

## Solicitor-general to head Office of the State Attorney

Mapula Thebe – Editor

The then Minister of Justice, Jeff Radebe, introduced the idea of appointing the country's first solicitor-general in 2012. At the time, Minister Radebe said: 'The solicitor-general will be the state's chief legal adviser in all civil litigation, similar to the role of the National Director of Public Prosecutions in criminal matters'. The solicitor-general will also manage the offices of state attorneys in the interests of effective legal services. The office will take over litigation by government departments and parastatals, and make sure that the work contracted out to lawyers and advocates in private practice is distributed fairly.

In May this year, in a media briefing ahead of his budget speech in the National Assembly, the current Minister of Justice, Michael Masutha, said the planned appointment of the solicitor-general is almost complete on a draft policy with a purpose of turning the State Attorney's Office into 'a legal firm of choice' within the public sector. Minister Masutha added that the policy will change 'the practice of briefing patterns' in all state institutions. The policy also aims to institutionalise the use of alternative dispute resolution in handling claims against the state.

The department aims to reduce the litigation bill and the ever-increasing exposure of the state to civil liability resulting from a variety of causes including, but not limited to administrative inefficiencies in the provision of various government services. Excluding amounts spent by other government departments, the Justice Department spent R 124 million in litigation.

According to Mr Masutha 'the position of solicitor-general will drive transformation in the legal profession and the judiciary, and ensure that the Office of the State Attorney has the necessary power, authority and influence'. The solicitor-general will have the same status as a judge. The minister has also criticised the tendency of the state and the private sector to use white, male advocates or legal teams instead of affording previously disadvantaged legal practitioners the opportunity. Consequently, this stifles the transformation of the Bench, because black lawyers struggle to acquire the necessary experience to be appointed as judges.

Currently, Mr Masutha said, the Justice Department is not in the position to ensure that state litigation is awarded fairly to promote transformation. The appointment of the solicitor-general would enable the department to monitor the situation properly.

Mr Masutha said that the department wants 'to consolidate state litigation, build skills and raise the level of professionalism in [the State Attorney's Office] and ensure all other entities providing legal support to the state work closely with that institution'.

The Justice Department will table amendments to the State Attorney Act 56 of 1957 in order to make the appointment of a solicitor-general possible.

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