



JUDICIARY OF SOUTH AFRICA



Booklet on the Conditions and Benefits for Judges



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1. BACKGROUND AND INTRODUCTION

1.1 The comprehensive conditions and benefits of Judges are contained in the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No 47 of 2001) (the Act), and Regulations to the Act. The Superior Courts Act 10 of 2013 also provide for recess periods. This booklet seeks to provide a simplified version of these conditions and benefits as contained in the Act, the Regulations and the draft Judges' Administrative Manual (a guideline for conditions, benefits and privileges to which Judges are entitled.)

1.2 Judges do not form part of the Handbook for benefits and privileges of members of the Executive and Presiding Officers (Ministerial Handbook of 2007). However, Annexure H in the Ministerial Handbook provides for benefits of certain members of the Judiciary. In particular, it provides for

prestige accommodation and domestic services to the Chief Justice and Deputy Chief Justice similar on par with Ministers, Deputy Ministers and Presiding Officers of Parliament. It also entitles the Chief Justice, Deputy Chief Justice and Judges President with security measures similar to those allocated for Ministers, Deputy Ministers and Presiding Officers of Parliament.

1.3 The Constitution of the Republic of South Africa, 1996 (the Constitution), further makes provision for terms of office and remuneration of Judges. All these regulatory instruments, together with the draft Judges' Administrative Manual provide a basis for conditions and benefits for Judges.

2. SOURCES OF THE JUDGES CONDITIONS AND BENEFITS

The Judges' conditions of employment and benefits are derived from:

- (a) Judges' Remunerative and Conditions of Employment Act 49 of 2001;
- (a) Judges' Remunerative and Conditions of Employment Regulations of 2001;
- (c) The Constitution of the Republic of South Africa, 1996;
- (d) Ministerial Handbook of 2007;
- (e) Judges' Administrative Manual (Draft based on common administrative practice);
- f) Undertaking in respect of Participation in the Car Scheme for Judges; and
- (g) Conditions on which Government Motor Vehicles are allocated to Judges.





3. TERM OF OFFICE

(Section 176 of the Constitution and Section 4 of the Act)

- 3.1 A Constitutional Court Judge holds office for a non-renewable term of 12 years or until he or she attains the age of 70, whichever occurs first, except where an Act of Parliament extends the term of office of a Constitutional Court Judge. The following sections 4(1) and (2) of the Act gives effect to this constitutional provision by extending the term of office.
- 3.2 A Constitutional Court Judge whose 12-year term of office expires before completing 15 years' active service as a Constitutional Court Judge must continue to perform active service until such Judge completes a period of 15 years' active service.
- 3.3 A Constitutional Court Judge, who attained the age of 70 years but has not completed 15 years' active service, must continue to perform active service as a Constitutional Court Judge until he or she completes a period of 15 years' active service or attains the age of 75 years, whichever occurs first.



4. REMUNERATION

- 4.1 The salary, allowances and benefits of Judges are determined from time to time by the President of the Republic of South Africa by notice in the Gazette, after taking into consideration the recommendation of the Independent Commission for Remuneration of Public Office-bearers.
- 4.2 The total remuneration (annual salary plus allowance/benefits) of Judges (including Acting Judges) consists of:
- A cash annual salary component of 72, 24%; plus;
 - A non-cash component of 27,76% (which includes motor vehicle allowance and employer's medical aid contribution).
- 4.3 All Judges are entitled to a non-taxable allowance of R3 500.00 annually in addition to their salaries.
- 4.4 A Judge is not allowed to hold or perform any other office of profit or receive in respect of any service any payments or remuneration apart from his or her salary, except with the permission of the Minister.
- 4.5 Salaries, allowances and benefits of Judges may not be reduced.



5. OFFICIAL RESIDENCE

(Annexure H to Ministerial Handbook)

- 5.1 The Chief Justice and Deputy Chief Justice are entitled to prestige accommodation and domestic services similar with Ministers, Deputy Ministers and Presiding Officers of Parliament.
- 5.2 The Chief Justice, Deputy Chief Justice and Judges President are entitled to security measures in their official residencies similar to those allocated for Ministers, Deputy Ministers and Presiding Officers.

