



ASSOCIATION OF REGIONAL MAGISTRATES OF SOUTH VERENIGING VAN STREEKLANDDROSTE VAN SUI

Private Bag/Privaatsak X61
PRETORIA
0001

Tel.: (012) 319-4185
(012) 319-4191
(012) 319-4166
Fax/Faks: (012) :
E-mail: [exco@armsa](mailto:exco@armsa.org.za)

Executive Management Committee - Uitvoerende Dagbestuur

A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 1

January 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIPNEWS

Since the distribution of our last newsletter the following regional magistrates joined our ranks. We wish to welcome them and hope that their membership will be worthwhile:

Mnr. R.C.A. Henney	Wynberg
Mrs P. Naidoo	Cape Town
Mr M.E. Xolo	Eshowe
Mr B.B. Mahlatsi	Bethlehem
Mr N.C. Mthombeni	Thohoyandou
Mr N.G. Pretorius	Potgietersrus
Mr R. Button	Protea (Soweto)
Mrs R. Erasmus	Port Elizabeth
Mrs R.E.T. Matthys	Roodepoort

Total membership: **206**

B. SEMINAR ON THE JUDICIAL OFFICER AND THE CHILD WITNESS

We trust that those who attended enjoyed the weekend in the Cape. We also hope that you learnt something that you can apply in your daily work as judicial officers.

C. ANNUAL GENERAL CONGRESS

The Annual General meeting was held on 28 November 2002 at the Strand Beach Hotel. 151 Members attended the meeting; the best attended meeting ever.

The Executive Management Committee of 2002 was re-elected for another one year term (2003).

For the benefit of the members who could not attend the meeting, we will briefly summarise the important decisions taken at the meeting. The official minutes of the meeting will be distributed in due course.

Copies of the Annual Report of the President, the Chairperson of the Salaries and Conditions of Service Committee and the financial report are attached for your information. A copy of the Agenda of the meeting is also attached.

IMPORTANT DECISIONS TAKEN:

- (a) The meeting decided by way of a majority vote that ARMSA's Constitution shall not be amended to allow magistrates on probation (or "on regional test") to become members. They can still only become members once they have been permanently appointed as regional magistrates.
- (b) It was decided to amend the Constitution so that ARMSA's representative on the Magistrates Commission must also serve on the Executive Committee, as well as the Chairpersons of the various Standing Committees.
- (c) The members also decided that the following new Standing Committees will be formed:
 - (i) Members Support Committee This committee will assist members who suffer from work-related problems such as stress etc. It will hopefully set up a Regional Magistrates Counselling Program of some sort. The Chairperson must still be appointed.
 - (ii) Project Committee Mr Herman Buhr of George was elected as Chairperson. This Committee will investigate proposals and implement *inter alia* certain projects which will enhance our involvement in the community without compromising our judicial independence.
 - (iii) Ethics Committee Mr Paul du Plessis of Johannesburg was elected as Chairperson of this Committee.

The meeting also gave its blessing for the continuation of the Judicial Independence Committee (Chairperson Mr Graham Travers) and the Salaries and Conditions of Service Committee (Chairperson Mr Hamilton Cele) activities. If anyone wants to contribute or be a member of one of these Committees, please don't hesitate to contact us or the Chairperson of that Committee. Your involvement and input will enhance the effectiveness and success of these committees.

(d) SECURITY

Mr Eddie Humphreys, member of the Salaries and Conditions of Service Committee, drafted a report regarding security which is attached for your information.

The meeting decided that security for regional magistrates must receive the highest possible attention in 2003, and that the Chief Justice should also be approached regarding it.

(e) SALARIES

The meeting gave a mandate for the Salaries and Conditions of Service Committee to continue their investigation into the proper remuneration of regional magistrates and to make use of experts to draft a document in this regard, although it could be quite costly. This will be needed to properly address the Compensation Commission of the Public Office Bearers, once the legislation is passed hopefully in 2003 to include us in the definition of public office bearers. It is essential that a proper, well drafted document is tabled the first time we get an opportunity to do so at this Commission.

(f) PENSIONS

The meeting gave a mandate to the Chairperson to proceed with legal action if necessary regarding the calculation of our pensions. According to us, the authorities unlawfully changed the method of the calculation of our pension to your detriment

(g) COURT STRUCTURES

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The meeting unanimously confirmed their mandate that we must strive for an intermediate court with criminal and civil jurisdiction to be introduced and that the regional courts must be removed from the lower courts' structure to obtain its independent place in the court structures. The meeting also unanimously rejected the so-called "flat-structure" proposal which entails *inter alia* the abolishment of the Regional Court

(h) CROSS-TRANSFERS OF REGIONAL MAGISTRATES

The point was raised that cross-transfers should be approached directly by the Magistrates Commission rather than via the current appointment procedure. This matter was referred to the Salaries and Conditions of Service Committee for further investigation and action.

(i) ALLOCATION OF CASES TO REGIONAL COURTS

Concerns were expressed by a member from Mpumalanga that they try a large number of juveniles in the regional court and that minor housebreaking cases are also put on the rolls. It was decided that this must be taken up with the National Director of Public Prosecutions and his Deputies by the National Executive Committee.

(j) DELEGATES TO COMMONWEALTH JUDGES AND MAGISTRATES ASSOCIATION: TRI-ANNUAL CONGRESS: 2003

The meeting decided that we should at least send one or two delegates to this Congress to represent us there in August 2003.

(k) NEW METHOD OF DISTRIBUTION OF NEWSLETTERS

The meeting unanimously decided that a new centralized way of distributing the newsletter will be followed. The services of a private firm will be used to distribute the newsletter to all our members all over the country at the same time.

(l) The following additional resolutions were taken which will be forwarded to the authorities in due course:

RESOLUTION 1

[PUTTING INTO OPERATION OF SECTION 276B ACT 51 OF 1977 – FIXING OF NON-PAROLE PERIOD]

THAT this assembly here gathered,

NOTING that convicted prisoners, although sentenced after careful consideration to an appropriate period of imprisonment by courts are often released prematurely by prison parole boards,

CONSIDERING that this has a detrimental effect on the administration of justice,

NOTING FURTHER that Parliament has enacted the Parole and Correctional Supervision Amendment Act, 1997 (Act 81 of 1997), *inter alia*, which inserts section 276B of the Criminal Procedure Act 1977,

RESOLVES to request the Presidency and the Minister of Justice to give urgent consideration to putting the above section into operation as soon as is practical or to state publicly why such provision cannot be put into operation at present.

RESOLUTION 2

[CREATION OF A STATUTORY PROVISION REGULATING THE TAKING INTO CONSIDERATION FOR PURPOSES OF SENTENCE OF PERIODS DURING WHICH AN ACCUSED HAS BEEN IN CUSTODY WHILE AWAITING TRIAL]

THAT this assembly here gathered,

NOTING that accused often spend extended periods in custody awaiting trial or finalisation of their cases,

NOTING that delays in the finalisation of trials are due to delays caused by the actions of the prosecution, the accused and delays of a systemic nature,

NOTING that no provision exists at present for regulating the taking into account of these delays for purposes of determining an appropriate sentence and of apportioning blame for such delays,

NOTING FURTHER that such statutory provisions exist in other common law jurisdictions such as in the Canadian Criminal Code,

RESOLVES to request the Minister of Justice to investigate the possibility of creating such a provision with the object of discouraging the occasioning of unreasonable delays in the finalisation of criminal matters.

RESOLUTION 3

[REGULATION OF PAROLE FOR ACCUSED CONVICTED OF OFFENCES INVOLVING SEXUAL OR OTHER VIOLENCE]

THAT this assembly here gathered,

NOTING the unacceptably high incidence of offences involving sexual and other violence (such as child rape and armed robbery),

NOTING that such offenders are often released on parole thereby endangering community safety,

CONSIDERING the tremendous damage this does to the reputation of the administration of justice.

RECOGNISING that section 12(1)(c) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) guarantees the right of every person "to be free from all forms of violence from either public or private sources".

CONSIDERING that the sentences imposed by the courts in the exercise of judicial authority of the State, which is vested in the courts, should be given proper recognition by the executive (including Correctional Services),

RESOLVES To request the President and the Minister of Justice to as a matter of urgency consider enacting a statutory provision with the object of:

1. vesting the decision whether or not to release a prisoner on parole, at least in respect of prisoners convicted of offences listed in schedule 2 of the Criminal Law Amendment Act, 1997 (Act 105 of 1997) in the court that originally imposed the sentence;
2. making it a prerequisite that before any such prisoner can be released on parole the prisoner applying for parole should satisfy the court hearing the parole application that his or her release would not endanger the complainant, any other person or the community in general;
3. that such hearings be heard in public and that the complainant or victim be given advance notice of the hearing, be entitled to be heard at such hearing (either in person or through counsel) and that where it is in the interests of justice such complainant or victim be given legal aid for purposes of the hearing.

RESOLUTION 4

[INSTITUTION OF CONTINUOUS COURT ROLLS FOR THE REGIONAL COURTS]

THAT the assembly here gathered,

NOTING that at present almost all trials are conducted in episodes with long period between hearings,

CONSIDERING that this system of managing court rolls is both inefficient and detrimental to the administration of justice,

CONSIDERING that the control and management of court rolls is an essential and inherent part of the administrative independence of any court structure

the administrative independence of any court structure,

NOTING FURTHER that the Chief Justice at a meeting held between himself, the Deputy Chief Justice, the Minister of Justice and Constitutional Department and the Director-General of the Department and a delegation of the Lower Court Management Committee enquired from the latter delegation why continuous court rolls could not be instituted in the regional courts,

NOTING FURTHER that no answer to this query was forthcoming,

RESOLVES AS FOLLOWS:

1. to mandate the establishment in each Regional Division of a Committee to be chaired by the chairperson of each region and composed of such number of members as may be necessary,
2. to mandate the respective committees with the task of investigating the impediments to establishing a continuous court roll, the feasibility thereof and the steps required to achieve that goal,
3. to mandate the respective committees to report in writing on their findings and any recommendations of the National Executive by not later than 31 March 2003
4. to mandate the Executive Management Committee after due deliberation of the findings and recommendations of the committees in each region (where this is possible) to draft a summary report of the findings and recommendations for submission to the Chief Justice, the Magistrates Commission, the National Prosecuting Authority, the legal profession and any other role-player for their further consideration and action as deemed necessary.

