
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. 5721

20 December 2024

**PUBLICATION OF EXPLANATORY SUMMARY OF THE JUDICIAL MATTERS
AMENDMENT BILL, 2024**

Notice is hereby given in terms of Rule 276(1)(b) of the Rules of the National Assembly that the Minister of Justice and Constitutional Development intends introducing the Judicial Matters Amendment Bill, 2024, in the National Assembly shortly.

The explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.

The Bill amends numerous Acts which are administered by the Department of Justice and Constitutional Development. The amendments are intended to address practical and technical issues of a non-contentious nature, including compliance with a Constitutional Court judgment.

A copy of the Bill can be found on the websites of the Department and Parliamentary Monitoring Group at <http://doj.gov.za> and <http://www.pmg.org.za> and may, after introduction, also be obtained from the Government Printers, Cape Town (telephone number: 021 – 465 7531).

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. 5721

20 Desember 2024

**PUBLIKASIE VAN VERDUIDELIKENDE OPSOMMING VAN DIE
WYSIGINGSWETSONTWERP OP GEREGETELIKE AANGELEENTHEDE, 2024**

Kragtens Reël 276(1)(b) van die Reëls van die Nasionale Vergadering word hiermee kennis gegee dat die Minister van Justisie en Staatkundige Ontwikkeling beoog om die Wysigingswetsontwerp op Geregtelelike Aangeleenthede, 2024, eersdaags in die Nasionale Vergadering in te dien.

Die verduidelikende opsomming van die Wetsontwerp word hierby ooreenkomstig Reël 276(1)(c) van die Reëls van die Nasionale Vergadering gepubliseer.

Die Wetsontwerp wysig verskeie Wette wat deur die Departement van Justisie en Staatkundige Ontwikkeling geadministreer word. Die wysigings is bedoel om praktiese en tegniese aspekte van 'n nie-kontensieuse aard aan te spreek, met inbegrip van voldoening aan 'n Konstitusionele Hof uitspraak.

'n Afskrif van die Wetsontwerp kan op die webtuistes van die Departement en Parlementêre Moniteringsgroep by <http://www.justice.gov.za> en <http://www.pmg.org.za> gevind word en kan, na indiening, ook verkry word van die Staatsdrukkers, Kaapstad (Telefoon nommer: 012 – 465 7531).

REPUBLIC OF SOUTH AFRICA

JUDICIAL MATTERS AMENDMENT BILL, 2024

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. of 2024)
(The English text is the official text of the Bill)*

(MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

[2024]

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
- _____ Words underlined with a solid line indicate insertions in existing enactments
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BILL

To amend the—

- **Judicial Service Commission Act, 1994, so as to further regulate the composition of the Judicial Conduct Committee;**
- **Promotion of Access to Information Act, 2000, so as to—**
 - **make provision for the manual to also contain the website link to the latest notice regarding the records held by public bodies that are automatically available;**
 - **assign the duty to keep certain details of information officers of public bodies to the Information Regulator;**
 - **provide for the mandatory disclosure of certain records of the South African Revenue Service in the public interest;**
- **Prevention and Combating of Corrupt Activities Act, 2004, so as to further regulate offences and penalties committed in terms of the Act;**
- **Child Justice Act, 2008, so as to provide for a procedure for dealing with children arrested for possession or use of cannabis as provided for in the Cannabis for Private Purposes Act, 2024;**
- **Legal Practice Act, 2014, so as to—**
 - **insert new definitions;**
 - **delete the reference to state advocate;**
 - **revise the provisions dealing with institutions where practical vocational training may be performed;**
 - **revise the requirements relating to the right of appearance in the High Court and the requirements for admission as a legal practitioner;**

- to revise the provisions relating to the right of appearance for candidate attorneys and pupils at the expiry of the practical vocational training;
 - further regulate the payment of professional fees;
 - provide for attorneys and advocates employed in certain institutions to practise;
 - revise the requirements for possessing a Fidelity Fund certificate; and
 - Cybercrimes Act, 2020, so as to amend a definition and to empower the Minister to make regulations relating to search warrant;
- and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 8 of Act 9 of 1994, as inserted by section 9 of Act 20 of 2008 and substituted by section 19 of Act 42 of 2013

1. Section 8 of the Judicial Service Commission Act, 1994, is hereby amended by—

(a) by the substitution in subsection 1 for paragraph (c) of the following paragraph:

“(c) **[four]** eight judges, at least **[two]** four must be women, designated by the Chief Justice in consultation with the Minister, for the period determined at the time of such designation, provided that such period may not exceed two years.”; and

(b) by the addition of the following subsection:

“(7) The Chairperson may appoint not more than three judges as temporary members of the committee, for a specified period of not more than six months, to deal with specific complaints in terms of section 16 or 17 provided that—

(a) there are at least three members unavailable;

(b) in the opinion of the Chairperson, it is necessary to deal with backlogs; or

(c) it is necessary to dispose of certain matters expeditiously.”.