6. OFFICE ACCOMODATION

(Judges' Administrative Manual)

- 6.1 The National Department of Public Works provides office accommodation for Judges based on a certified needs assessment signed by the Secretary-General. regional office, to the Office of the Chief Justice (OCJ) national office. Both Government-owned and rented accommodation are subject to this procedure.
- 6.2 Any need for office space needs to be brought to the attention of the Registrar who will then submit the proposal, via the relevant



7. TOOLS OF TRADE AND OTHER RESOURCES

(Judges' Administrative Manual)

- | | |
|------------------------------|--|
| <i>Labour-Saving devices</i> | |
| 7.1 | Judges are entitled to labour-saving devices on fully motivated application to the Registrar. |
| <i>Telephone facilities</i> | |
| 7.2 | Judges are entitled to telephone facilities on application to the Registrar. |
| <i>Computer Equipment</i> | |
| 7.3 | Judges are entitled to a desktop computer or a laptop computer, while Judges clerks are entitled to a desktop computer. Head office must receive, via the Registrar, a fully motivated application in terms of the Justice Code Logistics. |
| <i>Judges Secretaries</i> | |
| 7.4 | Each Judge is entitled to a Secretary. |
| 7.5 | A Judge is responsible for recruiting his or her Secretary, having regard to the Judge's specific needs. The National Office assist Judges with the recruitment of a Secretary and information on the Secretary's rank, requirements for the rank in question, conditions of employment, performance evaluation and promotion. |

8. MOTOR VEHICLE AND TRAVELLING

(Section 12 of the Act; regulation 11 and Judges' Administrative Manual)

8.1 A motor vehicle owned by the State may, on such conditions as the Minister may determine with the concurrence of the Minister of Transport, be made available to a permanent Judge or acting Judge in active service or performing service, for use, in accordance with the conditions so determined.

8.2 As far as possible acting Judges must make use of a pool of available vehicles at the High Court concerned or use their private vehicles and claim their prescribed travelling allowance.

8.3 Before taking possession of a motor vehicle in terms of Section 12 of the Act, the Judge must sign the undertaking in respect of participation in the vehicle scheme for Judges.

8.4 The Chief Justice or acting Chief Justice, or President or acting President of the

Supreme Court of Appeal is entitled to a fulltime driver. Other Judges are also entitled to a fulltime driver provided that such other Judge declares that he or she cannot reasonably dispense with the services of an official full-time driver.

Class of Car

8.5 The class of Government car that is made available to a Judge shall be determined by the Minister of Justice and Correctional Services in consultation with the Minister of Transport. Within the class concerned, a Judge may choose a make and colour for the new car from the following:

- A Mercedes Benz S350 A
- A BMW 740iA;
- Any less expensive sedan than the above; or
- A 4x4 not exceeding the price of the above Mercedes Benz or the BMW.

8.6 Judges place their orders with the Registrar giving details in the following way:

Make: BMW

Model: 740i

Interior colour: Midnight blue

Exterior colour: White

Replacement purchases

8.7 The National Office pays for the first car supplied to a Judge and the provincial Department of Transport concerned pays for replacement cars. Cars may be replaced after they have completed 160 000 kilometres or after 4 years.

8.8 A car supplied to a Judge will be replaced, at the discretion of the Director-General: Transport, if it is no longer suitable for its original purpose.

Additional equipment

Authorised drivers for Judges

8.9 An authorised driver is anyone of the following:
(a) The Judge's spouse and/or family relative provided that the Judge does not have to be supplied with another government

owned car while his or her spouse is using the car; or

(b) A competent person designated by the Judge or his or her spouse provided either the Judge or his or her spouse is in the car;

(c) The following persons authorised by the Judge whether or not the Judge or his or her spouse is in the car:

(i) An officer or employee of the Republic of South Africa; or

(ii) An owner or employee of a commercial garage to which the motor car has been entrusted for repair, testing or servicing.

- Legal Liability*
- 8.10 A Judge and any authorised driver are expected to adhere to traffic and other regulations at all times. Any contravention of the regulations will be a private matter and no liability in any form will be accepted by the State.
- 8.11 The State indemnifies a Judge or authorised driver against any third-party claims under the protection granted to the driver in terms of the Road Accident Fund Act, 1996 (Act No. 56 of 1996) provided that:
- (a) The authorised driver has an appropriate driver's license;
 - (b) The authorised driver is not found guilty of being under the influence of alcohol or narcotic drugs or having an alcohol concentration in his or her blood of more than the legal limit;
 - (c) The authorised driver does not admit liability before consulting a State Attorney;
 - (d) The driver of the car was properly authorised to drive the car; and
 - (e) The Judge had not allowed an unauthorised driver to drive the car.
- 8.12 An authorised driver involved in an accident while driving a Government-owned car and subsequently charged with a criminal offence or who has a civil claim brought against him or her is entitled to legal defense paid for by the State unless he or she did not comply with any of the provisions in paragraph (a) to (e) above.
- Loss or theft*
- 8.13 Any loss, damage, theft or deficiency experienced by a Judge or authorised driver using a government-owned car must immediately be reported to the Registrar, who will advise the Secretary-General and the government garage of origin of the car. If the incident occurs away from the Judge's headquarters it must be reported to the police immediately and to the Registrar as soon as the Judge