RESOLUTION 5

[TO VEST THE REGIONAL COURTS WITH THE NECESSARY JURISDICTION TO SENTENCE PERSONS CONVICTED OF OFFENCES LISTED IN PART I OF SCHEDULE 2 TO THE CRIMINAL LAW AMENDMENT ACT, 1997 (ACT 105 OF 1997)]

THAT THIS ASSEMBLY here gathered,

NOTING that sections 51 and 52 make provision for the so-called "split-trial" whereby the accused is convicted in the Regional Court but sentenced in the High Court.

NOTING that this procedure was found to be constitutionally valid by The Constitutional Court,

NOTING that such a procedure has been shown to cause inordinate delays in the sentencing of accused due to the necessity of transcribing records and the delay in obtaining dates for hearing in the High Courts,

NOTING FURTHER that because High Court Judges have not presided at the trial and have the "feel" of the trial they are generally perceived to be uneasy about confirming the conviction of the Regional Magistrates who presided at the trial,

AND NOTING FURTHER that many judges presiding at the High Court sentencing hearings recall the victims to testify for the purposes of sentence,

AND BELIEVING that this practise further increases the secondary trauma experienced by victims in sexual violence matters at the hands of the criminal justice system, given that delay of up to eighteen months and more can occur between testifying on the merits in the regional court and being recalled to testify on sentence in the High Court,

CONSIDERING that the practice, although legal, is highly undesirable given the negative effect upon the victim,

THEREFORE RESOLVES to request the Minister of Justice and Constitutional Development to urgently investigate the possibility of vesting the Regional Courts with the jurisdiction to impose life imprisonment and/or an unlimited period of imprisonment (as with the superior courts) for those offences listed in Part I of Schedule 2 to the Criminal Law Amendment Act, 1997 (Act 105 of 1997) subject to an automatic appeal/review by the accused where the minimum mandatory life sentence is imposed by the regional court as regards the conviction and sentence and an automatic appeal/review by the prosecution on the question of sentence where the regional court deviates from the minimum prescribed sentence.

(These amendments need not immediately be made a permanent part of our statutory law but can be made

subject to periodic re-enactment as are the present provisions regarding minimum sentences.)

RESOLUTION 6:

The meeting unanimously decided to support the Deputy Minister of Justice's and the Government's pledge campaign against violence against women and children. Several of our members signed the pledge forms and also took some for distribution.

- (m) The meeting decided to authorize a donation of R10 000 to the Legal Resources Centre for their hard work in the Tshabalala-case. We did not encounter any legal costs as a result of our involvement in the case.

D. FOCUSPOINTS FOR 2003

We will try our utmost in 2003 to concentrate on the following main issues and to achieve significant progress regarding each of them. We shall obviously handle other matters as well as they arise.

- (a) Security for Regional Magistrates: To try to convince the authorities that a definite plan be implemented for our protection, especially at home.
- (b) Pensions: To set the ball rolling in order to rectify the position regarding the calculation of our pensions, we also owe this to the widows of our former colleagues.
- (c) Salaries: We must finalize a comprehensive document this year regarding our remuneration to table before the Compensation Commission of the Public Office Bearers.
- (d) Court Structures: It seems as if the debate regarding suitable court structures is heating up. We shall do our best to promote the concept of an intermediate court at all possible forums, and to oppose the idea of a "flat-structure". We will fully report on this debate in the next newsletter.

In conclusion, we hope that you will have a prosperous New Year full of good, sound judgements!

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY



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0001

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Newsletter No. 2

February 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIPNEWS

We wish to welcome Mr J.H.S. van der Vyver from Mdantsane and Mr I Munnick from Mitchells Plain as new members.

We sent the newsletter of January 2003 to each member individually as decided at our previous Congress. It is therefore not necessary for Regions to distribute the newsletter any longer. We do request however that the Regional Committees do spot-checks to ensure that members did receive the first newsletter. If there are any problems or changes of postal addresses please inform us accordingly. If you have obtained an e-mail address in the meantime, please forward that to us as well.

Total membership: **207**

B. SALARIES

On 14 January 2003 our Chairperson signed a mandate on behalf of ARMSA to the Labour Studies Institute to investigate a suitable model for the adequate compensation of Regional Magistrates. You will remember that the Executive Management Committee was instructed by Congress 2002 to embark on such an investigation.

A copy of the mandate signed on behalf of ARMSA is attached, as well as the phases and the time tables for the completion of the investigation. We shall keep you informed of its progress.

A copy of the qualifications of the directors and associates of the institute is also attached. They will work in tandem with Fisher Hoffman PKF (East Rand) Inc. (an auditor's firm).

C. PENSIONS

We have engaged the services of a senior advocate who will furnish us with a complete legal opinion regarding the calculation of our pensions. We allege it is unconstitutional and to our detriment. Based on his opinion and advice, the Executive Management Committee will decide whether to proceed with legal action or not. Congress 2002 did mandate us to proceed with legal action, if necessary. The opinion will be available towards the end of February 2003. We shall try to make it available to all our members.

D. MEETINGS FOR 2003

The Executive Management Committee decided to convene a meeting of the National Executive Committee from 23 to 25 May 2003. This will include all the regional chairpersons and chairpersons of the various Standing Committees. The meeting will most probably be in Bloemfontein as it was last year. We will inform you in due course about the exact venue and furnish the relevant members with the Agenda for the meeting. At this meeting we want to obtain the final approval of the salaries document from the Executive Committee. The Annual Congress will be from 27 or 28 November till 30 November 2003, depending on funding. The exact venue will also be known later on. (Unfortunately it will not be Cape Town again!).

E. THE COURT STRUCTURE DEBATE

During the week of 11 – 15 November 2002 certain members of the lower court judiciary attended a workshop at Bela-Bela (the former Warmbaths) to discuss the whole issue of the single judiciary. JOASA, LCMC and ARMSA were also represented. Seven resolutions were taken at this workshop; and it was decided that these resolutions must be brought to the attention of *inter alia* the Chief Justice and the Minister of Justice and Constitutional Development. A copy of the seven resolutions taken is attached. ARMSA agreed with six of the seven resolutions; but strongly disagreed with Resolution Five, the proposed “flat structure”. All the persons present at the workshop (with the exception of our two members) supported this structure. Our members requested the other participants to include our minority view (one of an intermediate court) in the documentation to be forwarded to the relevant role-players, *inter alia* the Chief Justice. They refused to do so. This gave rise to the letter written by our Chairperson to the Chief Justice, a copy of which is attached. This letter gave rise to great unhappiness and we received letters from LCMC and JOASA; copies of which are also attached. We answered these letters, copies of which are also attached.

At the workshop it was also decided that the Chairpersons of LCMC, JOASA and ARMSA must form a committee to decide how these resolutions should be brought to the attention of the relevant role-players. Such a meeting took place on 22 January 2003, where it was decided that our view regarding the structures, can now be included in the document to be submitted to *inter alia* the Chief Justice. You will find our view as reflected in the Addendum to Resolution Five. It was also decided that the three Chairpersons will personally hand over copies of this document (containing the seven resolutions as well as our stance on the proposed structures) to the Chief Justice and the Minister. At the time of the drafting of this newsletter, the dates for those meetings must still be finalised. We shall keep you informed of the outcome of those meetings.

If you have any suggestions or proposals to make as the result of this document, please send them to us. The Chief Justice is the Chairperson of a Steering Committee who will investigate the lower court structures and possible restructuring thereof. We are welcome to make any further submissions to this committee, which will only start looking at our structures at about ± April – May 2003.

F. SECURITY

A copy of an article in Beeld of 24 January 2003 is attached for your information.

The outcome of the memo sent to the Cabinet to obtain additional funding for security is still uncertain. We will definitely raise the security issue with the Minister and the Chief Justice at the meetings referred to earlier.

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY



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Newsletter No. 3

March 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIPNEWS

The various regions have been paid their portion of the membership fees for December 2002, January and February 2003. We request the Regional Committees to check the payments and to contact us if there are any problems.

We also wish to welcome a new member, Mr W.B. Monk from Port Elizabeth to our ranks.

Total membership: **209**

B. MEMBERSHIP OF INTERNATIONAL ORGANISATIONS

We paid our proportional share of the membership fees of the International Association of Judge's (IAJ) and Commonwealth Magistrates and Judges Association (CMJA) to JOASA. JOASA have already paid the full amount to the two organisations.

Our chairperson was also formally invited by JOASA to attend the IJA's meeting from 11 – 15 May 2003. We accepted this invitation; there will be no cost implications for ARMSA.

We will, in co-operation with JOASA send as many delegates as possible to the CJMA's meeting in Malawi in August 2003 (24 – 29 August 2003).

Obviously we will have to bear costs in mind. If you are interested in attending, please contact us

directly, so that we can gain an impression of the interest amongst our members to attend. Please inform us before on or 30 April 2003 whether you are interested or not.

C. MAGISTRATES COMMISSION

The Commission held its first meeting for 2003 from 5 – 6 March 2003 and a report from our representative, Mr Trevor Levitt is attached.

D. SECURITY

ARMSA was informed by Mr Lucas Molaudzi, the Director of Security of the Department of Justice that a substantial amount (couple of millions) of money was made available for security over and above the budget for 2003/2004. He is also in the process of consulting with the VIP Unit of the Police to start evaluating the homes of judicial officers for safety purposes.

A National Forum consisting of various role-players will be formed in early April 2003 to assist the Department in prioritising the additional funds allocated for security. We will be represented on this Forum. This will enable us (once again) to convey our members' needs regarding security. We have been insisting for some time now that security must be handled nationally and not regionally. We hope that something tangible will come out of all of this. The Department also indicated that this forum will meet at least once a month to ensure that

the implementation of decisions can be monitored properly.

A copy of a report tabled at the United Nations by the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy is attached. In this report he deals with security for judicial officers in South Africa. His observations are the following:

"168. The Special Rapporteur expresses grave concern over the increased violence against judicial officers. Despite assurances from the Ministry of Justice that security of judicial officers will be given priority, this does not appear to be the case. Without such security for judicial officers the rule of law will be put at risk."

The Chairperson of the Judicial Independence Committee, Mr Graham Travers, contacts the Special Rapporteur on a regular basis to report on issues such as security and also provided him with the relevant information regarding attacks on judicial officers.

E.

SALARIES

The project to draft a report on the adequate compensation of regional magistrates is running according to schedule. A meeting to finalize Phase 1 of the project will be held in the middle of March.

