

CHAPTER 7:17

JUDICIAL COLLEGE ACT

Acts 18/1998, 14/2002 (s. 11), 6/2005 (s. 5), 5/2014 (s. 33).

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TO establish the Judicial College of Zimbabwe and to provide for its functions; and to provide for matters connected therewith or incidental thereto.

[Date of commencement : 1st September, 1999]

PART I

PRELIMINARY

1 Short title and date of commencement

This Act may be cited as the Judicial College Act [*Chapter 7:17*].

2 Interpretation

In this Act—

“College” means the Judicial College of Zimbabwe established by section *three*;

“Council” means the Council of the Judicial College, constituted in terms of section *seven*;

“member” means a member of the Council, including the chairman and vice-chairman;

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“Principal” means the person appointed as Principal of the College in terms of section *thirteen*.

PART II

ESTABLISHMENT AND FUNCTIONS OF JUDICIAL COLLEGE OF ZIMBABWE

3 Establishment of Judicial College of Zimbabwe

There is hereby established a college, to be known as the Judicial College of Zimbabwe, which shall be a body corporate capable of suing and being sued in its own name and, subject to this Act, of doing anything that a body corporate may do by law.

4 Functions and powers of College

(1) Subject to this Act, the functions of the College shall be—

(a) to provide training for judges, magistrates, prosecutors, legal practitioners and other officers of court, members of the Police Force and Prison Service, and persons concerned in the administration of justice and the law; and

(b) to develop skills and knowledge in—

(i) forensic matters, and

(ii) the administration, management and liquidation of estates, companies and bodies corporate; and

(iii) penology; and

(iv) the registration of deeds and companies; and

(v) court procedures;

and

(c) to gather and publish or otherwise disseminate information relating to the matters referred to in paragraph (a) or (b) and to encourage the exchange of ideas in regard to them; and

(d) to undertake research into the matters referred to in paragraph (a) or (b) and to publish the results of any such research; and

(e) to provide consultancy services to the Government and other persons in regard to the matters referred to in paragraph (a) or (b); and

(f) to do anything which, in the Council’s opinion, is necessary or incidental to any of the functions referred to in paragraphs (a) to (e).

(2) Without derogation from section *three*, for the better exercise of its functions the College shall have power—

(a) to purchase, hold, manage and dispose of property of any description; and

(b) to employ, in consultation with the Minister, persons on such terms and conditions as the Council, with the approval of the Minister, may fix; and

[Paragraph substituted by section 11 of Act 14 of 2002]

(c) to enter into such contracts and other transactions as the Council considers expedient; and

(d) to charge fees for services rendered by it; and

(e) to establish branches and regional offices in such places within Zimbabwe as the Council may determine.

5 Execution of contracts and instruments by College

An agreement, contract or instrument approved by the Council may be entered into or executed on the College’s behalf by any person generally or specially authorized by the Council for that purpose.

6 Annual and other reports of College

(1) As soon as possible after the end of the College’s financial year, and in any event not later than six months thereafter, the Council shall submit to the Minister an annual report on the College’s activities during that financial year.

- (2) The annual report submitted in terms of subsection (1) shall be in a form approved by the Minister and shall include a copy of—
- (a) the College's balance sheet; and
 - (b) the College's income and expenditure account; and
 - (c) the Comptroller and Auditor-General's report on the College's accounts for the financial year concerned.
- (3) In addition to the annual report referred to in subsection (1), the Council—
- (a) shall submit to the Minister any other report, and provide him with any other information, that he may require in regard to the College's operations, undertakings and property; and
 - (b) may submit to the Minister any other reports that the Council considers desirable.
- (4) The Minister—
- (a) shall forthwith lay before Parliament every annual report submitted to him in terms of subsection (1); and
 - (b) may lay before Parliament any report submitted to him by the Council in terms of subsection (3).

PART III

COUNCIL OF THE JUDICIAL COLLEGE

7 Establishment and membership of Council

(1) Subject to this Act, the operations of the College shall be controlled by a council, to be known as the Council of the Judicial College, which shall consist of—

- (a) the Chief Justice of Zimbabwe; and
- (b) the Judge President of the High Court; and
- (c) the Prosecutor-General; and
- (d) the Secretary of the Ministry for which the Minister is responsible; and
- (e) the Chief Magistrate appointed in terms of paragraph (a) of subsection (3) of section 7 of the Magistrates Court Act [*Chapter 7:10*]; and
- (f) the Registrar of the High Court referred to in paragraph (a) of subsection (1) of section 55 of the High Court Act [*Chapter 7:06*]; and
- (g) the Master of the High Court referred to in section 3 of the Administration of Estates Act [*Chapter 6:01*]; and
- (h) the Chief Registrar of Deeds referred to in section 4 of the Deeds Registries Act [*Chapter 20:05*]; and
- (i) the Director of Public Prosecutions referred to in section 7 of the Criminal Procedure and Evidence Act [*Chapter 9:07*]; and
- (j) not more than three other members appointed, subject to subsection (2), by the Chief Justice.