- returns, and directly to the appropriate Government garage if the car has to be handed back to the Government garage.
- Travelling outside South Africa*
- 8.14 Where it is necessary for a Government motor vehicle to be used beyond the borders of the Republic, the office manager concerned shall first arrange through the Secretary-General to obtain the necessary insurance and other necessary documents.
- Buying cars from the State*
- 8.15 On discharge from active service, a Judge may buy a car allocated to him or her at the resale value of the car in the Open market. The Office of the Chief Justice must be notified of the Judge's intention to purchase the car.
- Official use*
- 8.16 All Government-owned cars remain the property of the State. The car must be returned to the State as soon as a Judge's appointment ends, unless the Judge wishes to buy the car from the State.
- 8.17 A Judge to whom a Government motor vehicle has been allocated shall use such vehicle for all official journeys that he has to undertake except where, in the opinion of the Minister of Justice and Correctional Services, it would be impossible or impractical to use such vehicle.
- 8.18 Journeys between a Judge's residence and place of work are considered official journeys.
- Private use*
- 8.19 A Judge may use a Government motor vehicle for private purposes provided that, if in a cycle of four financial years he travels for private purposes a distance of more than 60 000 kilometres for four consecutive financial years of actual service completed, he or she shall compensate the State for the distance travelled in excess of 60 000 kilometres at the tariff per kilometre determined from time to time by the Treasury.

- 8.20 Unused private kilometres lapse at the end of each cycle of four years. No compensation shall be payable for accumulated distances for private purposes.
- 8.21 The registrar/office manager should keep record of the private kilometres driven by each permanent Judge.
- 8.22 For private use an authorised driver may drive the government owned car allocated to the Judge.
- Servicing*
- 8.23 Judges must ensure that the cars allocated to them are serviced and maintained in accordance with the motor vehicle's manufacturer's specifications.
- 8.24 A Judge, on arrangement with the Registrar, is entitled to use a car from the existing stock of the Department of Transport while his or her car is being serviced.
- 8.25 Cars must be serviced at a Government garage, where one is available.
- Judges and authorised drivers from centers where there is no Government garage must send their cars to the local agent for the make of car, if one is not available, to a reliable commercial garage for service.
- 8.26 Government-owned cars are usually under warranty for the first 20,000 kilometers. If any defect is discovered on the car before completion of this distance it should immediately be reported to the Government garage or to the local agent for the make of car at centres where there is no government garage. Failing this the defect must be reported to the Government garage of origin of the car.
- 8.27 Judges should avoid cash payments to suppliers wherever possible. Where this cannot be avoided, receipts must be obtained for any cash spent and the Judge will be reimbursed provided he or she issues an appropriate order form in his or her own favour.



9. SUBSISTENCE ALLOWANCE

(Regulation 14)

- 9.1 A Judge or acting Judge on official duties away from headquarters or on circuit court duty and acting Judge whose headquarters are situated outside the district in which such acting Judge permanently resides, is entitled to an all-inclusive subsistence allowance of R792.00 for every 24 hours that he or she is actual absent from headquarters or home during his or her appointment, as the case may be.
- 9.2 The allowance for an uncompleted period of 24 hours should be calculated proportionately according to the number of full hours of absence.
- 9.3 The subsistence allowance may also be paid, in respect of short periods during which a Judge returns to his or her headquarters or when he or she pays a visit elsewhere, provided that his or her commitments in respect of accommodation continue at the place where he or she performs his or her official duties.
- 9.4 An all-inclusive subsistence allowance of R145 is paid for a period of absence on official duties of less than 24 hours in total in circumstances mentioned in paragraph 17.1 above.



Settlement Allowance

10. SETTLEMENT ALLOWANCE

(Regulation 15)

- 10.1 A settlement allowance of R792.00 will be paid to the Chief Justice or Acting Chief Justice or the President or acting President of the Supreme Court of Appeal if he or she lives elsewhere than in Bloemfontein or Gauteng as the case may be, for every completed period of 24 hours.
- 10.2 If the Chief Justice or acting Chief Justice or President or acting President of the Supreme Court of Appeal resides permanently in Bloemfontein or Gauteng, as the case may be, an allowance of R5 600 per month will be paid to him or her.
- 10.3 Any other Judge other than Judges listed above, should be paid:
- R5 000 per month if he or she lives in Bloemfontein or Gauteng;
 - R600 for every completed period of 24 hours of actual presence in Bloemfontein or Gauteng if he or she lives permanently elsewhere than in Bloemfontein or Gauteng;
 - R5 000 per month if he or she lives permanently elsewhere than in Bloemfontein or Gauteng if he or she purchases a home in Bloemfontein or Gauteng; or
 - R5 000 per month for each month during which he or she leases a home in Bloemfontein or Gauteng if he or she lives permanently elsewhere than in Bloemfontein or Gauteng, provided such home is leased for a continuous period of six months or longer;