The Salaries and Conditions of Service Committee will also in due course make proposals to the Magistrates Commission about the annual salary increase. We will furnish you with the details in the near future.

If you have any proposals or suggestions please forward them to the Executive, we shall convey them to the Salaries and Conditions of Service Committee.

F. PENSIONS

We consulted with Adv Karel Tip SC in the last week of February 2003 regarding possible legal action about the calculation of our pension. He needed additional information to enable him to finalize his legal opinion. We expect the written opinion towards the end of March 2003. We shall keep you informed.

G. ACCRUED LEAVE

We have decided (depending on the cost) to obtain a legal opinion on this subject as well. The Magistrates Commission made certain recommendations regarding accrued leave more than a year ago to the Minister. Despite several letters to him in this regard, he did not react at all. We feel that we should force the issue, get a legal

opinion and if necessary obtain a declaratory order.

H. MEETING FOR 2003

We have decided to change the date for the Executive Meeting to 30 May – 1 June 2003 in Bloemfontein. This meeting must be attended by the various Regional Chairpersons, Chairpersons of the Standing Committees and all the members of the Salaries and Conditions of Service Committee. This is the final date and will not be changed again.

We have also decided to change the date of the Annual General Meeting from 13 November or 14 November 2003 to the 16th November 2003. We are busy investigating a suitable venue for the Congress, as well as possible funding thereof. We shall keep you informed. These dates will also not be changed again.

Kind regards.

A.C. BEKKER

M.M. COOK

PRESIDENT

SECRETARY



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Newsletter No. 4

April 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

Two of our members both from Johannesburg, Mr Simon Radasi and Mr Jerry Janse van Vuuren obtained their LL.M degrees. Congratulations! If you know about similar or other achievements of our members, please let us know!

We also wish to welcome a new member, Mr Sam Hallatt from Ermelo.

Total membership: **210**

B. SALARIES/JUDICIAL OFFICERS AMENDMENT BILL

By now every member should have received the questionnaire about our salaries. **PLEASE COMPLETE IT AS SOON AS POSSIBLE AND RETURN IT SO THAT IT WILL BE BACK BY 15 MAY 2003.** If you did not receive a copy, please contact us and we shall provide you with one. This questionnaire forms a material part of the report we are drafting on the adequate compensation of regional magistrates.

Our information is that the Judicial Officer Amendment Bill could be in operation in ± July 2003. Magistrates and Judges will then be regarded as office bearers, and our remuneration will be determined by the Office Bearers Compensation Commission. It is unsure whether it will still hear submissions on our salaries this year or not. We are preparing

our report to be ready by the end of June 2003 in any event. Copies of the meetings of the Justice Portfolio Committee discussing this Bill, as well as the proposed Bill are attached.

C. SUPREME COURT OF APPEAL:

DECISIONS

A document drafted by Mr Graham Travers containing recent Supreme Court of Appeal decisions is attached for your information. We hope that we can from time to time provide you with this information, especially those who don't have access to the internet.

D. (MENTAL) HEALTH OF MAGISTRATES

At our Annual Congress in 2002, we discussed the need of establishing a Members Support Committee to look *inter alia* at the impact of stress on our members. We also decided to form such a committee. No chairperson was chosen for that committee; and the National Chairperson took it upon himself to investigate possible project(s) in this regard. In fact even before the Congress he had discussions about the specific issue of stress with Pritima Osman from the Law, Race and Gender Unit at UCT.

In the beginning of 2003 Pritima Osman started to draft a proposal addressing the mental health of magistrates. We supported her and also gave inputs and information. It was decided to seek the approval and support for this project from the Magistrates

Commission. We also decided to involve JOASA in this project, because their members will obviously also benefit from such a project. Pritima drafted a provisional discussion document (proposal), which was approved in principle by ARMSA and JOASA. It was decided that Trevor Levitt our representative at the Magistrates Commission will put it on the agenda at the Commissions next meeting in May 2003. Copies of the discussion document were also sent to certain members serving on the Commission to pave the way. The goals of setting up such a service are *inter alia* the following (according to the proposal):

- “1. To create awareness within the management structure of courts what the program is about and how the skills taught may be used as a management tool.
2. To disseminate information on the hazards of stress, illness, burnout and addiction.
3. To assist them to recognise their stress levels in themselves.
4. To teach them skills to help them adapt in the changing work climate they encounter.
5. To teach them how to manage stress and to take steps to do so well before a crisis hits.
6. Help to identify personal professional goals, which will allow them to take greater control of their lives.
7. To teach magistrates how to react to stress events so that a stressful situation can have a more positive outcome.
8. Of finding ways to manage on tight resources and increasing responsibility whether this be on the home front or at work.
9. How to deal with uncertainty and with conflict around transformation in real time and to unpack the issues around organisational restructuring emphasising the unique nature of the South African experience, the unique position of the SA judiciary and the accompanying issues which are part and parcel of the process.
10. To understand that wellness is a right and not the reserve of a few.”

We hope to achieve this by running training workshop by trained counsellors. An “after workshop service” will also be created to ensure that issues which emanated from the workshop are properly addressed.

All persons who attend the training will receive information on stress and illness and the hazards that accompany stress. In this way it is hoped to

lower the levels of self-medication and to prevent burnout. It is intended that officials will be better able to detect signs that present themselves and take preventative measures to alleviate their condition. In effect, magistrates will be taught the skills to understand their reaction and response to stress and to implement wellness techniques to prevent a slide into illness.

Magistrates will be taught skills to recognise their stress levels. They will also be exposed to techniques that identify healthy stress and unhealthy stress. They will also be able to recognise when they are “overwhelmed” by incidents that threaten their sense of well-being and safety and how to react to these in a way that is appropriate.

A large area of stress is the changing work climate that faces magistrates. Those who are career magistrates and white and have been in the system for a number of years find it difficult to adjust to the now different demands placed on them. For their colleagues who may not have been in the system for that length of time the demands are equally severe but the nature is different. These demands take away the creative energy of judicial officers and create tension between colleagues that in itself leads to a work environment that is inharmonious.

The proposal will address these tensions and the perceptions around the changing work climate in a way to build a work force that respects and trusts the process toward an equitable dispensation for all.

We will seek funding for this project from *inter alia* foreign donors.

We wish to thank Pritima Osman, Senior Lecturer at UCT (Law, Race and Gender) for the drafting of this proposal and her enthusiasm in establishing the whole project. She is the driving force behind this project and showed once again her unselfish commitment to the cause of the magistracy in our country.

E.

SECURITY

A copy of a report in the “Beeld” newspaper dated 21 March 2003 is attached, reflecting the view of the United Nations Special Rapporteur on the independence of judges and lawyers, regarding security in South Africa. A copy of a report dated 24 March 2003 in “Beeld” is also attached which also refers to the security situation as well as the accumulated leave issue.

The Department of Justice Directorate: Security also visited all the Regional Court

Presidents during the first 2 – 3 weeks in April to (once again!) establish the needs for security of regional magistrates. Some of you were also present at these meetings. You will remember that in September 2002 we already handed them a full report on our needs concerning security at home and at the office. This report was drafted after we had conducted a survey amongst our members. We also sent them a list of names of offices where regional magistrates are presiding, where there is no security at all, not even a guard at the door. We have met the Director: Security on several occasions up until now. They were once again, during their visits to the Regional Court Presidents, fully informed of your needs as reflected in the report.

We shall keep you informed.

F. COMMONWEALTH MAGISTRATES AND JUDGES ASSOCIATION (CMJA): TRIENNIAL CONFERENCE: MALAWI 24 – 29 AUGUST 2003

We remind members who are interested in attending to forward your names to us on or before 15 May 2003.

We can promise nothing regarding how many can attend at ARMSA's expense. We will also try to obtain additional funding if at all possible.

We were also invited to send 3 delegates to a Colloquium on "Combating Corruption within the Judiciary" to be held by CMJA from 21 – 23 May 2003. We will send representatives to attend; our accommodation costs will be paid by the hosts.

G. MEETINGS

The Executive Committee's meeting will definitely go ahead from 30 May 2003 – 1 June 2003 in Bloemfontein.

We will provide the relevant members with copies of a map indicating the route to the venue as well as the agenda for the meeting in due course.

If you feel that a specific topic should be raised at this meeting, please convey this to your Regional Chairperson so that he/she can place it on the agenda.

The Annual Congress/Conference will be from 13 or 14 to 16 November 2003.

We are in the process of drafting a business proposal to present to possible donors for a training seminar during that weekend. The exact venue will be decided upon finally at the meeting of the National Executive, 30 May – 1 June 2003. We will consider various options at that meeting. Hopefully by 30 May 2003 we will know whether we have obtained any donor funding or not, and will then be able to plan accordingly.

H.

PENSIONS: "BUYING BACK"

Information gathered by the Salaries and Conditions of Service Committee, indicate that we are currently allowed to "buy back" pension.

A form Z215E (an example is attached) must be completed for this purpose. The individual must then further deal with the GPF and the Department of Finance.

J. BRIDGING CIVIL COURSE: AT JUSTICE COLLEGE

A copy of a letter received from Justice College concerning a Bridging Civil Course for magistrates is attached. The content is self-explanatory. Please bear in mind that you must apply on or before 16 May 2003 to attend the course; and that only a limited number of magistrates will be allowed to attend.

K.

FAX MACHINE

Our fax machine was out of operation for ± 6 – 8 weeks. It was finally repaired and is now in full operation. We apologize for any inconvenience. The number is (012) 319-4191.

Kind regards.

A.C. BEKKER

M.M. COOK

PRESIDENT

SECRETARY



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VERENIGING VAN STREEKLANDDROSTE VAN SUID-AFRIKA**

Private Bag/Privaatsak X61
PRETORIA
0001

Tel.: (012) 319-4185 (President)
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E-mail: exco@armsa.org.za

Executive Management Committee - Uitvoerende Dagbestuur
A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 5

May/June 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We wish to welcome a new member Mr S.H. Mundhree from Ingwavuma.

One of our most popular and well-known members Mr K.J. Klopper from Paarl resigned as regional magistrate and will leave his office at the end of June 2003. He took up a senior position at the Legal Aid Board in the Western Cape. We wish to thank him for his contributions and commitment to ARMSA through the years. He also served as chairperson of the Western Cape Region a couple of years ago. Only our best wishes accompany him!

The Free State Region (Bloemfontein and Welkom) completed 55½ free court hours on Saturdays as part of our project in this regard. Thank you!