Amendment of 14 of Act 2 of 2000, as amended by section 27 of Act 42 of 2001 and substituted by section 110 of Act 4 of 2013

2. Section 14 of the Promotion of Access to Information Act, 2000, is hereby amended—

(a) by the substitution in subsection (1)(b) for subparagraph (iii) of the following subparagraph:

“(iii) the website link to the latest notice, in terms of section **[15(2)] 15(1)(a)**, if any, regarding the categories of records of the body which are available without a person having to request access in terms of this Act;” and

(b) by the substitution in subsection (1)(b) for subparagraph (v) of the following subparagraph:

“(v) a description of any arrangement or provision for public participation, through any suitable manner that may be expedient and convenient, in the formulation of a policy, legislation or the exercise of powers or performance of duties by the body; and”.

Amendment of section 15 of Act 2 of 2000, as amended by section 110 of Act 4 of 2013

3. Section 15 of the Promotion of Access to Information Act, 2000, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The information officer of **[a] each** public body[, referred to in paragraph (a) or (b)(i) of the definition of 'public body' in section 1,] must make available in the prescribed manner a description of—”.

Substitution of section 16 of Act 2 of 2000

4. Section 16 of the Promotion of Access to Information Act, 2000, is hereby substituted for the following section:

“16. The Information Regulator must, upon registration of the information officer and deputy information officer of a public body in terms of section 55(2) of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013)—

- (a) keep the register; and**
- (b) ensure the publication on its website, of the postal address, street address, contact number, and if available, electronic mail address of the information officer and deputy information officer concerned on its website.”.**

Amendment of section 17 of Act 2 of 2000

5. Section 17 of the Promotion of Access to Information Act, 2000, is hereby amended—

- (a)** by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:

“Any designation or delegation in terms of **[subsection] subsections (1) and (3)— “; and**

- (b)** by the substitution in subsection 6 for paragraph (b) of the following paragraph:

“(b) does not prohibit the person who made the designation or delegation from exercising the power concerned or performing the duty concerned himself or herself; and”.

Amendment of section 46 of Act 2 of 2000

6. Section 46 of the Promotion of Access to Information Act, 2000, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“Despite any other provision of this Chapter, the information officer of a public body must grant a request for access to a record of the body contemplated in section 34(1), 35(1), 36(1), 37(1)(a) or (b), 38(a) or (b), 39(1)(a) or (b), 40, 41(1)(a) or (b), 42(1) or (3), 43(1) or (2), 44(1) or (2) or 45, if—”.

Amendment of section 26 of Act 12 of 2004, substituted by section 35 of Act 66 of 2008

7. Section 26 of the Prevention and Combating of Corrupt Activities Act, 2004, is hereby amended by the substitution in subsection (1)(a) for the words preceding subparagraph (i) of the following words:

“Part 1, 2, 3 or 4, or section 18 of Chapter 2, or section 34A, is liable.”.

Amendment of section 5 of Act 75 of 2008, as amended by section 3 of Act 28 of 2019

8. Section 5 of the Child Justice Act, 2008, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Every child who is alleged to have committed an offence—
 (a) and is under the age of 12 years[,]; or
 (b) referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024), and is 12 years or older, but under the age of 18 years,

must be referred to a probation officer to be dealt with in terms of section 9.”.

Amendment of section 9 of Act 75 of 2008, as amended by section 6 of Act 28 of 2019

9. Section 9 of the Child Justice Act, 2008, is hereby amended—
 (a) by the substitution for the heading of the following heading:

“Manner of dealing with child under age of 12 years or child under age of 18 years under certain circumstances”; and

(b) by the addition of the following subsection:

“(8) (a) A police official may not arrest a child who is 12 years or older, but under the age of 18 years who is suspected of having committed an offence referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024), and must, in the prescribed manner, immediately hand the child over—

- (i) to his or her parents or an appropriate person or a guardian; or
- (ii) if no parent, appropriate person or a guardian is available or if it is not in the best interest of the child to be handed over to the parent, an appropriate person or a guardian, to a suitable child and youth care centre.

and must notify a probation officer.

(b) The provisions of subsections (2) to (7) apply, with the necessary changes required by the context, to a child referred to in paragraph (a)."

Amendment of section 12 of Act 75 of 2008, as substituted by section 9 of Act 28 of 2019

10. Section 12 of the Child Justice Act, 2008, is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) the person may be a child under the age of 12 years, or a child who is 12 years or older, but under the age of 18 years who is suspected of having committed an offence referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024), the police official must act in accordance with the provisions of section 9; or”.