- The allowance for an uncompleted period of 24 hours, calculated proportionally according to the number of full hours of presence.
Actual expenses (Regulation 16)

10.4 If the subsistence and settlement is less than the amount that a Constitutional Court Judge, Judge or acting Judge reasonably had to spend on subsistence, an amount equal to the actual amount spent will be paid to such Constitutional Court Judge

11. ALLOWANCE FOR MAINTENANCE OF PRACTICE (Regulation 17)

- 11.1 Anyone appointed an acting Judge is entitled to be paid R360 per day during this appointment for the maintenance of his or her practice as advocate or attorney for the duration of such appointment.

12. ALLOWANCE FOR MOVING FAMILY, EFFECTS (POSSESSIONS) AND DOMESTIC WORKERS (Regulations 18 and 19)

- 12.1 The cost of the transport of a Judge and his or her family, domestic workers and effects to his or her new headquarters are to be defrayed from public funds when (Regulation 18):

Judge of the Supreme Court of Appeal or the Constitutional Court; or

(b) when a person is appointed a Judge and his or her headquarters are not situated at the place where he or she lives at the time of appointment.

(a) a Judge is permanently appointed to another division or is appointed a

- 12.2 When a Judge who performs service in terms of section 7 of the Act away from his or her home for a period longer than six months, the Judge and his or her family, domestic workers and effects may be transported to the new place of service and back home at the State expense and when the service is completed.
- 12.3 If a Judge uses private transport, he or she must be compensated at the rate of R2.38 per kilometer.
- Insurance*
- 12.4 The State will not be responsible for any insurance premiums in respect of the transportation of effects, although premiums for 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 the premiums as an integral part of the tender.
- Transportation of cars by train*
- 12.5 Not more than two motor vehicles of a Judge or his or her family, domestic workers may be transported by train at State expense, provided they are transported at the owner's risk.
- 12.6 Judges may be reimbursed from public funds for actual incidental expenses incurred in loading and unloading the vehicle or vehicles, provided that they transported at owners risk.
- Storage and subsequent transportation of effects*
- 12.7 The Minister may in exceptional cases approve the transportation of the effects of a Judge or his/her family or domestic workers at state expense and their storage in a warehouse at his or her previous headquarters or home or at his or her new headquarters for a period of no more than 12 months and, thereafter, their transportation to his or her new home. In this case, the Registrar concerned needs to call for at least three tenders for the performance of the services and the lowest tender should be accepted by him or her.

- 12.8 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 (Regulation 18 (8)).

- Partial effects and libraries of Judges not resident in Bloemfontein or Gauteng*
- 12.9 A Judge of the Supreme Court of Appeal or a Constitutional Judge performing active service and who is not permanently resident in Bloemfontein or Gauteng may transport part of his or her effects and library, separately or

together, once to Bloemfontein or Johannesburg at state expense to meet his or her office and accommodation needs.

Transportation of effects on death, discharge etc. (Regulation 19)

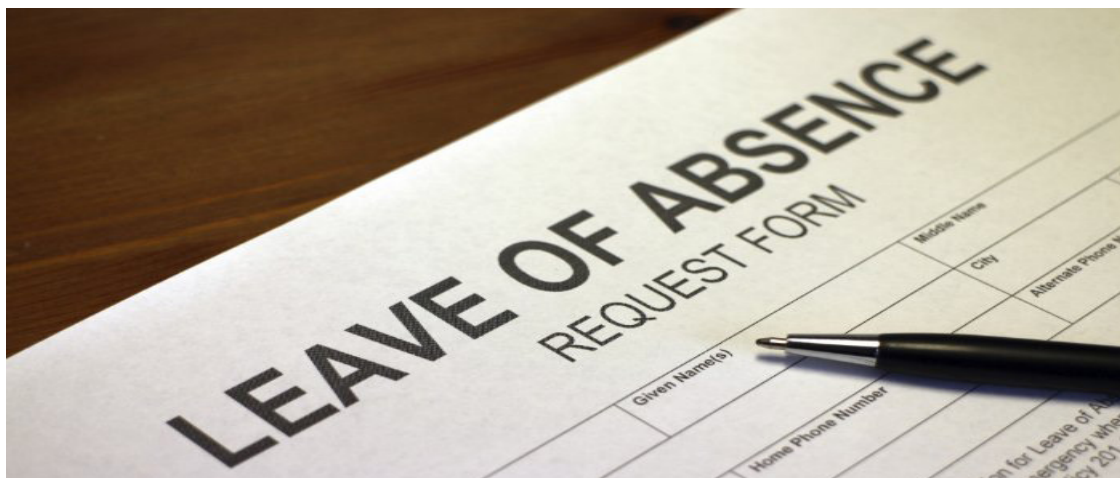
- 12.10 If a Judge is discharged from active service or resigns from office or vacates his or her office or dies, his or her effects may be transported, once only at state expense to any place in the Republic of South Africa where he or she or the surviving spouse is to settle, as the case may be.