Total membership: **212**

B. EXECUTIVE MEETING: BLOEMFONTEIN: 31 MAY 2003

The meeting was highly successful and worthwhile. All the regions were represented and various issues were debated at length. A copy of the final Agenda is attached for your attention.

The rest of the newsletter will reflect the information and decisions taken regarding the various topics on the Agenda.

C. SALARIES

We wish to thank you for your excellent and overwhelming response to the questionnaire we sent out regarding salaries. We received \pm 70% of the questionnaires back; which is far above average for such an exercise. The report regarding our salaries will be finalized by 10 June 2003. It is a substantial document (\pm 150 pages) and we will send copies of it to all the Regional Chairpersons for comment and inputs. The document will then be re-drafted and finalised for possible submission to the Remuneration Commission of the Public Office Bearers. Please bear in mind that it is at this stage a working document and not a final document.

The Executive Committee of the Magistrates Commission is scheduled to meet the Minister of Justice on 13 June 2003; they want to ascertain from him what the position is regarding salary increases for 2003. Trevor Levitt, our representative, will also be present as Chair person of the Salaries Committee.

All indications are that the Judicial Officers Amendment Bill which will *inter alia* scrap section 12 of Act 90/1993 (the mechanism currently used in determining our salaries) and replace it with a mechanism where the Remuneration Commission of the public office bearers will determine our salaries, will probably be promulgated in September 2003. If put into operation in its totality, this Commission **must** determine our salaries, because the section 12 mechanism will fall away totally.

We are confident that our submissions (the report we are drafting now) will be ready if this Commission is going to determine our salaries.

D. PENSIONS AND ACCRUED LEAVE

A copy of a letter received from the instructing attorney was tabled at the meeting in Bloemfontein regarding the progress of the legal opinion. A copy is attached. It seems as if by 5 June 2003, a provisional draft will be available.

E. JUDICIAL OFFICERS AMENDMENT BILL AND OTHER LEGISLATION

We already indicated when we expect the Bill to come into operation. Mr Graham Travers drafted comprehensive and excellent submissions on this Bill and it was sent to the Portfolio Committee for consideration. A copy of it is attached: It was well received at the Committee.

Apparently the Portfolio Committee is also busy with legislation which will bring disciplinary steps against magistrates in line with those for judges. Once we are office bearers; we will also have to declare our assets. The meeting in Bloemfontein welcomed this fact *inter alia* as it will combat corruption within the judiciary.

F. LANGUAGES IN COURT

We received a letter from Honourable Justice R.M.M. Zondo, the Chairperson of the "Court Languages Committee" formed by the Heads of Superior Courts. A copy of it is attached. Our reply is also attached. We sent this letter to the various regions for their inputs which are reflected in our letter. If you have any contribution to make, please send it to us so that we can forward it to the judge.

At the meeting in Bloemfontein the issue was debated, but we decided not to take an official stance on it at this stage but try to encourage more debate and research about the issue.

G. SECURITY

A copy of a letter addressed to the Magistrates Commission from the Department of Justice concerning their budget for security is attached. You will notice that R4 million was made available for the protection of the residences of the 36 judges in Kwazulu Natal. We find this unacceptable, seen in the light of the fact that regional magistrates carry a much higher risk than judges. Since 2000 only 4 regional magistrates and one Regional Court President in the Western Cape's residences were secured. Despite the survey we had done, numerous recommendations and endless visits highlighting our plight; we were again sidelined regarding security. This is unacceptable. Our information is that the Minister ordered this R4 million to be made available, after a meeting he had with the Head of the Superior Courts. At the meeting on 13 June 2003 between the Minister and the Magistrates Commission security

will also be discussed. We shall draft a letter addressed to the Minister, which Mr Trevor Levitt our representative will hand over to him at this meeting. In the letter we will again deal with the history of security for us, our report and recommendations and our frustrations and dissatisfaction with the allocation to the judges. We shall emphasize that security is about who is carrying the risk and not status. This decision was taken at the meeting in Bloemfontein.

We shall keep you informed.

H. ACTING REGIONAL MAGISTRATES

The meeting in Bloemfontein again raised its concern about the Acting Regional Magistrates which are appointed on contract *inter alia* with the DPP's office. Their independence is questionable and they lack security of tenure. It was decided that we should convey our dissatisfaction about this to the other role-players. Section 9(3) and 9(4) of the Magistrates Act will have to be amended shortly, which will hopefully rectify this unfortunate situation.

J. MAGISTRATES COMMISSION

A report from our representative Mr Trevor Levitt concerning the last meeting on 28 and 29 May 2003 is attached. We wish to thank him again for his tireless efforts on our behalf.

K. CMJA REPORT BACK ON REGIONAL COLLOQUIUM: MANHATTAN HOTEL

Four of our members attended this meeting. The theme was "Combating Corruption within the Judiciary". The Limassol Conclusions were discussed and at the end a minute was issued called the "Pretoria Minute". Copies of it are included.

L. CMJA MEETING IN AUGUST 2003: MALAWI 2003: SELECTION OF REPRESENTATIVES

The full Executive at the Bloemfontein meeting studied the names of all the members who indicated that they are interested in attending. They decided to send the following persons to represent us, Mr Graham Travers, Regional Magistrate, Pretoria and Mrs M. Cannon, Empangeni.

If funding from the government perhaps becomes available Mr E.M. Vellem (Butterworth) and Mr P.J. du Plessis will also accompany them.

We regret that we cannot send all of you who were interested in going. We will bear you in mind for the future for similar events.

M. IJA: ATTENDANCE OF THEIR MEETING: 13 – 16 JUNE 2003

The meeting in Bloemfontein endorsed the fact that five of our members will represent us at this meeting; ARMSA will not bear any of the costs.

N. FINANCIAL REPORT

Currently, at the end of May (before the contributions for May was received), we are ± R122 000 strong. However we must still foot the bill for the report on our salaries and will have to have money available for the Annual Congress.

O. MEMBERSHIP: NEW APPROACH

The need to involve Regional Magistrates on probation in our activities was again raised and to amend our Constitution to extend membership to the Regional Magistrates on probation was also discussed. In the end it was decided to request the Annual Congress to reconsider its decision of last year. The Executive, at the Bloemfontein meeting, decided unanimously to introduce an affiliation to ARMSA. The magistrates currently busy with their probation period in the Regional Courts will be approached and invited to affiliate.

They will not pay a membership fee but will be entitled to attend meetings without voting rights and enjoy all other benefits from ARMSA.

If they are permanently appointed, they will then be entitled to full membership and will pay membership fees.

If they are not appointed permanently and not on probation in the Regional Court anymore, their affiliation will

If they are not appointed permanently and not on probation in the Regional Court anymore, their appointment will automatically cease.

We request you to approach such magistrates for possible affiliation. A document in this regard will soon be drafted and made available to the various Regions.

P. PROJECT COMMITTEE

The chairperson of this committee, Mr H.W. Buhr of George, also attended the meeting in Bloemfontein. The Regions were requested to forward names to the National Executive Committee of members who are interested in getting involved in this committee. This committee will deal with community involvement and projects which will show our commitment to the community as a whole; and that we are (although independent) part of the community. Through this project we want to enrich and educate the community with our expertise and knowledge.

If you have any ideas, please contact Mr Buhr at 0828550477. He is already working on a proposal to be submitted soon.

Q. NEED FOR A GENDER POLICY / ETHICS COMMITTEE

At the meeting in Bloemfontein the need for such a policy was discussed and referred to the Ethics Committee. The chairperson of the Ethics Committee indicated that he had liaised with Judge Kriegler about a document on ethics. He also indicated that Mr Pretorius of Umtata, a member of this committee drafted a document on ethics, which will be circulated shortly. We again request members who are interested in ethics to join this committee. Mr Paul du Plessis can be contacted at 0824984302.

The Ethics Committee will also liaise with the Project Committee to ensure that there are no ethical problems surrounding any of the proposed projects.

R. MENTAL HEALTH PROJECT

The document regarding this issue was tabled at the Magistrates Commission by Mr Trevor Levitt. It was accepted and supported by the Commission. In the meantime it was also forwarded to the Deputy Minister of Justice for her attention. Hopefully we will be able to meet her soon about the project.

S. NOMINATION OF MEMBERS AS JUDGES

A document is attached, outlining the vacant judges' posts available. The contents of the document are self-explanatory.

T. SEMINAR FOR REGIONAL MAGISTRATES AND ANNUAL GENERAL MEETING: VENUE

The seminar will be from 13 – 16 November 2003. At this stage it seems as if the Eastern Cape (Port Elizabeth) will host the seminar. Funding has been secured for the seminar, but it is still unsure to what extent you will have to contribute, if at all. The seminar will be on the application of Restorative Justice Principles in the Regional Court, and will also focus on the sentencing of juveniles, seen in the light of the Child Justice Bill which will be promulgated probably towards the end of the year. It is going to be an interesting and thought – provoking seminar. We will inform you in the next newsletter about the exact venue, costs and timetables.

U. ADDITIONAL DISCUSSION POINTS ON AGENDA OF 31 MAY 2003

Nothing of note was discussed.

Kind regards

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY



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Executive Management Committee - Uitvoerende Dagbestuur

A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 6

July 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We wish to welcome a new member Mr C.J.S. (Chris) Möller from Kimberley! We always feel honoured and are thankful if we gain a new member.

The various Regions have been paid their proportional share of the membership fees for March, April and May 2003. Please check to see whether this is indeed the situation.

An application form for the affiliation to ARMSA for Acting Regional Magistrates has been drafted, as a result of the decision taken at the meeting of the Executive Committee in Bloemfontein on 31 May 2003.

We are in the process of providing each Region with copy/copies of this form, in order for the various Regional Committees to recruit Acting Regional Magistrates currently on probation.

Once affiliated to ARMSA they will be entitled to attend all our meetings on the various levels, but will have no voting powers. They will also receive a copy of the newsletter. On permanent appointment as Regional Magistrate, their affiliation will automatically be converted into full membership and they then will have to pay the full membership fee. If not, they will not be regarded as members. If they are not appointed permanently after their prescribed probation period, their affiliation will automatically fall away.

Total membership: **212**

B. SALARIES

By the time you receive this newsletter, the promised salary increase of 9,5% on our annual salary and our motor vehicle allowance, will hopefully have been implemented. If not we will do our best to expedite it from our side.

A copy of a report received from our hardworking representative on the Magistrates Commission, Mr Trevor Levitt is attached. This report is a short summary of the meeting the Executive Committee of the Magistrates Commission had with the Minister of Justice on 13 June 2003.