Amendment of section 34 of Act 75 of 2008, as amended by section 12 of Act 28 of 2019

11. Section 34 of the Child Justice Act, 2008, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A probation officer who has been notified by a police official that a child—

(a) under the age of 12 years; or

(b) 12 years or older, but under the age of 18 years who is suspected of having committed an offence referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024),

has been dealt with in terms of section 9, must make arrangements to assess the child within seven days of the notification.”.

Amendment of section 35 of Act 75 of 2008, as amended by section 13 of Act 28 of 2019

12. Section 35 of the Child Justice Act, 2008, is hereby amended by substitution for paragraph (f) of the following paragraph:

- “(f) in the case of a child—
- (i) under the age of 12 years; or
 - (ii) a child referred to in section 10(2)(b); or
 - (ii) 12 years or older, but under the age of 18 years who is suspected of having committed an offence referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024),
establish what measures need to be taken in terms of section 9;”.

Amendment of section 40 of Act 75 of 2008, as amended by section 14 of Act 28 of 2019

13. Section 40 of the Child Justice Act, 2008, is hereby amended by the substitution in subsection (1) of paragraph (e) for the following paragraph:

- “(e) in the case of a child—
- (i) under the age of 12 years[,]; or
 - (ii) 12 years or older, but under the age of 18 years who is suspected of having committed an offence referred to in section 3(1)(a) of the Cannabis for Private Purposes Act, 2024 (Act No. 7 of 2024),
establish what measures need to be taken in terms of section 9;”.

Amendment of section 1 of Act 28 of 2014

14. Section 1 of the Legal Practice Act, 2014, is hereby amended—

- (a) by the insertion after the definition of “code of conduct” of the following definition:

“**Commission for Gender Equality**” means the Commission for Gender Equality referred to in Chapter 9 of the Constitution;”;

- (b) by the deletion of the definition of “justice centre”;
- (c) by the insertion after the definition of “law clinic” of the following definition:
- (d) by the substitution for the definition of “Legal Aid South Africa” of the following definition:

“**Legal Aid office**” means a national, provincial or local office of Legal Aid South Africa, and includes a satellite office;”;

“**Legal Aid South Africa**” means the national public entity, that is established in terms of section 2 of the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014);”;

- (e) by the substitution for the definition of “Minister” of the following definition:
- “**Minister**” means the Cabinet member responsible for the administration of justice;”;
- (f) by the insertion after the definition of “South African Human Rights Commission” of the following definition:
- “**Special Investigating Unit**” means a Special Investigating Unit contemplated in section 2 of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996);”; and
- (g) by the deletion of the definition of “state advocate”.

Amendment of section 25 of Act 28 of 2014

15. Section 25 of the Legal Practice Act, 2014, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:

“(2) (a) A legal practitioner, whether practising as an advocate or an attorney, has the right to appear on behalf of any person in any court in the Republic or before any board, tribunal or similar institution[, **subject to subsections (3) and (4) or any other law**].

(b) A legal practitioner, whether practising or not, who was admitted and enrolled to practise as such before the amendment of

this section, automatically acquires the right to appear in any court in the Republic upon the commencement of this section.”.

- (b) by the deletion of subsections (3) and (4); and
- (c) by the addition of the following subsection:

“(6) (a) A candidate attorney who is entitled to appear as contemplated in subsection (5) remains so entitled to appear at the expiry of the practical vocational training, but not for longer than six months, until that candidate attorney is admitted as an attorney: Provided that such candidate attorney—

- (i) remains in the employ of the attorney who was a principal to that candidate attorney immediately before such expiry; or
- (ii) remains in the service of Legal Aid South Africa, a legal aid office or other institution approved by the Council, concerned, as the case may be.

(b) A pupil who has completed the practical vocational training remains so entitled to appear at the expiry of the practical vocational training, but not for longer than six months, until that pupil is admitted as an advocate, provided that such pupil remains under the supervision of the training supervisor of such pupil.”.

Amendment of section 26 of Act 28 of 2014

16. Section 26 of the Legal Practice Act, 2014, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) satisfied all the requirements for the LLB degree obtained at any higher education institution referred to in the Higher Education Act, 1997 (Act No. 101 of 1997), which degree must be registered with the South African Qualifications Authority established in terms of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), and has been approved by the Council on Higher Education in terms of the Higher Education Act, 1997; or”.

Amendment of section 29 of Act 28 of 2014

17. Section 29 of the Legal Practice Act, 2014 is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) service at the South African Human Rights Commission [;] or Commission for Gender Equality, or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette.”.