Claims

13. CLAIMS (Regulation 20)

- 13.1 All claims for payment of allowances shall, where applicable, state the nature of the services, the exact time of departure and arrival and all other necessary

information to calculate the amount payable. Judges concerned must sign and certify all claims correct.



14. LEAVE

(Regulations 3-10)

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| <p><i>Vacation leave</i>
(Regulation 3)</p> <p>14.1 The Minister may grant a Judge leave for a period of three and half months or shorter period for every four years of actual service completed subject to such conditions as the Minister may set out. An example on how to calculate leave is set out in paragraph 21 (6)</p> | <p>14.3 The Minister may grant a Judge an additional leave on half pay for a period not exceeding one and a half months provided that the Judge waives his or her right, in writing, to un-reduced remuneration and on the recommendation of the Head of court concerned.</p> |
| <p>14.2 The Minister only grants such leave on recommendation of the Chief Justice, the President of the Supreme Court of Appeal or the Judge President concerned, as the case may be.</p> | <p><i>Special Leave</i>
(Regulation 5)</p> <p>14.4 A Judge may be granted special leave by the Minister under exceptional circumstances which are not covered in the regulations on recommendation of the Head of court concerned.</p> |

Additional leave
(Regulation 4)

14.5 This leave could be taken with full remuneration or leave with reduced remuneration or no remuneration depending on the circumstances and provided the Judge waives his or her right in writing to unreduced remuneration in terms of section 173 (3) of the Constitution of South Africa, 1996.

14.6 *Sick leave (Regulation 6)*
The Minister may grant sick leave, for a period specified by a medical practitioner on a medical certificate, to a Judge, who is too ill to perform his or her duties.

14.7

Non-accumulation of leave granted (Regulation 8)

Leave which may be granted in terms of the regulations shall not be accumulated and no any salary or allowance shall be claimed in respect of leave that was due but not taken.

14.8

Records

The Secretary-General will keep a record of all leave granted to Judges by the Minister.

14.9

Acting Judges

The provisions on vacation leave, sick leave, non-accumulation of leave and record-keeping, do not apply to acting Judges.



15. RECESS PERIODS

(Regulation 2 and Section 9 of the Superior Court Act 10 of 2013)

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| 15.1 Judges are entitled to administrative recesses which should not exceed a total of 14 weeks a year in any Division of the High Court; | functions that may be assigned to them (Section 9 of the Superior Courts Act of 2013). |
| 15.2 The recess periods of the Superior Courts are determined by the Chief Justice in consultation with the Heads of Court and the Minister to enable Judges to do research and attend to outstanding or prospective judicial | 15.3 The Head of Court concerned will decide how many and which Judges are to perform the functions of his or her division during the recess periods, taking into account the interests of justice (Regulation 2 (2) and Section 9(3) of the Superior Court Act). |

16. RESIGNATION OF JUDGES FROM OFFICE

(Section 11 of the Act)

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| 16.1 A Judge who resigns is entitled to salary and gratuity as prescribed in the Act. A Judge who resigns from office not as contemplated in the Act forfeits payment of any benefits such Judge would have been entitled to on the discharge from active service. | or a permanent Judge, who has attained the age of 65 years and has performed 15 years' active service, may resign from office by submitting written notice to the President. |
| 16.2 A Constitutional Court Judge who was a Judge at the time of appointment | |

- 16.3 A Constitutional Court Judge who was not a Judge at the time of appointment and who has completed a 12 year term of office as a Constitutional Court Judge or who has attained the age of 70 years, whichever occurs first, may resign from office by submitting written notice to the President.
- 16.4 Any Judge resigning shall vacate his or her office after the President accepts such resignation.

17. DISCHARGE OF JUDGES FROM ACTIVE SERVICE (Sections 3 & 4 of the Act)

- 17.1 A Judge may be discharged by the President from active service if such Judge suffers from a permanent incapacity or illness. who attained the age of 65 years and has performed 15 years active service, shall be discharged by the President if such a Judge request the Minister in writing that he or she no longer wishes to perform active service.
- 17.2 A Judge may also, on his or her request, be discharged by the President if the President considers the reason provided for the request as sufficient.
- 17.3 Judges, other than Constitutional Court Judges, shall be discharged from active service at the age of 70 years on completing a period of active service of not less than 10 years.
- 17.4 A Judge, other than a Constitutional Court Judge, 17.5 A permanent Judge, other than a Constitutional Court Judge, who attained the age of 70 years but has not completed 15 years' active service, may continue to perform active service as a Judge until he or she completes a period of 15 years' active service or attains the age of 75 years, whichever occurs first.