The provisional draft of the report on our salaries has been circulated to all the Regions and the members of the Salaries and Conditions of Service Committee. It is a substantial document (150 pages). We await the various Regions' and the members of the Committees' commentary and critique on this document. A sound basis to work on has been laid in this document, but it is imperative that we now round this document off with definitive proposals, to be tabled before the Compensation Commission next year. We therefore request the Regional Committees and other role-players to peruse the document critically and to draft comments and proposals to enhance the quality of the final product.

Due to the cost involved, we will not be able to send each member a copy of the provisional draft. You are of course more than welcome to approach your Regional Committee to have insight into the document if you want to make a contribution in the process.

Once we have received all the comments and proposals on the provisional document, the Salaries Committee will meet to analyse it and to make proposals to the authors on how to amend and supplement the document to suit our needs.

We request that everyone submit their inputs before or on **8 August 2003**. Please send it directly to us at (012) 319-4191 (fax) or e-mail exco@armsa.org.za. Once the document has been redrafted, we will draft a comprehensive executive summary, which will be sent to **each member**, which will fully inform you about the contents and the specific proposals. We undertake that the summary will reach you at least a month prior to our Annual General meeting. This will allow you time to study it and to raise any questions about it at the Congress.

At the Congress we will make enough time available to discuss the document again and to answer any questions or address any concerns. If necessary we will again amend it if the majority of the members feel that something must be added or taken away.

It is clear that the Judicial Officers Amendment Bill will not be promulgated before October or November 2003.

We will therefore only approach the Compensation Commission next year for the first time with our submissions. We have therefore enough time on our hands, as indicated above, to finalize a document we can be proud of and can defend.

C. SECURITY

The security debate is on again! In our previous newsletter we referred to the fact that R4 million was allocated to the Judges in Kwazulu Natal for the upgrading of security at their private residences, and nothing for Regional Magistrates. As a result of this, we handed a letter to the Minister on 13 June 2003. A copy of that letter is attached. In the week of 16 – 20 June 2003, various newspapers also covered this story. Copies of some of these articles are attached. We also again drafted a letter to the Department regarding security at home, dated 4 July 2003. A copy of that is also attached.

We are still awaiting the response of the Minister. If we don't get definite assurances from him or the Department that something tangible will happen soon, we shall approach the Chief Justice.

D COURT STRUCTURES DEBATE

Towards the end of last year a heated debate was going on concerning the “flat structure” and the “intermediate courts”.

On 4 June 2003 the Chief Justice addressed a workshop regarding *inter alia* case flow management at the Tropicana Hotel in Durban. During his speech he indicated that he does not agree with the “flat structure” idea, and that he foresees the regional courts obtaining civil jurisdiction as the only real change to the current court structures. In fact he was clearly in support of such an idea.

On 9 June 2003 ARMSA, JOASA and LCMC were invited by the Chief Justice to accompany him to a meeting with the Justice Portfolio Committee. A copy of the minutes of that meeting is attached. During this meeting the Chairperson of the Committee, Adv Johny de Lange, also clearly indicated his disapproval of the “flat structure” idea.

On 14 June 2003 the Minister of Justice addressed the International Association of Judges’ African Group meeting at the Birchwood Executive Hotel. ARMSA was also represented at that meeting. During his speech he also indicated that the regional courts will be given civil jurisdiction in the future, indicating indirectly that the “flat structure” will not materialise.

It seems that one of our objectives of our Constitution, to ensure that the regional courts are truly intermediate courts could be realized, hopefully in the near future!

We also wish to thank some of the Eastern Cape Regional Magistrates, who drafted a letter and sent it to the Magistrates Commission to support our view regarding the “flat structure”. Your support was highly appreciated!

E. PENSIONS

We have received the provisional legal opinion on the pension issue. It seems as if we have good case to present. We will set up a meeting with our lawyer shortly to decide on future steps.

F. SEMINAR FOR REGIONAL MAGISTRATES: 13 – 16 NOVEMBER 2003

We have decided that it will take place in Port Elizabeth, at the Summerstrand Inn Hotel. We have already paid a deposit at this venue. The venue is large enough to accommodate all of us. It will be the first time for us to visit the Eastern Cape!

We have decided to keep the format like last year’s, because we feel it worked fairly well. We are planning to start at ± 12h00 – 13h00 on Thursday 13 November 2003, with lunch and then the opening of the seminar. We will leave on Sunday 16 November 2003, at 10h00.

As indicated in the previous newsletters we are going to discuss “Restorative Justice in the Regional courts”. We will *inter alia* look at sentencing options for juveniles, how they should be approached, the proposed Child Justice Bill, general principles of restorative justice and perhaps even “Therapeutic Jurisprudence”. Are some of these concepts strange to you? Come and find out what it is all about! As was the case last year we want to broaden your horizons and let you think afresh about your work.

If you wish to attend this seminar please inform your Regional Committee on or before 29 August 2003. We request the Regions to send us their lists of attendances not later than 5 September 2003. No additions will be accepted after 15 September 2003.

We have secured funding as we did last year and at this stage it seems as if you will not have to contribute anything for your accommodation or travelling (flying). However, to curb costs, we want to encourage you to share rooms. If you really need a single room, you will have to pay R110 per day extra for it. Please indicate to your Regional Committee which type of accommodation you need and the mode of transport you will use. Please bear in mind that only a limited number of single rooms will be available.

One of the conditions of obtaining the funding was that this seminar is for **all** Regional Magistrates. Please convey this to your colleagues who are non-members, and invite them to attend and to forward their names. A letter will also be sent to all the Regional Court Presidents shortly, inviting **all** Regional Magistrates to the seminar.

In the next newsletter we will hopefully be in a position to inform you about the programme itself.

Kind regards

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY



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Executive Management Committee - Uitvoerende Dagbestuur

A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 7

August 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We wish to welcome the following Acting Regional Magistrates who have decided to affiliate to ARMSA! We are honoured to have you amongst us! We hope that you will have a long and happy relationship with ARMSA!

Mrs J. Wessels	Pretoria
Mrs L. Pillay	Pretoria
Mrs E.N. Denge	Pretoria North
Mrs M.B. Mahalelo	Sebokeng
Mrs T.G. Naidoo	Tembisa
Mrs N. Gela	Bloemfontein
Mr W.M. Delport	Bloemfontein

One of our members, Mr A. Mfayela from Scottburgh, sat 5½ court hours on a Saturday in July 2003, free of charge. Well done!

Total membershin · 212

Total membership : 111
Affiliated magistrates : 7
Total : 219

B. ETHICS

As promised in an earlier newsletter, a copy of a document drafted by Mr A. Pretorius of Umtata regarding ethics is attached.

This is a discussion paper in order for us to discuss the ethical standards required for our work. We wish to thank Mr Pretorius for his efforts, and invite your comment. If you have any inputs or a paper of your own, please submit them to the Ethics Committee by e-mail to pduplessis@justice.gov.za or fax or post it to Paul du Plessis, Regional Court President: Johannesburg, Private Bag X1, Johannesburg or fax (011) 834-1202.

We will discuss this issue of ethics at our Annual General Meeting in November 2003.

C. SEMINAR FOR REGIONAL MAGISTRATES

We have decided that it will take place in Port Elizabeth, at the Summerstrand Inn Hotel. We have already paid a deposit at this venue. The venue is large enough to accommodate all of us. It will be the first time for us to visit the Eastern Cape!

We have decided to keep the format the same as last year's, because we feel it worked fairly well. We are planning to start at ± 12h00 – 13h00 on Thursday 13 November 2003, with lunch and then the opening of the seminar. We will leave on Sunday 16 November 2003, at 10h00.

As indicated in the previous newsletters we are going to discuss "Restorative Justice in the Regional courts". We will *inter alia* look at sentencing options for juveniles: how they should be approached, the proposed Child Justice Bill, general principles of restorative justice and perhaps even "Therapeutic Jurisprudence". Are some of these concepts strange to you? Come and find out what it is all about! As was the case last year we want to broaden your horizons and let you think afresh about your work.

If you wish to attend this seminar, please inform your Regional Committee on or before 29 August 2003. We request the Regions to send us their lists of attendances not later than 5 September 2003. No additions will be accepted after 5 September 2003.

We have secured funding as we did last year and at this stage it seems as if you will not have to contribute anything for your accommodation or travelling (flying). However, to curb costs, we want to encourage you to share rooms. If you really need a single room, you will have to pay R110 per day extra for it. Please indicate to your Regional Committee which type of accommodation you need and the mode of transport you will use. Please bear in mind that only a limited number of single rooms will be available. Please do not book air tickets in advance, we will make the necessary arrangements.

One of the conditions of obtaining the funding was that this seminar is for all Regional Magistrates. Please convey this to your colleagues who are non-members, and invite them to attend and to forward their names. A letter was sent to all the Regional Court Presidents, inviting all Regional Magistrates to the seminar.

A meeting to finalize the programme was held on 7 August 2003. A copy of the programme will be included in the next newsletter.

D. ANNUAL GENERAL MEETING

Our Annual General Meeting will be held during the weekend of 13 – 16 November 2003 in Port Elizabeth. The exact date and time will be furnished in the next newsletter. If you have any points for discussion, please convey them to your Regional Committee for placement on the Agenda. The return date for this is 30 September 2003.

E. JUDGES SYMPOSIUM: 16 – 18 JULY 2003

Nine of our members attended this symposium at the Birchwood Executive Hotel in Boksburg. Although we sometimes felt that we were not fully included in the programme, it was a first important step in interacting with the Judges. Hopefully more meetings where we can interact with them will be arranged in the future. Many wrong perceptions we have about each other, can be rectified by more communication and interaction.

perceptions we have about each other, can be rectified by more communication and interaction.

A copy of the Minister of Justice's speech delivered at this occasion is also attached for your information. Due to a car accident he was unable to attend, but his speech was read on his behalf by the Deputy Minister of Justice and Constitutional Development. It is an interesting speech and your attention is specifically drawn to the comments on page 9, where he clearly indicates his support for regional courts receiving civil jurisdiction.

F. SALARIES

We have received feedback from the various Regions on the Salary document. As a result we are in the process of re-drafting parts of the document, especially the recommendations and proposals. We hope that this process will be finalized by ± 15 September 2003, enabling us to send you a final comprehensive summary as promised, for perusal before the Annual General Meeting.