Amendment of section 30 of Act 28 of 2014

18. Section 30 of the Legal Practice Act, 2014, is hereby amended by the deletion of paragraph (h) of subsection (3).

Amendment of section 34 of Act 28 of 2014

19. Section 34 of the Legal Practice Act, 2014, is hereby amended—

(a) by the substitution in subsection (2)(a) for subparagraph (ii) of the following subparagraph:

“(ii) upon receipt of a request directly from a member of the public or from a **[justice centre]** Legal Aid office for that service, subject to paragraph (b).”;

(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) An advocate contemplated in paragraph (a)(ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if **[he or she]** that advocate—

(i) is in possession of a Fidelity Fund certificate and conducts **[his or her]** practice in accordance with the relevant provisions of Chapter 7, with particular reference to sections 84, 85, 86 and 87; and

(ii) has notified the Council thereof in terms of section 30(1)(b)(ii).”;

(c) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

- “(c) An advocate may render legal services in criminal or civil matters in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law upon receipt of a request directly from a **[justice centre]** Legal Aid office for that service, in which event the provisions of paragraph (b) do not apply.”;
- (d) by the substitution in subsection (5) for paragraph (a) of the following paragraph:
- “(a) for their own account and as such, may only make over to, share or divide any portion of their professional fee with an attorney;”;
- (e) by the substitution in subsection (5) for paragraphs (d) and (e) of the following paragraphs:
- “(d) as part of Legal Aid South Africa; **[or]**
- (e) as an attorney in the full-time employment of, the State as a state attorney, **[or]** the South African Human Rights Commission or the Commission for Gender Equality[.], or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette; or”;
- (f) by the addition in subsection (5) of the following paragraph:
- “(f) as an attorney employed as a member of a Special Investigating Unit”.
- (g) by the substitution in subsection (6) for paragraphs (c) and (d) of the following paragraphs:
- “(c) as part of Legal Aid South Africa; **[or]**
- (d) as an advocate in the full-time employment of the **[State as a state advocate or the]** South African Human Rights Commission[.] or the Commission for Gender Equality, or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette; or”;
- (h) by the addition in subsection (6) of the following paragraph:
- “(e) as an advocate employed as a member of a Special Investigating Unit” . ; and
- (i) by the substitution in subsection (7) for paragraphs (a) and (c) of the following paragraphs:

- “(a) its shareholding, directorship, partnership or membership as the case may be, is comprised exclusively of attorneys;” and
- (c) all present and past shareholders, directors, partners and members, as the case may be, are liable jointly and severally together with the commercial juristic entity for—
- (i) the debts and liabilities of the commercial juristic entity as are or were contracted during their period of office; and
 - (ii) **[in respect of]** any theft of trust money or assets entrusted to the juristic entity committed during their period of office.”.

Amendment of section 84 of Act 28 of 2014

20. Section 84 of the Legal Practice Act, 2014, is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Every attorney or any advocate referred to in section 34(2)(b), other than a legal practitioner in the full-time employ of the South African Human Rights Commission, the Commission for Gender Equality, or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette, the Special Investigating Unit or the State as a state attorney **[or state advocate]** and who practises or is deemed to practise—”;

- (b) by the substitution for subsection (9) of the following subsection:

“(9) No legal practitioner in the full-time employ of the South African Human Rights Commission, the Commission for Gender Equality, or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette, the Special Investigating Unit or the State as a state attorney, **[state advocate,]** state law adviser or in any other professional capacity may receive or keep money or property belonging to any person, except during the course of employment of such legal practitioner with the State or the South African Human Rights Commission, the Commission for Gender Equality, or any other state institution referred to in Chapter 9 of

the Constitution, as approved by the Minister by notice in the Gazette, the Special Investigating Unit and in such case only on behalf of the South African Human Rights Commission, the Commission for Gender Equality, or any other state institution referred to in Chapter 9 of the Constitution, as approved by the Minister by notice in the Gazette, the Special Investigating Unit or the State and for no other purpose.”; and

(c) by the addition of the following subsection:

“(10) The Council may exempt a legal practitioner referred to in subsection (1) who practises as part of a law clinic, from the requirement of possessing a Fidelity Fund certificate, in so far as it pertains to legal services rendered by that legal practitioner at that law clinic, after consideration of a written application from the legal practitioner.”.

Amendment of section 1 of Act 19 of 2020

21. Section 1 of the Cybercrimes Act, 2020, is hereby amended by the substitution of the definition of “police official” of the following definition:

“**police official**” means a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995, or for the purposes of Chapter 4 of this Act, any official who by virtue of their office is authorised to investigate any offence in terms of any law, where such investigation relates to search, access or seizure of an ‘article’ as defined in section 1 of this Act;”.

Amendment of section 59 of Act 19 of 2020

22. Section 59 of the Cybercrimes Act, 2020, is hereby amended by the insertion after subparagraph (xiv) in paragraph (a) of subsection (1) of the following subparagraph:

“(xivA) form and manner of application for search warrant contemplated in section 29;”.

Short title

23. This Act is called the Judicial Matters Amendment Act, 2024.

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