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**MINISTRY: JUSTICE AND CORRECTIONAL SERVICES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 2199**

**DATE OF QUESTION: 03 JUNE 2022**

**DATE OF SUBMISSION: 17 JUNE 2022**

**Mr W Horn (DA) to ask the Minister of Justice and Correctional Services:**

As at 30 April 2022, what (a) was the total number of permanently-appointed magistrates in the Republic, (b) number of the specified magistrates will reach retirement age within the next five years, (c) was the total number of funded posts for magistrates in the Republic and (d) number of these positions were filled by acting magistrates?

**NW2607E**

**REPLY:**

1. As at 30 April 2022, the total number of permanently appointed magistrates, excluding temporary/acting magistrates and vacant posts, is as tabulated below:

|  |  |
| --- | --- |
| **Post Class** | **Number** |
| Magistrate  | 1 257 |
| Chief Magistrate  | 16 |
| Regional Magistrate  | 326 |
| Senior Magistrate  | 124 |
| Regional Court President  | 8 |
| **Grand Total** | **1 731** |

1. In responding to this part of the question, it is important to draw the Honourable Member’s attention to section 13 of the Magistrates Act, 1990 (Act 90 of 1993), which provides that a magistrate shall vacate office when attaining the age of 65. This section was amended with effect from 1 December 2017, and a magistrate holding office may, before attaining the age of 65 years, in written notice to the Magistrates Commission, indicate his or her intention to continue to serve in such office for such further period specified in the written notice: Provided that a magistrate must vacate his or her office on attaining the age of 70 years.

The table below provides the number of magistrates who will reach retirement age within the next five (5) years (only permanently appointed magistrates):

1. Per age group:

| **Row Labels** | **Count of Age** |
| --- | --- |
| 60 | 70 |
| 61 | 57 |
| 62 | 46 |
| 63 | 53 |
| 64 | 31 |
| 65 | 18 |
| 66 | 23 |
| 67 | 10 |
| 68 | 5 |
| 69 | 11 |
| **Grand Total** | **324** |

1. Per Post Class (permanently appointed magistrates between 60 and 69 years of

age)

|  |  |
| --- | --- |
| **Post Class** | **Number** |
| Magistrate  | 179 |
| Chief Magistrate  | 10 |
| Regional Magistrate  | 96 |
| Senior Magistrate  | 35 |
| Regional Court President  | 4 |
| **Grand Total** | **324** |

1. The latest information at our disposal in respect of funded posts for magistrates in the Republic is contained in the table below:

|  |  |
| --- | --- |
| **Post Class** | **Approved Posts** |
| Special Grade Chief Magistrate | 1 |
| Chief Magistrate                                  | 21 |
| Senior Magistrate                                 | 162 |
| Magistrate                                         | 1 456 |
| Regional Court President                           | 10 |
| Regional Magistrate   | 386 |
| **Grand Total** | **2 036** |

1. In terms of section 9(3) of the Magistrates’ Courts Act, 1944 (Act 32 of 1944), the Minister may appoint any appropriately qualified, fit and proper person as an acting magistrate after consultation with the Head of the Court concerned in any vacant Office of Magistrate. In practice, the Chief Magistrate or the Regional Court President will submit applications to the Deputy Minister, as the delegated authority by the Minister, for consideration of appointment of an acting Magistrate in the vacancies that still need to be filled. Acting magistrates are therefore appointed in all the vacant offices where applications are submitted by the Regional Court President or the Chief Magistrate in his or her area of jurisdiction. Acting Magistrates are also in posts where the incumbent Magistrate is acting in a higher position such as an acting Judge, acting Chief Magistrate or Senior Magistrate, etc, for appointment in posts where a Magistrate is on leave, for appointment where a Magistrate is suspended or in the funded case backlog courts. The acting appointments are generally made for a period of three (3) months at a time where-after the acting Magistrate may be re-appointed as the need exists. During the period of 1 April 2021 to 31 March 2022, the Deputy Minister appointed 2 251 acting Magistrates for the reasons mentioned above.