Concerning our promised annual salary increase, we are still awaiting the implementation thereof, at the time of the drafting of this newsletter (first week of August 2003). We were informed that the Magistrates Commission is also putting pressure on the Department to finalize this as soon as possible. We shall keep you informed.

G. SEXUAL OFFENCES BILL

A copy of this new proposed Bill is attached for your attention. If you wish to make any comments on it, please send them to us on or before 30 September 2003 so as to enable us to draft a proper official response to it, if requested later on.

Kind regards

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY



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Executive Management Committee - Uitvoerende Dagbestuur

A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 8

September 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We wish to welcome the following Regional Magistrates who joined us as members:

Mr E. Jonker Ermelo
Mr E Moss Mdantsane

Total membership : **214**

We also wish to welcome the following magistrates currently on probation in the Regional Court, who affiliated to ARMSA:

Me L. Erasmus Soshanguve
Me G de Wee Khayelitsha
Mr H.S. Mashimbye Germiston
Mr L. Naidoo Emnandeni

Me A. Venter	De Aar
Me M.E. Setshogoe	Pretoria
Me A.E. Mpofu	Soweto
Mr P.V. Mudau	Thohoyandou
Mr N.R. Jakaja	Mitchells Plain

Total affiliated : **16**

One of our members, Mr E. Nzimande of Verulam sat 4½ hours in court on 23 August 2003, free of charge. Well done!

B. PENSIONS

We had a consultation with our legal team on this issue on 20 August 2003. We formally decided (as we was mandate to do in November 2002) to proceed with legal action. A letter of demand, outlining our position will be sent to the Government and the Pension Fund shortly, which will start the process.

We foresee that an outstretched legal battle may follow. We hope to be heard in the High Court towards ± April 2004 to obtain an declaratory order on the issue. The cost implications of it will be discussed at the Annual General Meeting in November 2003.

C. SEMINAR 13 – 16 NOVEMBER 2003: PORT ELIZABETH

By the time you receive this newsletter, the return date for registering for this seminar has already lapsed. The programme has virtually been finalised and another meeting is scheduled for 18 September. Lunch will be served from 12h00 to 14h00. The Deputy Minister will open it officially at 14h00.

In the next newsletter which will hopefully reach you by ± 15 October 2003, we will include the final programme.

We also request those who have indicated that they wish to stay in single rooms, to pay the R330-00 for the three nights over to your Regional Committee on or before 15 October 2003. We request the Regional Committees to pay it into our national account, once they have collected all the money.

In the next newsletter we will also have the full lists available of the people travelling by air; the time of the flights etc. Please check and make sure that you are on the lists, if not, please contact us immediately. We will also try and send the lists around on e-mail even before the posting of the October newsletter. We, together with the Regional Committees, will make sure that you receive your air tickets before your departure date.

Please take note that the National Executive will not make any arrangements for your transport to the airport on the day of your departure, or back from the airport to you home after the seminar. These arrangements must be done by yourself or the various Regional Committees.

However, transport will be available at Port Elizabeth airport to and from the airport to the Hotel, free of charge.

D. ANNUAL GENERAL MEETING

The Annual General Meeting of 2003 will be held during the weekend of 13 – 16 November 2003, most probably on 14 November 2003.

If you wish to place certain issues on the Agenda or submit documentation, please send it to your Regional Chairperson on or before 15 October 2003. We request the Regional Chairpersons to send it through to us on or before 22 October 2003.

You are also given notice in terms of our Constitution, that there will be an proposal to the Constitutional clause and regarding membership.

The proposal tabled (but rejected) last year, to allow magistrates on probation in the Regional Court to obtain full membership (and not mere affiliation) will be tabled **again**. The Chairperson personally tabled it last year, and will do so again. He strongly believes that these colleagues should be included fully from the start, we are proud to have them as colleagues and we should show to them that we are more than willing to look after their interests while serving on the Regional Court Bench. He can assure you that those who have already affiliated to ARMSA want to

serving on the Regional Court Bench. He can assure you that those who have already applied to ARMSA, want to be part of the Regional Court Bench and will only enrich and enhance the quality of the Bench and ARMSA. He urges you to reconsider your vote last year. Obviously in the end we will have to follow the decision of the majority.

Due to financial constraints, the Executive Committee will not be able to meet prior to 13 November 2003, but will do so directly at the adjournment of the seminar, on 13 November 2003.

E. SALARIES

The document on the salaries, especially the recommendations and proposals, will be redrafted by 19 September 2003. It will be circulated in September to all the members of the Salaries and Conditions of Service Committee for final comments and adjustments. The final product should be ready for the Annual General Meeting in November. At the time of the drafting of this newsletter we still don't know when our annual salary increase will be implemented. Apparently the documentation is at the Minister of Finance's office awaiting his signature. We shall keep you informed!

F. RECENT CASE LAW

A copy of a media summary concerning an important Constitutional Court decision, as well as a copy of a Judgement pertaining to legal representation, are attached for your information.

Kind regards

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY

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**ASSOCIATION OF REGIONAL MAGISTRATES OF SOUTH AFRICA
VERENIGING VAN STREEKLANDDROSTE VAN SUID-AFRIKA**

Private Bag/Privaatsak X61
PRETORIA
0001

Tel.: (012) 319-4185 (President)
(012) 319-4191 (Secretary)
(012) 319-4166 (Treasurer)
Fax/Faks: (012) 319-4191
E-mail: exco@armsa.org.za

Executive Management Committee - Uitvoerende Dagbestuur

A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 9

October 2003

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We wish to welcome the following two new members:

Mr A. le Roux - Soweto
Mr K.A. Sepothi - GaRankuwa

We hope that your membership is worthwhile!

Total members: **216**

B. CONFERENCE ON RESTORATIVE JUSTICE: 13 – 16 NOVEMBER 2003: PORT ELIZABETH

(i) Air tickets

If you are going to attend and you are travelling by air; please check that your name appears on the list. If not, please contact us immediately.

(a) KIMBERLEY TO PORT ELIZABETH

TALJAARD / IVS MR
SMITH / VR MR
FOURIE / JA MR
DU PLESSIS / SV MR
SCHNEIDER / DR MR

JACOBS / CTG MR

SA 1102H	13NOV	KIMBERLEY	0745
		JOHANNESBURG	0905
SA 411 K	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 1388 H	16 NOV	PORT ELIZABETH	1325
		CAPE TOWN	1440
SA 8314 H	16 NOV	CAPE TOWN	1600
		KIMBERLEY	1800

(b) **DURBAN TO PORT ELIZABETH**

WILKENS / L MR

NAIDOO / L MR

SA 1382 Y	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1391 H	16 NOV	PORT ELIZABETH	1650
		DURBAN	1805

DE BEER / F MR
LALBAHADUR / M MR
PILLAY / K MS
GUMEDE / S MR
VAN HEERDEN / K MR
NZIMANDE / E MR
CELE / H MR
MFAYELA / A MR
RAWHEATH / B MS

SA 1382 Y	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1391 H	16 NOV	PORT ELIZABETH	1650
		DURBAN	1805

PILLAY / J MS

SA 1382 H	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1393 Y	16 NOV	PORT ELIZABETH	0950
		DURBAN	1105

VISAGIE / B MR
MTSWENI / J MR

**SITHOLE / H MR
LEVITT / T MR
DU PLESSIS / J MR
BOTH A / G MR
HEUER / F MR**

SA 1382 H	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1393 Y	16 NOV	PORT ELIZABETH	0950
		DURBAN	1105

**CHETTY / K MS
WILLEMSE / B MR
DLAMINI / N MS
XOLO / M MR
NKOSI / Z MR
NHLEKO / T MR**

SA 1382 H	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1393 Y	16 NOV	PORT ELIZABETH	0950
		DURBAN	1105

**MARKS / S MS
CANNON / M MS
MAREE / G MR
HAHN / W MR**

SA 8210 Y	09 NOV	DURBAN	0630
		PORT ELIZABETH	0750
SA 1393 Y	16 NOV	PORT ELIZABETH	0950
		DURBAN	1105

**KHUMALO / R MR
LEAT / K MR**

SA 1382 Y	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1391 H	16 NOV	PORT ELIZABETH	1650
		DURBAN	1805

**MNGOMEZULU / S MR
MUNDHREE / S MR
SINGH / N MS**

SA 1382 Y	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 1391 H	16 NOV	PORT ELIZABETH	1650
		DURBAN	1805

**OTTO / N MS
DE BRUIN / J MR**

SA 1382 Y	13 NOV	DURBAN	0925
		PORT ELIZABETH	1040
SA 8212 Y	16 NOV	PORT ELIZABETH	0850
		DURBAN	1025

(c) CAPE TOWN TO PORT ELIZABETH

VERMAAK / PJ MR

SA 1385 T	13 NOV	CAPE TOWN	1020
		PORT ELIZABETH	1135
SA 1382 T	18 NOV	PORT ELIZABETH	1105
		CAPE TOWN	1220

VAN DER MERWE / W MS

SA 1385 T	13 NOV	CAPE TOWN	1020
		PORT ELIZABETH	1135
SA 1388 T	16 NOV	PORT ELIZABETH	1325
		CAPE TOWN	1440

**MATSHIKWE / R MR
NAIDOO / P MS**

SA 1385 V	13 NOV	CAPE TOWN	1020
		PORT ELIZABETH	1135
SA 1388 V	16 NOV	PORT ELIZABETH	1325
		CAPE TOWN	1440

**KOTZE / AP MR
MARAIS / ML MR
REDELINGHUYS / J MR
HENNEY / RCA MR
MUNNICK / IW MR
VAN ZYL / JEA MR**

SA 1385 V	13 NOV	CAPE TOWN	1020
		PORT ELIZABETH	1135
SA 1394 V	16 NOV	PORT ELIZABETH	1045
		CAPE TOWN	1200

**DE WEE / G MS
LOMBARD / JS MR
NEL / D MR
GIBSON / VR MR
JAKILIA / RN MS**

MOUTON / FM MS
VAN ZYL / E MS
VAN RENSBURG / PJJ MR

SA 1383 H	13 NOV	CAPE TOWN	0720
		PORT ELIZABETH	0835
SA 1394 H	16 NOV	PORT ELIZABETH	1045
		CAPE TOWN	1200

(d) **JOHANNESBURG TO PORT ELIZABETH**

VAN WYK / BG MR

BA 6231 N	13 NOV	JOHANNESBURG	0630
		PORT ELIZABETH	0810
BA 6238 N	16 NOV	PORT ELIZABETH	0845
		JOHANNESBURG	1020

VIRTUE / L MR

SA 419 V	13 NOV	JOHANNESBURG	1520
		PORT ELIZABETH	1705
SA 410 V	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

PHAKO / OA MR

SA 401 V	13 NOV	JOHANNESBURG	0600
		PORT ELIZABETH	0745
SA 410 V	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

SEPOTHI / KA MR

SA 411 T	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 416 T	16 NOV	PORT ELIZABETH	1420
		JOHANNESBURG	1600

NDWANDWE / T MR
LE ROUX / AJ MR
RAMBAU / R MR
GERICKE / S MR
MOGOTSI / DD MR
JONKER / E MR
KEMP / MM MS
...

