

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**STATE ATTORNEY
AMENDMENT BILL**

[B 52—2013]

*(As agreed to by the Portfolio Committee on Justice and
Constitutional Development)*

[B 52A—2013]

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AMENDMENTS AGREED TO

STATE ATTORNEY AMENDMENT BILL
[B 52—2013]

CLAUSE 2

1. On page 2, in line 12, to omit “2013” and to substitute “2014”.
2. On page 2, in line 17, after “Attorney”, to insert “**and termination of appointment**”.
3. On page 2, from line 18, to omit subsection (1) and to substitute the following subsection:

“(1) The Minister of Justice and Constitutional Development may, subject to the laws governing the public service, appoint as Solicitor-General, a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned—

(a) who is admitted as an attorney in any division of the High Court of South Africa; or

(b) who—

(i) is admitted as an advocate in any division of the High Court of South Africa;

(ii) was previously admitted as an attorney in any division of the High Court of South Africa and practised as such;

(iii) has not been struck off the Roll of attorneys or Roll of advocates; and

(iv) is eligible to be re-admitted as an attorney, and who shall, with due regard to the ethical norms and standards in the attorneys’ profession, be subject to the direction and supervision of the Minister.”.

4. On page 3, in line 3, after “period”, to insert “or periods of not more than five years at a time”.
5. On page 3, in line 9, to omit “heads of each office” and to substitute “the heads of offices”.
6. On page 3, after line 16, to insert the following subsections:

“(4) (a) The appointment of a Solicitor-General in terms of this section shall, subject to the laws governing the public service, and after following due process, terminate—

(i) if a division of the High Court of South Africa orders that—

(aa) his or her name be struck off the Roll of attorneys or Roll of advocates; or

(bb) he or she be suspended from practice as a sanction arising out of disciplinary processes instituted by the relevant professional governing body in the legal profession; or

(ii) in terms of any ground provided for in section 17 of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

(b) The appointment of a State Attorney or attorney in terms of this section shall, subject to the laws governing the public service, and after following due process, terminate—

(i) if a division of the High Court of South Africa orders that—

(aa) his or her name be struck off the Roll of attorneys; or

(bb) he or she be suspended from practice as a sanction arising out of disciplinary processes instituted by the relevant professional governing body in the legal profession; or

(ii) in terms of any ground provided for in section 17 of the Public Service Act, 1994.

(5) (a) Whenever the post of Solicitor-General is vacant or if the Solicitor-General is for any reason absent or unable to exercise his or her powers or to perform his or her functions in terms of this Act, the Minister of Justice and Constitutional Development may appoint any person who meets the criteria for appointment referred to in subsection (1), to act in that post.

(b) Whenever a post of state attorney is vacant or if a state attorney is for any reason absent or unable to perform his or her functions in terms of this Act, the Minister of Justice and Constitutional Development may, after consultation with the Solicitor-General, appoint any person who meets the criteria for appointment provided for in subsection (3), to act in that post.”.

7. On page 3, in line 17, to omit “(4)” and to substitute “(6)”.
8. On page 3, in line 20, to omit “(5)” and to substitute “(7)”.
9. On page 3, in line 24, to omit “(6)” and to substitute “(8)”.
10. On page 3, in line 26, to omit “2013” and to substitute “2014”.
11. On page 3, in line 30, to omit “2013” and to substitute “2014”.
12. On page 3, in line 32, to omit “(7)” and to substitute “(9)”.
13. On page 3, in line 34, to omit “(6)” and to substitute “(8)”.
14. On page 3, in line 37, to omit “(8)” and to substitute “(10)”.

CLAUSE 3

1. On page 3, from line 51, to omit “or by parliamentary agents: Provided that the functions in regard to his or her duties as parliamentary agent shall be subject to the Standing Rules of the respective Houses of Parliament”, and to substitute “[**or by parliamentary agents: Provided that the functions in regard to his or her duties as parliamentary agent shall be subject to the Standing Rules of the respective Houses of Parliament**]”.
2. On page 3, from line 56, to omit “and the South African Railways and Harbours Administration,” and to substitute “[**and the South African Railways and Harbours Administration,**]”.
3. On page 3, in line 59, to omit “Administration” and to substitute “administration”.
4. On page 4, in line 10, to omit “in consultation with the Solicitor-General and after consultation” and to substitute “after consultation with the Solicitor-General, who must consult”.

CLAUSE 4

1. On page 4, in line 49, to omit “or assign any function”.
2. On page 4, in line 53, to omit “or function”.

3. On page 4, in line 54, to omit “or assigned, as the case may be,”.
4. On page 4, in line 55, to omit “or performance of that function”.

CLAUSE 5

1. On page 5, in line 15, to omit “stamp duty and” and to substitute “[**stamp duty and**]”.
2. On page 5, line 20, to omit “duty or” and to substitute “[**duty or**]”.
3. On page 5, from line 25, to omit “stamp duty or” and to substitute “[**stamp duty or**]”.
4. On page 5, in line 26, to omit “payable by means of stamps” and to substitute “[**payable by means of stamps**]”.
5. On page 5, in line 26, to omit “duty or” and to substitute “[**duty or**]”.

CLAUSE 7

1. On page 6, from line 2, to omit subsection (3) and to substitute the following subsection:

“(3) (a) [**The State Attorney or the person in charge of a branch of the State Attorney’s office**] A State Attorney may delegate any power conferred upon him or her under this section to any person employed in [**the State Attorney’s office or branch thereof, as the case may be**] an office of State Attorney.

(b) A State Attorney is not divested of any power so delegated and may amend or set aside any decision made in the exercise of that power, subject to any rights that may have accrued to a person as a result of the decision.”.

CLAUSE 12

1. On page 7, in line 7, to omit “2013” and to substitute “2014”.