(2) Members appointed in terms of paragraph (j) of subsection (1)—

- (a) shall hold office for such period, not exceeding three years, as may be fixed by the Chief Justice on their appointment; and
- (b) shall be eligible for reappointment.

8 Chairman and vice-chairman of Council

(1) The Chief Justice shall be the chairman of the Council and the Judge President of the High Court the vice-chairman.

(2) The vice-chairman of the Council shall perform the functions of the chairman whenever the chairman is unable to do so.

9 Meetings and procedure of Council.

(1) The Council shall meet for the dispatch of its business at such place and time as the chairman may direct: Provided that the Council shall meet at least three times in each financial year.

(2) The chairman of the Council may at any time convene a special meeting of the Council.

(3) Written notice of a special meeting convened in terms of subsection (2) shall be sent to each member not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting of the Council convened in terms of subsection (2), other than such business as the chairman of the Council may determine.

(5) The chairman of the Council or, in his absence, the vice-chairman shall preside at all meetings of the Council:

Provided that, if the chairman and vice-chairman are both absent, the members present may elect one of their number to preside at that meeting as chairman.

(6) Seven members shall form a quorum at any meeting of the Council.

(7) All acts, matters or things authorized or required to be done by the Council may be decided by a majority vote at a meeting of the Council at which a quorum is present.

(8) At all meetings of the Council each member present shall have one vote and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to a deliberative vote.

(9) With the Council's approval, the chairman may invite any person to attend a meeting of the Council, where the chairman considers that the person has special knowledge or experience in any matter under consideration by the Council.

(10) A person invited to attend a meeting of the Council in terms of subsection (9) may take part in the proceedings of the Council as if he were a member but shall not have a vote on any question before the Council.

(11) Any proposal circulated among all members and agreed to in writing by a majority of them shall have the same effect as a resolution passed by a duly constituted meeting of the Council and shall be incorporated into the minutes of the next succeeding meeting of the Council:

Provided that, if a member requires such a proposal to be placed before a meeting of the Council, this subsection shall not apply to the proposal.

(12) Subject to this section, the Council may regulate its own procedure.

10 Minutes of proceedings of Council

(1) The Council shall cause minutes of all proceedings of and decisions taken at every meeting of the Council to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting shall be accepted for all purposes as *prima facie* evidence of the proceedings and decisions taken at the meeting concerned.

11 Committees of Council

(1) For the better exercise of its functions, the Council may establish committees to which it may delegate, either absolutely or subject to conditions, such of its functions as it thinks fit:

Provided that the vesting of any function in a committee shall not divest the Council of that function, and the Council may amend or rescind any decision of a committee in the exercise of that function.

(2) The Council may appoint persons who are not members of the Council to be members of any committee.

(3) Subject to subsection (4), the procedure of any committee shall be as fixed by the Council.

(4) Sections nine and *ten* shall apply, *mutatis mutandis*, to committees and members thereof as they apply to the Council and its members.

12 Validity of decisions and acts of Council

No decision or act of the Council or a committee or an act that is authorized by the Council or a committee shall be invalid solely because there was a vacancy in the membership of the Council or the committee or because a disqualified person purported to act as a member of the Council or the committee, as the case may be, at the time the decision was taken or the act was done or authorized.

PART IV

STAFF OF COLLEGE

13 Principal of College

(1) Subject to this section and any other law, the Council shall appoint a person to be the Principal of the College.

(2) Upon being notified that the Council is considering the appointment of—

(a) a magistrate as Principal in terms of subsection (1), the Chief Magistrate shall forthwith submit a list of not fewer than three names of magistrates who, in his opinion, would be suitable for such appointment; and

(b) a member of the National Prosecuting Authority as Principal in terms of subsection (1), the Prosecutor-General shall forthwith submit to the Council a list of not fewer than three names of persons employed in his Office who, in his opinion, would be suitable for such appointment.