**COLDITZ / I MR
NEL / PW MR**

SA 411 H	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 416 H	16 NOV	PORT ELIZABETH	1420
		JOHANNESBURG	1600

**VENTER / P JL
NAIDOO / TG MS
JOHNSON / PJ MR
WILLEMSE / MME MS
BOSCH / KH MR**

SA 401 V	13 NOV	JOHANNESBURG	0600
		PORT ELIZABETH	0745
SA 416 T	16 NOV	PORT ELIZABETH	1420
		JOHANNESBURG	1600

**MOTSOMANE / RH MR
SENEKAL / CSP MS
PONI / MR**

SA 411 T	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 416 V	16 NOV	PORT ELIZABETH	1420
		JOHANNESBURG	1600

**TRAVERS / GN MR
REYNOLDS / SJ MR
MUDAU / PV MR
PILLAY / L MS
ERASMUS / L MS
DU TOIT / S MR**

SA 411 V	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 416 V	16 NOV	PORT ELIZABETH	1420
		JOHANNESBURG	1600

**VON WIELLIGH / AJ MR
PRUIS / WG MR
MASTOROUDES / A MR
HALLATT / S MR
LE ROUX / A MR**

**MOYSES / WWP MR
MATTHEE / LE MR
GELDENHUYS / A MR**

SA 411 V	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 410 T	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**ROUX / A MR
SNYMAN / GJ MR
VAN ZYL / JG MR**

SA 411 V	13 NOV	JOHANNESBURG	1015
		PORT ELIZABETH	1200
SA 410 V	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**NEL / C MR
COWAN / A MR
MABILE / M MS
DJAJE / M MR
MONALEDI / S MS
MATHEBULA / VD MR
GREYVENSTEIN / M MS
MANYATHI / PB MR
IKANENG / TJ MR**

SA 6231 N	13 NOV	JOHANNESBURG	0630
		PORT ELIZABETH	0810
SA 6242 N	16 NOV	PORT ELIZABETH	1320
		JOHANNESBURG	1455

**SMITH / D MS
VOLSCHENK / CT MR
ENGELBRECHT / NA MS
MOLOTO / M MR
MAKHOBABA / D MR
VAN WYK / MG MR
WOLMARANS / H MR
WILKEN / WJ MR
MINNIE / D MR**

BA 6231 N	13 NOV	JOHANNESBURG	0630
		PORT ELIZABETH	0810
BA 6242 N	16 NOV	PORT ELIZABETH	1320
		JOHANNESBURG	1455

**LOUW / HR MR
NIENABER / CW MS
PRINSLOO / S MS**

SA 405 H	13 NOV	JOHANNESBURG	0915
		PORT ELIZABETH	1100

SA 410 H	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**NEL / DJ MR
MASHIMBYE / M MR**

SA 405 H	13 NOV	JOHANNESBURG	0915
		PORT ELIZABETH	1100

SA 410 H	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**DU PLESSIS / PJ MR
LEGRANGE / HJ MR
HAWKINS / VO MR
MACHABANE / MZ MR**

SA 405 H	13 NOV	JOHANNESBURG	0915
		PORT ELIZABETH	1100

SA 410 H	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**BOOYENS / F MR
BOTH A / WJ MR**

SA 405 T	13 NOV	JOHANNESBURG	0915
		PORT ELIZABETH	1100

SA 410 V	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**VAN NIEKERK / E MR
AURET / AG MR**

SA 405 V	13 NOV	JOHANNESBURG	0915
		PORT ELIZABETH	1100

SA 410 V	16 NOV	PORT ELIZABETH	1130
		JOHANNESBURG	1310

**BADENHORST / SJ MR
EKSTEEN / CJ MR
LUYT / BP MR
NEMAVHIDI / B MR
DOSIO / D MR
KRUGER / CC MR
MULLER / JJ MR**

SA 405 V	13 NOV	JOHANNESBURG	0915
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SA 405 V	13 NOV	JOHANNESBURG PORT ELIZABETH	0915 1100
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SA 410 V	16 NOV	PORT ELIZABETH DURBAN	1130 1310
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**BADENHORST / HJJ MR
CARSTENS / TH MR
JANSEN VAN VUUREN / J MR
BUTTON / R MR
DU PLESSIS / PAUL MR**

SA 405 T	13 NOV	JOHANNESBURG PORT ELIZABETH	0915 1100
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SA 410 V	16 NOV	PORT ELIZABETH JOHANNESBURG	1130 1310
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ANDREWS / GE MR

SA 405 V	13 NOV	JOHANNESBURG PORT ELIZABETH	0915 1100
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SA 410 V	16 NOV	PORT ELIZABETH JOHANNESBURG	1130 1310
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DU PLESSIS / L MS

SA 405 V	13 NOV	JOHANNESBURG PORT ELIZABETH	0915 1100
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SA 410 V	16 NOV	PORT ELIZABETH JOHANNESBURG	1130 1310
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RADASI / MS MR

SA 405 H	13 NOV	JOHANNESBURG PORT ELIZABETH	0915 1100
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SA 410 H	16 NOV	PORT ELIZABETH JOHANNESBURG	1130 1310
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STRYDOM / FW MR

SA 401 V	13 NOV	JOHANNESBURG PORT ELIZABETH	0600 0745
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SA 416 T	16 NOV	PORT ELIZABETH JOHANNESBURG	1420 1600
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Please take note that the times of the flights cannot be changed at this stage. Only a limited number of flights are available to Port Elizabeth from the various other cities. The flights were booked in such a way as

rights are available to you on Elizabeth from the various other cities. The flights were booked in such a way as to stay within our budget and to make it as affordable as possible. We realize that some of you must still travel quite a distance from the various airports back home on Sunday. We will try our best to accommodate you by trying to change the time of your return flight's time if at all possible. If you are not satisfied with your return flights time, please contact us, we will try our best to assist you. However, this will only be applicable to persons who must drive 2 or more hours from the airports to their homes. Any other person, who is not satisfied with their return flight's time, must change it at their own costs and through their own effort.

Please inform us if you do change your ticket, because we are making travelling arrangements from the airport to the hotel and back based on your current arrival and departure times. We will ensure through the Regional Committees, that you do receive your tickets \pm 14 days before departure.

(ii) **Starting time and registration**

On your arrival at the hotel you will book in and must also at the same time register for the conference on Restorative Justice. We will be at hand to register the participants as they arrive. During registration you will also receive the full programme, a file with relevant notes and a nametag. Please display your nametag throughout the conference, so that we can also start to know each other better. Please hand it back on your departure.

We will have lunch available from 12h00 – 14h00. The official opening will be at 14h00.

(iii) **Dress code**

The dress code will be smart casual (**no shorts**) throughout the conference.

(iv) **Attendance of Conference**

We humbly request everyone to please stick to the programme and be punctual at all times – we are a large group of people. You are expected to attend **all** the sessions of the Conference.

(v) **Accommodation**

All the accommodation and meals are paid for. Any extra expenditure e.g. liquor, room service, laundry, telephone etc are for your own account.

We again request the various Regions to collect the additional amount payable for single rooms as soon as possible; and to pay it into the National Account.

C. ANNUAL GENERAL MEETING OF ARMSA

We have decided to hold it at 20h00 on Thursday 13 November 2003. If necessary we will continue on Friday 14 November 2003 at 17h30.

(i) **Salary Document**

A presentation on the salary document by the main drafter of the document will be delivered at the Annual General Meeting. Copies of the executive summary will be available at the meeting and the drafter will discuss the contents with you. He will also field questions. You will have time to study the document during the weekend and after that. If you want to submit anything as a result of it, please do so on or before 30 November 2003. The document will then be finalized and will be ready to be presented in 2004.

Due to other commitments we were not able to send you a final copy of the Executive Summary before the Annual General Meeting. Due to the magnitude of the Executive Summary it was also not possible due to budgetary constraints to distribute it.

(ii) **Minutes of previous meeting**

The minutes of the previous Annual General Meeting are attached for your information. Please take note that we are not going to distribute them again at the Annual General Meeting, so please bring them along if

you deem it necessary to do so.

(iii) **Proposed amendments to the Constitution**

Please take note, as we have already indicated in the previous newsletter, that there will be a proposal to amend the Constitution: Clause IV; regarding membership. The proposal will be that magistrates on probation will also be granted full membership; and that PAR D of CLAUSE IV also be amended to stipulate that they will forfeit their membership automatically if they are not permanently appointed after their probation period(s).

There is also a proposal to amend CLAUSE IV (MEMBERSHIP) Paragraph A subparagraph (2) regarding Honorary Members to read as follows:

"Any person who has made a significant contribution to the Regional Court or who has had a post or existing close relationship with the Regional Court; may, on recommendation of the Executive Committee and following approval at the general meeting, be invited to become an honorary member of the Association, or be bestowed with or be granted honorary membership posthumously.

(iv) **Meeting of Executive Committee of ARMSA: 13 November 2003**

Please take note that this meeting will take place immediately after the adjournment of the conference on the first day, thus prior to the Annual General Meeting later that night.

D. NEW LEGISLATION

Attached you will find copies of the Criminal Procedure Amendment Bill (which re-introduces the leave to appeal procedure in the Lower Courts) and the Judicial Officers (Amendment of Conditions of Service Bill). These Bills have been approved by the National Assembly and will be in effect possibly from the 1st of November 2003.

Kind regards

A.C. BEKKER
PRESIDENT

M.M. COOK
SECRETARY

**MINUTES OF
THE EIGHTH ANNUAL GENERAL MEETING
OF ARMSA ON 28 NOVEMBER 2002
HELD AT STRAND BEACH HOTEL**

1. WELCOME

The Chairperson, Mr Bekker welcomes everyone.

