



THE PROCEDURE FOR THE SELECTION OF CANDIDATES FOR APPOINTMENT AS JUDGES



In South Africa, Judges are appointed in terms of section 174 of the Constitution of the Republic of South Africa, 1996. In terms of this section, any appropriately qualified men and women who are fit and proper may be appointed as Judges. There is however a caveat that only South African citizens who may be appointed as Judges of the Constitutional Court. Additionally, the Constitution recognised the obligation to transform the Judiciary by providing for consideration to be given about the need for the South African Judiciary to reflect the racial and gender composition of the country when making judicial appointments.

Section 178 of the Constitution provides for the establishment and composition of the Judicial Service Commission (Commission) chaired by the Chief Justice. The Commission is mandated, amongst others, to interview and recommend candidates for appointment as Judges by the President. In order to exercise its constitutional mandate, the Commission, enjoined by section 178(6) of the Constitution read with section 5 of the Judicial Service Commission Act, 1994, has developed and published a procedure for appointment of Judges. The procedure is set out below:

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- a) The Head of a Court shall inform the Commission when a vacancy occurs or will occur.
- b) The Commission shall announce the vacancy publicly and call for nominations by a specified closing date.
- c) A nomination shall consist of:
 - i) A letter of nomination which identifies the person making the nomination, the candidate and the Court for which he or she is nominated;
 - ii) The candidate's written acceptance of the nomination;
 - iii) A detailed curriculum vitae of the candidate which shall disclose his or her formal qualifications for appointment, together with a questionnaire prepared by the Commission and completed by the candidate; and



- iv) Such further pertinent information concerning the candidate as he or she or the person nominating him or her, wishes to provide.
- d) After the closing date, all the members of the Commission shall be provided with a list of the candidates nominated, together with the nomination in respect of each candidate, with an invitation to-
 - i) Inform the screening committee, prior to the meeting of the screening committee, of the names of the candidates, if any, who they feel strongly should be included in the shortlist of candidates to be interviewed, for consideration by the screening committee and;
 - ii) The signification of the preferred name(s) must be accompanied by a written motivation.
- e) The screening committee shall at its meeting, prepare a shortlist of candidates to be interviewed, which shall include those who qualify for appointment and who in the opinion of the majority of the members of the screening committee, have a reasonable prospect of selection for appointment.
- f) The shortlist shall then be published for comment by a specified closing date.
- g) After the closing date referred to in paragraph (f), the shortlist together with the nomination of every shortlisted candidate, as well as all the comments received on a shortlisted candidate, shall be distributed to all members of the Commission.
- h) The Commission shall interview all shortlisted candidates.
- i) The interviews contemplated in paragraph (h) shall be open to the public and the media.
- j) After completion of the interviews for a specific Court, the Commission shall deliberate in private and shall after deliberation, decide upon the candidates to be recommended for appointment by a majority vote. The voting process shall be conducted by way of secret ballot.
- k) The Commission shall announce publicly the name of the recommended candidate for each vacancy.
- l) The Commission shall advise the President of the Republic of the name of the recommended candidate for each vacancy.
- m) The President appoints based on the recommendations by the Commission.

Applications must be addressed to:

The Secretariat of the JSC - Office of the Chief Justice
Private Bag X10, Marshalltown, Johannesburg, 2017

Tel: (010) 493 2687 | (010) 493 2633 | (010) 493 2575

Email: Chiloane@concourt.org.za & TPhaahlamohlaka@judiciary.org.za

Cc: JSC@judiciary.org.za