in a court in which an Acting Judge is required must be included in the request.

7. CRITERIA FOR THE APPOINTMENT OF ACTING JUDGES TO DIVISIONS OF THE HIGH COURT AND SPECIALIST COURTS

7.1. All candidates for appointment as Acting Judges must be fit and proper persons in good standing with the Legal Practice Council and/or recognised law body, to which they belong.

7.2. All candidates for appointment as Acting Judges must be appropriately qualified in law and the candidates considered for appointment to act in a Specialist Court must have the knowledge, demonstrable expertise and experience in the relevant field of law.

7.3. Candidates must generally have a minimum of 12 years of continuous or cumulative experience in one or more of the following areas:

7.3.1. practising as an Advocate or Attorney/legal practitioner as defined in the Legal Practice Act;
7.3.2. Magistrate; or
7.3.3. lecturing in law at a tertiary institution.

7.4. Once a candidate meets the above requirements, the Minister, in performing the function of appointing Acting Judges, shall take the following factors into account:

7.4.1. The need for the judiciary to reflect broadly the racial and gender composition of South Africa, as well as expertise on the law, demonstrable experience, diligence and track record of the candidate in his or her current profession;

7.4.2. demonstrable commitment by a candidate to transformation which is objectively verifiable by reference to any relevant factor, including but not limited to-

(a) the extent to which the candidate has actively played a mentoring role to junior legal practitioners or candidate legal practitioners, particularly women and those of previously disadvantaged backgrounds;

(b) the degree to which the candidate has generally participated in the enhancement of transformation through the structures of the legal profession;

(c) the extent to which a candidate has involved junior legal practitioners or candidate legal practitioners, particularly women and those from previously disadvantage backgrounds, in matters in which the candidate has been involved particularly important legal matters;

(d) a potential conflict of interest relating to the candidate's appointment which must be disclosed in writing to the Judge President.

7.5 The request for term appointments must be made at least four weeks before the date on which the appointment is expected to take place, unless special circumstances justify a shorter period in a specific case.

8. CRITERIA FOR THE APPOINTMENT OF ACTING JUDGES TO THE SUPREME COURT OF APPEAL

8.1. Candidates shall be considered for appointment from the ranks of permanent Judges of the High Court or Specialist Courts.

8.2. The advancement of transformative imperatives and fair opportunity shall be taken into account by the Minister when considering acting appointments to the Supreme Court of Appeal.

9. PROCEDURE FOR APPOINTMENT OF ACTING JUDGES IN THE HIGH COURT AND SPECIALIST COURTS WHERE APPLICABLE

9.1. The Judge President or most senior Judge of the Division of the High Court or Specialist Court shall identify candidates for appointment as Acting Judges of his or her Court and request the Minister to appoint such candidate or candidates. The Minister appoints Acting Judges to all Courts other than the Constitutional Court, after consulting the Head of Court in which the Acting Judge will serve.

9.2. A Head of Court may inform the Legal Practice Council, the Magistrate's Commission or any other relevant legal body of any vacancy in his or her Court, and invite the Legal Practice Council, the Magistrate's Commission and the relevant legal body to recommend suitable candidates for consideration for appointment as Acting Judges of the Court.

9.3. A Head of Court may further consider soliciting comments and recommendations from other Judges in his or her Division for purposes of considering a submission of recommendations or a request to the Minister for appointment of an Acting Judge or Acting Judges.

9.4. The submission to the Minister shall include the following:

9.4.1. names of recommended candidates, race, gender and areas of specialisation where applicable;

9.4.2. in addition to 9.4.1, for candidates recommended for the first time the submission must include -

(i) a brief motivation from the Head of Court;

(ii) the candidate's CV; and

(iii) a certificate of good standing from a recognised law body of which the candidate is a member;

9.4.3. the submission must clearly state the circumstances in which the appointment is sought; and

9.4.4. a breakdown of the current racial and gender composition of the Court.

9.5 Whilst it is understood that the request for the appointment on *pro bono* basis is essentially based on the need to create opportunities for legal professionals with practical experience to develop judicial skills through exposure on the Bench, and to assist the courts with disposing backlog court rolls, the respective Heads of Court making such a request must provide detailed reasons for any *pro bono* appointments to be made.

10. PROCEDURE FOR APPOINTMENT OF ACTING JUDGES IN THE SUPREME COURT OF APPEAL

10.1. The President of the Supreme Court of Appeal shall, in addition to his or her own identification of suitable candidates and consideration of recommendations made to him or her, endeavour to invite the Heads of Court of the Provincial Divisions of the High Courts and Specialist Courts to nominate Judges in their Courts for appointment as Acting Judges of the Supreme Court of Appeal.

10.2. The President of the Supreme Court of Appeal may consider all relevant factors such as judicial experience, judgments written, expertise, the needs of the court, transformative imperatives and affording fair opportunity, when making recommendations to the Minister.

10.3. For first time candidates recommended, the President of the Supreme Court of Appeal shall submit a brief motivation to the Minister.

10.4. The President of the Supreme Court of Appeal shall submit recommendations to the Minister at least one (1) court term in advance to enable the Minister to make appointments one (1) month before the acting appointment is due to commence, unless there exist special circumstances for shorter periods in specific cases.

11. TERM OF OFFICE OF ACTING JUDGES

Subject to section 48 of the Superior Courts Act, 2013, an Acting Judge in the High Court may not serve for a period exceeding four (4) consecutive court terms, save in exceptional circumstances, where a motivation for a longer period is provided by the Head of Court to the Minister.

12. REVIEW OF GUIDELINES

These Guidelines shall be reviewed at least every three (3) years and whenever necessary.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

This gazette is also available free online at **www.gpwonline.co.za**