CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO: CCT 109/10

In the matter between:

THE STATE

and

THE ACTING REGIONAL MAGISTRATE, BOKSBURG MR PHILLIP VENTER

VAN DER MERWE LUCAS

DIRECTIONS DATED 1 FEBRUARY 2011

The Chief Justice has given the following directions in this matter.

1. The matter of the confirmation of the declaration of constitutional invalidity made by the South Gauteng High Court is set down for hearing on Thursday 12 May 2011 at 10:00.

2. The Minister for Justice and Constitutional Development must show cause by Wednesday 16 February 2011 why that office should not be joined in this application.

3. The Registrar is to ensure that a copy of these directions together with a copy of the papers in this application are served on the State Attorney, Johannesburg by email immediately.

4. The record, properly paginated and indexed shall be prepared by the State and lodged in this Court by Wednesday 23 February 2011.

5. The record shall consist, without duplication, only of those portions of the record before the High Court and the papers filed in this Court that are necessary for the determination of this case.

6. In addition, the State shall, not later than ten days before the hearing, –

(a) lodge one copy of a supplemental volume to the record, consisting of all documents filed in this Court which do not form part of the record already lodged;
(b) number these documents consecutively beginning with the page immediately after the last page of the record already lodged; and
(c) provide an updated index which includes the supplementary volume(s).

7. Written argument must include submissions on the following issues:
   (a) whether the impugned sections are reasonably capable of a construction that renders them consistent with the Constitution and, if so, whether that construction should be adopted; and
   (b) if this Court were to hold that the impugned provision is inconsistent with the Constitution and that the order of severance granted by the High Court is appropriate, whether it is in the interests of justice for that order to apply retrospectively.

8. Written argument must be lodged by:

   (a) Any party opposing the confirmation of the declaration of invalidity by Wednesday 9 March 2011.
   (b) Any party supporting the confirmation of the declaration of constitutional invalidity by Thursday 24 March 2011.

9. Further directions may be issued in due course.

MS STANDER
SENIOR REGISTRAR
CONSTITUTIONAL COURT

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AND TO: THE LEGAL AID BOARD
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