18. BENEFITS OF DISCHARGED JUDGES FROM ACTIVE SERVICE (Sections 5, 6, The Act)

- 18.1 A Judge discharged from active service shall be paid a salary calculated in accordance with the formula prescribed in the section 5 of the Act (Actual salary of a Judge when such Judge was in active service, is divided by 15 and multiplied by the period in years of such a Judge discharged from active service provides the aggregate salary). Such salary ceases to be paid with effect from the first day of the month following the month in which such a Judge passes on.
- 18.2 In addition to the salary payable to any Judge who has been discharged from active service in terms of the Act, a non-taxable gratuity shall be paid to such a Judge which will be calculated in terms of the formula prescribed in section 6 of the Act. This gratuity shall not exceed three times the Judge's highest annual salary during the period of such Judge's active service.
- 18.3 Gratuity (or any portion thereof) may be paid to a Judge who has completed 15 or 20 years' active service on request. Furthermore, a Judge who attains the age of 70 years and has completed not less than 10 years' active service after 10 years period shall be entitled to gratuity (or any portion thereof) on request. As stated in the Guide on Taxation of Constitutional Court and Judges 3.3.2 (b)
- The Directorate: Judicial Support (see last page) has always been striving to get a gratuity paid out as close to the discharge and/or calculated date as possible.
 - It is understood that Judges might have made arrangements to utilize such funds soon after their written request or soon after the calculated date, however, such payments which usually exceed R1million, are subject to the successful process of the entity form to be registered

and verified through Safety web, which can take up to three (3) weeks if no technical problems are experienced, and/or

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- It is understood that Judges might have made arrangements to utilize such funds soon after their written request or soon after the calculated date, however, such payments which usually exceed R1million, are subject to the successful process of the entity form to be registered and verified through Safety web, which can take up to three (3) weeks if no technical problems are experienced, and/or
- Possible and unforeseen rejections on the system for various reasons and delays might occur.
- Furthermore, such payments are also dependent on only two runs per week (Monday nights and

Wednesday nights, not falling on a public holiday) where after payment is done within 3 to 4 days.

- The Auditors also do not allow Finance to capture such payments too early before the discharge/calculated date.
- There are no provisions for a specific date of payment of gratuities after discharge from active service, or
- Payment of a portion of a gratuity after date of entitlement in respect of accrued gratuities, therefore,
- Additionally there is no provision for payment of interest on such gratuity payments.
- The calculation is done in terms of the formula provided for in section 6 of the Act after the records of the Directorate: Judicial Support have been compared to establish whether all the correct periods of acting and permanent appointments have been utilized for this purpose.

- 18.4 A Judge who performs service after being discharged from active service is entitled to additional monthly remuneration.
- 18.5 A salary of a discharged Judge who fails to perform the minimum period of service shall be reduced by 2 percent annually, provided that a total reduction shall not amount to more than 10 percent of such salary.
- 18.6 Service is performed by a Judge who has not attained 75 years for a period which, in the aggregate, amount to three months a year or more than three months on a voluntary basis if her or his services are so requested.
- 18.7 Judges discharged in the following manner are not required to perform service:
- (a) A Judge discharged by the President from active service due to illness which rendered him or her incapable of performing his or her official duties;
 - (b) A Judge discharged by the President from active service on his or her request on sufficient reasons as deemed by the President;
 - (c) A Judge discharged by the President in terms of Section 3 (2) (b) of the Act, who made a written request to the Minister to be discharged.
- 18.8 The Registrar of a Court where a Judge performs service after being discharged shall inform the Secretary-General immediately of the commencement and duration of the service.
- The Secretary-General of the Office of the Chief Justice keeps a register of all service performed by a Judge after being discharged in terms of section 7(1) of the Act.