2. ATTENDANCE AND (3) APOLOGIES

A quorum is present; and the meeting is therefore properly constituted. An attendance list is also circulated for members to sign.

The meeting accepts the following apologies:

E.M. Schutte - Benoni
M. van Wyngaardt – Oudshoorn
J.J. Combrinck – Middelburg
G.M. Maree – Durban
W.A. du Plessis – Bloemfontein
A.J. Pienaar – Bloemfontein
N.J. Theron – Bloemfontein
E. Nzimande – Durban
A.J. Visser – Welkom
F. Dotwana – East London
J. Pillay – Verulam
B. Rawheath – Durban
W. Hahn – Durban
J. du Plessis – Eshowe
S. Mngomezulu – Pietermaritzburg

4. MINUTES OF THE PREVIOUS MEETING

Taken as read and accepted.

5. REPORTS

5.1 President

The Chairperson hands in his annual report. Copies were made available to all the members present, prior to the meeting.

5.2 Salaries and Conditions of Service Committee

The Chairperson of this committee; Mr H. Cele tables his report. The committee also receives a mandate from the floor to continue with its work, in 2002/2003.

5.3 **Judicial Independence Committee**

Mr Graham Travers, the Chairperson, reports verbally. The consequences of the Tshabalala decision are discussed at length. A vote of thanks is also conveyed for the work done by the Legal Resources Centre, who handled the Tshabalala-case for us; free of charge. It is decided by the meeting that ARMSA will donate R10 000-00 to the centre out of appreciation for the work done.

The meeting also unanimously mandates this Committee to obtain a legal opinion and to proceed with legal action if necessary in relation to the calculation of our pension benefits. The possible cost implications are also spelled out to the members.

This Committee is also given a mandate to continue with its work for 2002/2003.

5.4 **Magistrates Commission**

Mr Trevor Levitt, our representative on the Commission, tables a report on the activities of the Commission during 2002. He is thanked for his hard work.

5.5 **Treasurer (Financial Report)**

The report is tabled by Graham Travers and is unanimously accepted. Copies of the financial report were also made available to all present.

5.6 **Regions**

The Regions do not report back, as many of them had already sent their annual reports to the Executive Management Committee prior to the meeting.

6. **POSSIBLE AMENDMENTS TO THE CONSTITUTION**

6.1 **Membership**

A proposal serves before the meeting that the Constitution be amended to allow magistrates on probation to become members, prior to being permanently appointed. By majority vote this proposal is rejected, after a lengthy debate.

6.2 **Composition of Executive Committee**

The meeting did however; amend the Constitution in order for ARMSA's representative on the Magistrates Commission as well as the Chairpersons of

the various Standing Committees to serve on the National Executive Committee of ARMSA.

The meeting also approved an additional paragraph, PARAGRAPH D to CLAUSE VII of the Constitution, outlining the structures of the Standing Committees.

7. FORMING OF NEW STANDING COMMITTEES

The members decide that the following new Standing Committees will be formed:

(i) Members Support Committee:

This Committee will assist members who suffer from work related problems. It will hopefully set up some sort of a counselling programme for regional magistrates. The chairperson must still be appointed.

(ii) Project Committee:

Mr Herman Buhr of George is appointed as chairperson of this committee. This committee will investigate proposals and implement certain possible projects which will enhance our involvement in the community without compromising our judicial independence.

(iii) Ethics Committee:

Mr Paul du Plessis is elected as chairperson of this committee.

8. SECURITY

A report is tabled by Mr Eddie Humphreys concerning security. A lengthy debate follows about security; various members raise their concerns and problems. It is decided that the National Executive Management Committee and the Chairperson must handle the issue directly and that the Minister and the Chief Justice should be approached.

9. SALARIES: REPORT ON DOCUMENT

The meeting gives the Salaries and Condition of Service Committee a mandate to proceed to prepare a comprehensive document on salaries to be placed before the Public Office Bearers Remuneration Commission, once the Judicial Officers Amendment Bill is put into operation. The cost implications are also spelled out, namely that it will cost ± R500 per member to draft the document in which use is made of the services of experts in the field of remuneration. This cost implications are also approved by the meeting.

10. COURT STRUCTURES: CIVIL JURISDICTION FOR REGIONAL COURTS

10. COURT STRUCTURES. CIVIL JURISDICTION FOR REGIONAL COURTS

The various proposed structures *inter alia* the “flat structure” are discussed. The meeting again confirms ARMSA’s mandate to promote the idea of an intermediate court on regional level at all possible forums and rejects the “flat structure” unanimously.

11. CROSS-TRANSFER OF REGIONAL MAGISTRATES

This issue is raised by Mr L.H. Claassen of Tzaneen; and it is discussed. He requests that these type of applications to be transferred to a vacant post; be handled differently by the Magistrates Commission compared to other posts. Mr Levitt will investigate this matter.

12. ALLOCATION OF CASES TO REGIONAL COURTS

Mr W.J. Wilken of Nelspruit raises this issue and indicates that “petty” cases of e.g. house breaking are placed on regional court rolls. It is decided that it must be taken up with the individual prosecution authorities.

13. DELEGATES TO CMJA’S TRI-ANNUAL CONGRESS: MALAWI 2003

The meeting decides to send one or two of its members to this congress, bearing the costs in mind.

14. DISTRIBUTION OF NEWSLETTER: NEW METHOD

The meeting approves a proposal that the newsletter will in future be sent from Pretoria to each individual member and not via the Regional Committees anymore.

15. WEBSITE

Mr Louis Claassen is thanked for all his hard work on our website.

16. ADDITIONAL DISCUSSION POINTS / RESOLUTIONS

Six more additional resolutions are taken by the meeting. Due to the magnitude of these, a copy of these resolutions is attached.

17. ELECTION OF EXECUTIVE MANAGEMENT COMMITTEE

The current Executive Management Committee is unanimously re-elected.

18. CLOSURE

The meeting is adjourned.

A.C. BEKKER

CHAIRPERSON

M.M. COOK

SECRETARY



**ASSOCIATION OF REGIONAL MAGISTRATES OF SOUTH AFRICA
VERENIGING VAN STREEKLANDDROSTE VAN SUID-AFRIKA**

Private Bag/Privaatsak X61
PRETORIA
0001

Tel.: (012) 319-4185 (President)
(012) 319-4191 (Secretary)
(012) 319-4166 (Treasurer)
Fax/Faks: (012) 319-4191
E-mail: exco@armsa.org.za

Executive Management Committee - Uitvoerende Dagbestuur
A C Bekker (President); M M Cook (Secretary/Sekretaris); G N Travers (Treasurer/Tesourier)

Newsletter No. 10

December 2003/January 2004

TO ALL MEMBERS OF ARMSA

A. MEMBERSHIP NEWS

We welcome the following new permanent members:

Ms J.H. Wessels - Pretoria
Ms Lynn Pillay - Pretoria
Ms L. Erasmus - Soshanguve
Mr B.P. Manyathi - Soshanguve

Total members: **220**

B. CONFERENCE ON RESTORATIVE JUSTICE: 13 – 16 NOVEMBER 2003: PORT ELIZABETH

We wish to thank you all for your presence, your participation and your positive attitude! The attendance was excellent throughout and the participants were punctual and well-behaved. Thank you again for ensuring the success of this conference!

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On 2 December 2003 we formally reported back to the donor who expressed their utmost satisfaction with the conference.

The following resolutions taken at the conference, which ARMSA will take further in due course.

RESOLUTION 1

The Regional Magistrates present at the conference undertake to be mindful of and to further the concept of Restorative Justice in all its dimensions and to apply its principles and options when appropriate under the circumstances.

RESOLUTION 2

The participants resolve that the authorities should again be approached about the split trial procedure in cases where accused must be referred to the High Courts for sentencing, as it often leads to secondary traumatising of young victims, who are sometimes called again, as witnesses, at the sentencing stage in the High Courts. The authorities will be requested to amend legislation enabling Regional Courts to impose sentence in all these cases, without referring them to the High Courts.

RESOLUTION 3

The participants resolve that the Bar and the Side Bar should be approached to establish whether their members are prepared (free of charge) to assist young victims in sexual offences cases in the taking down of police statements to ensure that the statements are properly worded and drafted.

RESOLUTION 4

The participants resolve to promote the principles of Restorative Justice amongst all other relevant role players in the criminal justice system.

RESOLUTION 5

The participants resolve that the media should be approached in order for it to give more positive exposure to the concept of Restorative Justice. This will be done by means of a media statement to be issued by the Chairperson of the last session, Mr A.C. Bekker.

RESOLUTION 6

The participants resolve that the Government must be approached and requested to make more funds available for the proper implementation of Restorative Justice principles e.g. Victim - Offender - Conferences.

RESOLUTION 7

The participants resolve that a Victim Compensation Fund should be established and to convey this need to the authorities. It is suggested that forfeited bail money and the income of forfeited assets could be used for such a fund.

RESOLUTION 8

The participants resolve that there must be more interaction with NGO's working in the criminal justice system, in order to discuss problems experienced on ground level and to share knowledge.

RESOLUTION 9

The participants resolve that cases should be gathered where Restorative Justice principles are applied by Regional Magistrates and that these cases must be circulated amongst Regional Magistrates and brought to the attention of Restorative Justice Centre.

RESOLUTION 10

The participants resolve that the Magistrates Commission must be requested to ensure that enough court staff and Magistrates are appointed - this will ensure that proper enquiries can be held about the possible implementation of Restorative Justice principles in a given case.

C. PUBLICATION ON RESTORATIVE JUSTICE

ARMSA's Judicial Education Committee is also engaged in negotiations with the donor to publish a book on Restorative Justice which will be a first for this country. The plan is not for ARMSA to foot the bill, but to publish

restorative justice which will be a first for this country. The plan is not for Armsa to foot the bill, but to publish and distribute this book funding coming from various other financial resources. We are however proud to associate our name with this product, which will serve also to educate people about restorative justice.

Attached you will find a letter addressed to you if you wish to make some contribution for publication. If you still have enquiries after reading the newsletter, and the attached letter, please contact us. Please bear in mind that 15 February 2004 is the deadline for contributions.

D. ANNUAL GENERAL MEETING: ARMSA: 13 NOVEMBER 2003

Attached you will find the Agenda for this meeting, as well as the Chairperson's annual report. A record of 168 members attended the meeting. We will distribute the minutes of this meeting in due course.

We will therefore highlight only a few important decisions for those who were not able to attend the meeting.