

Office of the Chairperson

Portfolio Committee on Public Works, Roads and Transport;
Community Safety, Security and Liaison

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NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Security and Constitutional Development

Name of the Bill : Legal Practice Bill

Number of the Bill : [B20B - 2012]

Date of Deliberation : 6 February 2014

Vote of the Legislature :

The Portfolio Committee on Public Works, Roads and Transport; Community Safety, Security and Liaison (the Committee) supports the Legal Practice Bill **[B20B - 2013]**.

The permanent delegate representing the Province of Mpumalanga in the National Council of Provinces is hereby conferred with a mandate to vote in favour of the Bill, taking into account the observations of the Committee contained in the attached report.

The following proposed amendments are submitted to the Select Committee:

CLAUSE 1: Definitions

- On page 7, after line 26, to insert the definition of "legal advisor" to read as:

“legal advisor” means a person who is in full-time employment of any organ of state, enrolled as such in terms of section 24 and 30 of this Act.

- On page 7, after line 39, to insert “organ of State” to read as follows:

“organ of State” means-

(a) any department of state or administration in the national, provincial or local

(b) any other functionary or institution sphere of government; or

(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation,

but does not include a court or a judicial officer;

- On page 7, after line 56, to insert “State advocate” and “State attorney”, to read as follows:

“State advocate” means a person who has been admitted as an advocate of the High Court of South Africa, who is in the full-time employment of any organ of state as a legal advisor or appointed by the National Prosecuting Authority of South Africa in terms of the National Prosecuting Act, 1998 (Act No. 32 of 1998)

“State attorney” means an attorney who is in full-time employment of any organ of state as a legal advisor or appointed in terms of the State Attorneys Act, 1957 (Act No. 56 of 1957)

- **CLAUSE 14: Dissolution of Council**

On page 14, clause 14(3)-(4), insert and delete some words, as follows:

(3) [If,] After receiving the recommendations from the Ombud as contemplated in subsection (2), the Minister **must**, [still has concerns in the ability of the Council to perform its functions effectively and efficiently, and the Minister is of the view that] if it is in the best interests of the administration of justice that the Council be dissolved, **dissolve the Council**. [he or she must, in order to do

so, approach the High Court with an application for an order dissolving the Council, together with any terms or conditions that the court deems appropriate.]

(4) (a) If the Minister dissolves the Council [pursuant to a court order contemplated in subsection (3),] he or she [the Minister] must, having regard to the provisions of section 7, appoint an interim Council, consisting of at least seven persons. [and give effect to any conditions or terms contained in the court order.]

(b) The interim Council must be appointed within 21 days after the dissolution of the Council and must be appointed for a period determined by the Minister [or the court], which period may not exceed six months.

(c) The majority of the seven members of the interim Council must be legal practitioners, in line with the composition stipulated in section 7(1).

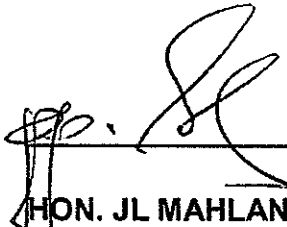
- **CLAUSE 34: Forms of legal practice**

On page 22, clause 34(5)(e), delete the following words, to read as:

as an attorney in the full-time employment of [the] any organ of State as a state attorney [or the South African Human Rights Commission].

On page 22, clause 34(6)(d), delete the following words, to read as:

as an advocate in the full-time employment of [the] any organ of State as a state advocate [or the South African Human Rights Commission].



HON. J.L. MAHLANGU (MPL)

14.2.2014
DATE

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PUBLIC WORKS, ROADS AND TRANSPORT;
COMMUNITY SAFETY, SECURITY AND LIAISON