19. BENEFITS TO SURVIVING SPOUSE OR PARTNER OF A JUDGE

(Sections 9, 10 and 11 of the Act)

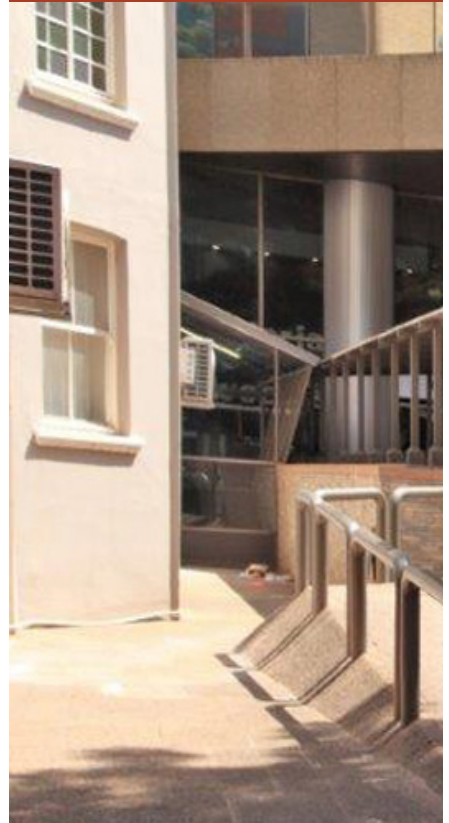
- 19.1 The surviving spouse or partner of a Judge who was or is discharged from active service, shall be paid an amount equal to two thirds of the salary which was payable to that Judge.
- 19.2 The surviving spouse or partner of a Judge who dies while performing active service, shall be paid an amount equal to two thirds of the salary to which that Judge would have been entitled to if he or she was discharged from active service on a date of his or her death.
- 19.3 If a Judge is survived by more than one spouse, the amount concerned shall be divided equally between the spouses concerned, unless the Judge concerned determined otherwise before his or her death.
- 19.4 The surviving spouse or partner of a Judge who has resigned before his or her death, is entitled to two thirds of the salary which was payable to that Judge in terms of the Act. This amount is payable until death of such a spouse or partner. Regulation to the Act sections 21, 22, 23 must be adhered to with regard to the completions of forms 1, 2 and 3 as described in the said regulations
- 19.5 Gratuity that would have been payable to a Judge who died or who on the date of his or her death was discharged from active service shall be payable to a surviving spouse or partner of the deceased Judge. If a Judge is not survived by a spouse or partner, gratuity shall be payable to the estate of such the deceased Judge.

