

SALC BULLETIN

Newsletter of the South African Law Commission

A NEW BEGINNING

Why this bulletin

At the first meeting of the reconstituted Commission there was consensus that the Commission should become more visible. The accessibility of the work of the Commission is of major importance. The work of the Commission should be acceptable to the community in the sense of being seen to address its needs and interests. There is a definite need to consult as widely as is practicable.

The aim of the Bulletin is to inform people about and interest them in the work of the Commission. The Bulletin will contain information on the activities of the Commission, an update on current projects and items on new and completed projects.

Reconstitution of Commission

The Commission was reconstituted in January 1996 to make it more representative of the community that it serves. The following members were appointed by the President:

The Chairperson is Judge I Mahomed, the Vice-President of the Constitutional Court. The Vice-Chairperson is Judge P J J Olivier, a Judge of the Appeal Court who was also the Vice-Chairperson of the previous Commission. The full time member is Professor T Nhlapo. The

other members are Judge Y Mokgoro, a judge of the Constitutional Court, Advocate J J Gauntlett SC from the Cape Bar, Ms Z Seedat, an attorney practising in Durban, and Mr P Mojapelo, an attorney practising in Nelspruit.

The Commission has since its reconstitution met on 23 and 24 February, 20 April and 15 June 1996.

Appointment of project committee members

The following appointments have been made to project committees:

Money laundering

Adv J J Gauntlett SC (Chairperson), a member of the Commission.
Mr T Coetzee, Assistant General Manager: Exchange Control; SA Reserve Bank.
Prof A Itzikowits, Professor : Law Faculty; University of the Witwatersrand.
Mr A V Pienaar, Group Legal Adviser: Standard Bank Investment Corporation.
Mr H Stark, Divisional Head: Bank Supervision; SA Reserve Bank.
Dr F H van Zyl, Head: Department Legal Services; Financial Services Board.

Arbitration

Judge Jan Steyn (Chairperson).

Prof D W Butler, Professor: Law Faculty; University of Stellenbosch.
Mr R H Christie QC, formerly Professor of Law; University of Zimbabwe.
Adv J J Gauntlett SC, member of the Commission.
Ms Y S Meer, Attorney.

Harmonisation of the common law and indigenous law

Prof T Nhlapo (Chairperson), a member of the Commission.
Ms L G Baqwa, Attorney.
Prof T W Bennett, Professor: Law Faculty; University of Cape Town.
Adv F Bosman SC, formerly the Chief Family Advocate.
Prof C R M Dlamini SC, Rector of the University of Zululand.
Judge Y Mokgoro, Judge of the Constitutional Court and member of the Commission.

Insolvency

Judge R H Zulman, a member of the project committee, has been designated as the new chairperson of the committee. The other members of the committee are:

Mr N Coetzer, attorney.
Dr E de la Rey, Department Legal Services; Financial Services Board, formerly Professor: Law Faculty; University of South Africa.
Mr A J Esterhuysen, Chief Master of the Supreme Court.
Prof M M Katz, attorney and nominee of the Standing Advisory Committee on Company Law.
Mr L F Pereira, Attorney and

nominee of the Association of Insolvency Practitioners of Southern Africa.

Issue papers

In order to actively involve the community at an earlier stage, the Commission has decided to publish issue papers for appropriate investigations as the first step in the consultation process. The purpose of an issue paper is to announce an investigation, to elucidate the aim and extent of the investigation, to point to possible options available for solving existing problems and to initiate and stimulate debate on identified issues by way of including specific questions on relevant issues.

A discussion paper on money laundering and related matters, which was preceded by an issue paper, as well as an issue paper on family violence were recently released.

Reports

The annual report for 1996 was Tabled in Parliament on 9 May 1996.

A report on the declaration and detention of persons as State patients was submitted to the Minister of Justice on 15 June 1996.

Implementation of previous reports

A Bill on debt collecting was introduced on 27 February 1995. The Senate Committee is considering the Bill.

A Bill on interest on damages was approved by the Select Committee of the Senate on 28 February 1996. The Bill is currently under consideration by the Justice Portfolio Committee of the National Assembly.

A Bill on the rights of a father in respect of illegitimate children was discussed by the Cabinet Committee

Juvenile Justice and Aids

The appointment of members for for Social and Administrative Affairs on 28 February 1996. By direction of the Cabinet the Department of Justice has consulted with the Department of Welfare which made some new proposals. A revised Bill will be considered by the Minister shortly.

A Bill on the Hague Convention on the Civil Aspects of International Child Abduction was introduced in Parliament on 21 February 1996 and referred to the Justice Portfolio Committee of the National Assembly.

On 3 July 1996 Cabinet approved the introduction in Parliament of four Bills recommended by the Commission. The Bills deal with the application of the trapping system; Jewish divorces; international co-operation in criminal prosecutions and the simplification of criminal procedure.

Programme of Commission

The following projects on the Commission's programme are currently receiving attention:

- 47 Unreasonable stipulations in contracts and the rectification of contracts
- 59 Islamic marriages and related matters
- 63 Review of the law of insolvency
- 67 The Usury Act and related matters
- 73 The simplification of criminal procedure
- 82 Sentencing
- 85 Aspects of the law relating to AIDS

these project committees is under consideration by the Minister of Justice.

- 86 Euthanasia and the artificial preservation of life
- 88 The recognition of a class action in South African law
- 90 Harmonisation of the common law and indigenous law
- 93 Speculative and contingency fees
- 94 Arbitration
- 96 The Apportionment of Damages Act, 1956
- 100 Family law and the law of persons:
 - * The granting of visitation rights to grandparents
 - * Family violence
- 101 The application of the Bill of Rights on the criminal law, criminal procedure and sentencing
- 102 The civil jurisdiction of courts
- 103 Limitation on claims against the Multilateral Motor Vehicle Accidents Fund
- 104 Money laundering and related matters
- 105 Security legislation
- 106 Juvenile Justice
- 107 Sexual offences by and against children

Internet

Arrangements are under way to make the publications of the Commission available on the Internet.

Invitation

Interested parties are invited to submit proposals for law reform and

information in respect of projects to the Commission.

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