[Paragraph amended by Act 5 of 2014]

(3) Where the Council appoints as Principal—

(a) a person who is not in the full-time employment of the State, he shall be appointed in consultation with the Minister, on such terms and conditions as the Council, with the approval of the Minister, may fix;

(b) a person in the full-time employment of the State—

(i) he shall be regarded as seconded to the Council for the period of his appointment; and

(ii) he shall be appointed for a period determined by the Council in consultation with the Minister, and upon the expiry of his term of office shall be eligible for reappointment for a further period determined by the Council in consultation with the Minister.

[Subsection substituted by section 5 of Act 6 of 2005]

(4) ...

[Subsection repealed by section 11 of Act 14 of 2002]

(5) Subject to this Act and to any directions given to him by the Council, the Principal shall be responsible for the day-to-day management and administration of the College and the efficient conduct of its business.

(6) Without prejudice to the generality of subsection (6), the Principal—

- (a) shall ensure the efficient carrying out of the College's functions, and for that purpose shall have such powers as the Council may delegate to him; and
- (b) shall be responsible for safeguarding the funds and property of the College and, in that regard, shall be subject to control and direction by the Treasury in terms of Part V of the Audit and Exchequer Act [Chapter 22:03] in all respects as if those funds and that property were public moneys or State property, as the case may be, as defined in section 2 of that Act; and
- (c) shall prepare annually for the Council's consideration such programmes of activity for the College, together with such supporting budgets, as may be necessary; and
- (d) with the approval of the Council, shall organise the College into such operational divisions as may be necessary for the efficient conduct of its business; and
- (e) shall carry out any instructions that the Council may give him from time to time.

14 Supporting staff

(1) Without derogation from the College's power to employ persons in terms of paragraph (b) of subsection (2) of section *four* but subject to any other law, the Minister, at the request of the Council, may assign persons employed in his Ministry to perform such services for the College as may be necessary to enable the College to carry out its functions, and any such persons shall be under the direction of the Principal.

(2) A person assigned to the Council in terms of subsection (1)—

- (a) shall be regarded as seconded to the Council for the period of his appointment; and
- (b) shall be appointed for a period determined by the Council in consultation with the Minister, and upon the expiry of his term of office shall be eligible for reappointment for a further period determined by the Council in consultation with the Minister.

[Subsection inserted by section 11 of Act 14 of 2002 and amended by section 5 of Act 6 of 2005]

PART V

FINANCIAL PROVISIONS

15 Funds of College

The funds of the College shall consist of—

- (a) such moneys as may be payable to the College from moneys appropriated for the purpose by Act of Parliament; and
- (b) any moneys to which the College may be entitled from time to time, whether by way of gifts, donations, fees or otherwise.

16 Financial year of College

The College's financial year shall be the period of twelve months ending on the 31st December in any year.

17 Accounts of College

(1) The Council shall maintain proper books of account and other records relating thereto in respect of all the College's activities, undertakings and property, including such particular accounts and records as the Minister may direct.

(2) As soon as possible after the end of each financial year, the Council shall prepare and submit to the Minister a statement of accounts in respect of each financial year or such other period as the Minister may direct.

18 Audit of College's accounts

The accounts kept by the Council in terms of subsection (1) of section *seventeen* shall be audited by the Comptroller and Auditor-General in accordance with the Audit and Exchequer Act [Chapter 22:03] in all respects as if the funds and property of the College were public moneys or State property, as the case may be, as defined in section 2 of that Act.

PART VI

TRANSITIONAL PROVISIONS

19 Interpretation in Part VI

In this Part—

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date of commencement of this Act;

“former College” means the organisation known as the Judicial College which, immediately before the fixed date, performed training functions for the Ministry of Justice, Legal and Parliamentary Affairs.

20 Transfer of assets to College

(1) Any movable property of the State which, immediately before the fixed date, was being used exclusively for the purposes of the former College shall pass to the College on the fixed date and become the College’s property.

(2) Any right or obligation which, immediately before the fixed date, attached to any movable property referred to in subsection (1) shall pass to the College on the fixed date.

(3) Any moneys which, immediately before the fixed date, were held by a public officer for the purposes of the former College shall pass to the College on the fixed date and become part of the College’s funds.

21 Principal and staff of former College transferred to College

(1) Any member of the Public Service who, immediately before the fixed date, performed the function of principal of the former College shall be deemed to have been appointed as Principal in terms of section *thirteen* for the remainder of his period of secondment to the service of the former College.

(2) Any member of the Public Service whose duties, immediately before the fixed date, included the provision of services for the former College shall be deemed to have been assigned in terms of section *fourteen* to perform those services for the College.