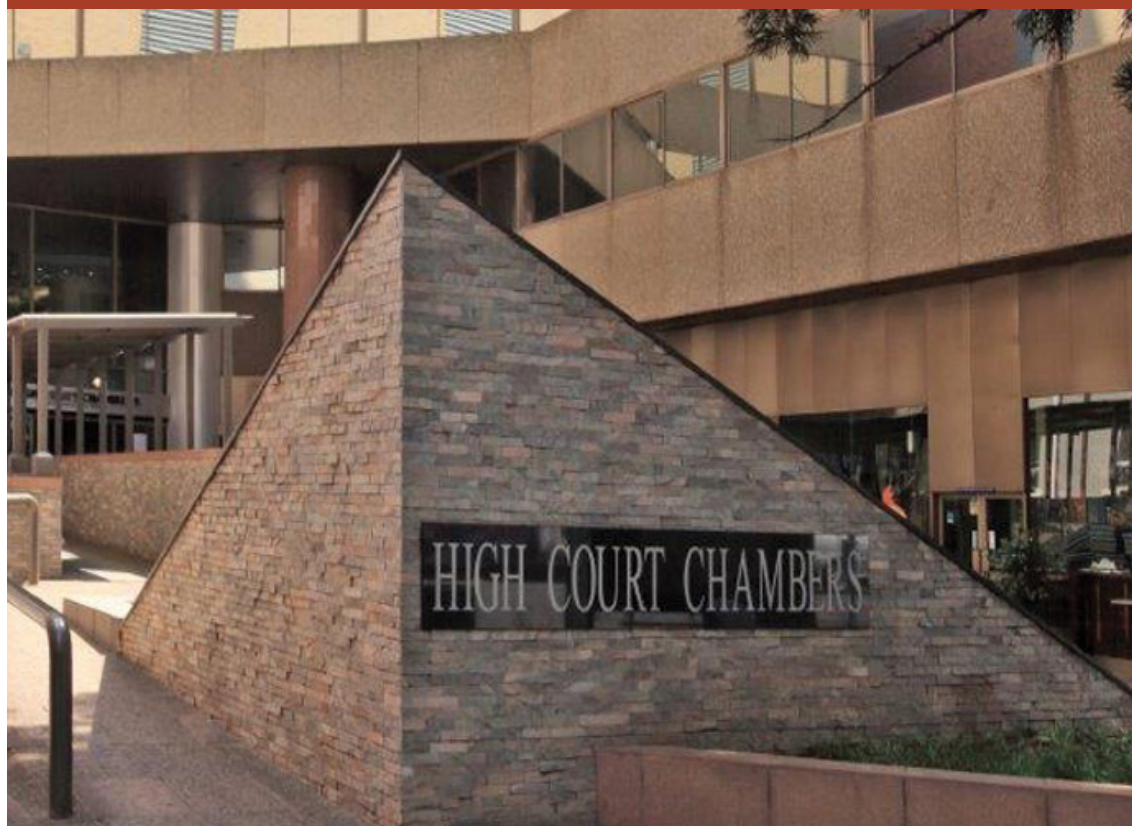


- 19.6 Gratuity payable to a surviving spouse shall be equal to one that would have been payable to a Judge had he or she not died. If a Judge is survived by more than one spouse, gratuity shall be divided equally between the spouses concerned, unless the deceased Judge had already determined otherwise. Gratuities paid to surviving spouses are also taxable as stated in the Guide on Taxation of Constitutional Court and Judges 3.3.2 (b)
- 19.7 The Registrar must send a copy of the death certificate and marriage certificate to the National Office as soon as possible so that gratuity can be paid to the Judge's surviving spouse or estate.

20. BENEFITS FOR SPOUSES (Regulation 12)

- 20.1 The Chief Justice or acting Chief Justice or the President or acting President of the Supreme Court of Appeal are entitled to be accompanied by their spouses or partners on official journeys at State expense and to claim in respect of their spouses or partners the subsistence allowance.
- 20.2 A Judge or Acting Judge is entitled to be accompanied by his or her spouse on official journeys at State expense if she or he uses the same motor vehicle as that particular Judge, and to claim in respect of his or her spouse the subsistence allowance if the Constitutional Court Judge, Judge or acting Judge –
- (a) is on circuit court duty;
 - (b) performs service away from his or her headquarters after being discharged from active service; or
 - (c) attends occasions in his or her official capacity.





21. FREQUENTLY ASKED QUESTIONS

1. What is a Judge?

Answer: A Judge is a Judicial Officer who presides over cases brought before him or her at the Constitutional Court, Supreme Court of Appeal or High Court.

2. What are the functions of a Judge?

Answer: The Judges are responsible for providing justice to all by resolving disputes brought before them in a fair and just manner in accordance with the Constitution and the laws of South Africa without fear, favour or prejudice.

3. Who do Judges report to?

Answer: Judges are not public servants, they are Public Office Bearers who are independent and reporting to no one except that they are required to apply the Constitution and the law impartially without fear, favour or prejudice.

4. Who appoints Judges?

Answer: Judges are appointed by the President after taking into account the recommendations of the Judicial Service Commission (JSC) which is a constitutional body consisting of the Chief Justice, President of the Supreme Court of Appeal, a representative of the Judges' President, Cabinet Minister responsible for the administration of justice, representatives of the Advocates and Attorneys profession, a Law Teacher, Representatives of the National Assembly and National Council of Provinces and persons designated by the President. The JSC is a body established by the Constitution to interview candidates for judicial posts and make recommendations for judicial appointment by the President.

5. What is gratuity?

Answer: Gratuity is a token in a form of money given to Judges in recognition of active service as a Judge. This is one of the mechanisms used to protect the independence of Judges from financial influences such as bribes. Another method is the fact that

Judges receive “salaries” for life even after retirement. They may however be required by the President to perform service after retirement.



6. How to calculate Judges leave?

Answer: The following example illustrate how leave

Permanent appointment date	03.06.1996 00.00.0004 + (4 years active service completed) 03.06.2000 (start date of leave cycle)
Total leave taken between 03.06.2000 – 02.06.2004 for the completed first 4 years active service	03.06.2000 00.00.0004+ (4 years active service) 03.06.2004 15.03.0000+ (3 months & 15 days) 18.09.2004 (start date of next leave cycle)
Total leave taken between 18.09.2004 – 17.09.2008 for the completed second 4 years active service	18.09.2004 00.00.0004+ (4 years active service) 18.09.2008 15.03.0000+ (3 months & 15 days) 33.12.2008
Converted to calendar dates	03.01.2009 (start date of next leave cycle)
Total leave taken between 18.09.2004 – 17.09.2008 for the completed third 4 years active service	03.01.2009 00.00.0004+ (4 years active service) 03.01.2013 15.03.0000+ (3 months & 15 days) 18.04.2013 (start date of next leave cycle)
Total leave taken between 03.01.2009 – 02.01.2013 for the completed forth 4 years active service	03.01.2009 00.00.0004+ (4 years active service) 03.01.2013 15.03.0000+ (3 months & 15 days) 18.04.2013 (start date of next leave cycle)
Total leave taken between 18.04.2013 – 17.04.2017 for the completed fifth 4 years active service will determine the start date of the next leave cycle	18.04.2013 00.00.0004+ (4 years active service) 18.04.2017 00.00.0000+ (3 months & 15 days max) 00.00.0000 (start date of next leave cycle)





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The above employees of the Directorate: Judicial Support are available, promptly and efficiently to assist Judges with related enquiries.



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