



Government Gazette

Staatskouerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 430 Cape Town,
 Kaapstad, 20 April 2001

No. 22238

THE PRESIDENCY

No. 353

20 April 2001

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 2 of 2001: Special Investigating Units and Special Tribunals Amendment Act, 2001.

DIE PRESIDENSIE

No. 353

20 April 2001

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 2 van 2001: Wysigingswet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 2, 2001

SPECIAL INVESTIGATING UNITS AND SPECIAL
TRIBUNALS AMENDMENT ACT, 2001

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
-
-

*(English text signed by the President.)
(Assented to 11 April 2001.)*

ACT

To amend the Special Investigating Units and Special Tribunals Act, 1996, so as to bring the appointment of the Head of a Special Investigating Unit into line with a judgment of the Constitutional Court; to empower the President to appoint a person as Acting Head of a Special Investigating Unit in the absence of the Head of a Special Investigating Unit; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 3 of Act 74 of 1996

1. Section 3 of the Special Investigating Units and Special Tribunals Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the substitution—

5

(a) for subsection (1) of the following subsection:

“(1) (a) The President must appoint a [judge or acting judge of the Supreme Court of South Africa, as] person who is a South African citizen and who, with due regard to his or her experience, conscientiousness and integrity, is a fit and proper person to be entrusted with the responsibilities of that office, as the head of a Special Investigating Unit established by [him or her] the President.”

10

(b) If the office of Head of a Special Investigating Unit is vacant, or if the Head of such Unit is for any reason not available, the President may appoint any person meeting the requirements referred to in paragraph (a) as the Acting Head of such Unit for the period determined by the President.”;

15

(b) for paragraph (d) of subsection (4) of the following paragraph:

“(d) [the Head of a Special Investigating Unit must stand down from such office if the President, in consultation with the Judicial Service Commission, so requests.] the President may at any time remove the Head of a Special Investigating Unit from office if there are sound reasons for doing so.”; and

20

(c) for subsection (5) of the following subsection:

“(5) (a) A member of a Special Investigating Unit [who is not a judge and] whose remuneration is not defrayed from public money, may be paid such remuneration, including allowances for subsistence and travelling expenses incurred by him or her in the performance of his or

25

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
-
- Woerde met 'n volstreep daaronder, dui inwoegings in bestaande verordenings aan.
-
-

*(Engelse teks deur die President geteken.)
(Goedgekeur op 11 April 2001.)*

WET

Tot wysiging van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996, ten einde die aanstelling van die Hoof van 'n Spesiale Ondersoekeenheid in ooreenstemming te bring met 'n beslissing van die Konstitusionele Hof; die President die bevoegdheid te verleen om 'n persoon as Waarnemende Hoof van 'n Spesiale Ondersoekeenheid in die afwesigheid van die Hoof van 'n Spesiale Ondersoekeenheid aan te stel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 3 van Wet 74 van 1996

1. Artikel 3 van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (hierna die Hoofwet genoem), word hierby gewysig deur—
- (a) subartikel (1) deur die volgende subartikel te vervang:
- “(1) (a) Die President moet 'n [regter of waarnemende regter van die Hooggereghof van Suid-Afrika aanstel as] persoon wat 'n Suid-Afrikaanse burger is en wat, met behoorlike inagneming van sy of haar ondervinding, pligsgetrouwheid en integriteit, 'n geskikte en gepaste persoon is om toevertrou te word met die verantwoordelikhede van daardie amp, aanstel as die hoof van 'n Spesiale Ondersoekeenheid wat deur [hom of haar] die President ingestel is.”
- (b) Indien die amp van Hoof van 'n Spesiale Ondersoekeenheid vakant is, of indien die Hoof van so 'n Eenheid om enige rede nie beskikbaar is nie, kan die President 'n ander persoon wat voldoen aan die vereistes in paragraaf (a) bedoel as die Waarnemende Hoof van sodanige Eenheid aanstel vir die tydperk wat die President bepaal.”;
- (b) paragraaf (d) van subartikel (4) deur die volgende paragraaf te vervang:
- “(d) [die Hoof van 'n Spesiale Ondersoekeenheid uit daardie amp moet terugstaan indien die President, in oorleg met die Regterlike Dienskommissie, aldus versoek.] die President te eniger tyd die Hoof van 'n Spesiale Ondersoekeenheid van sy of haar amp kan onthef indien daar gegronde redes bestaan om dit te doen.”; en
- (c) subartikel (5) deur die volgende subartikel te vervang:
- “(5) (a) 'n Lid van 'n Spesiale Ondersoekeenheid [wat nie 'n regter is nie en] wie se vergoeding nie uit publieke geld bestry word nie, kan die vergoeding, met inbegrip van toelaes vir verblyf- en reiskostes deur hom of haar in die verrigting van sy of haar werkzaamhede ingevolge

Act No. 2, 2001**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS AMENDMENT ACT, 2001**

her functions in terms of this Act, as the Minister of Justice in consultation with the Minister of Finance may determine.

(b) A member of a Special Investigating Unit [who is a judge or] whose remuneration is defrayed from public money, may be paid such allowances in respect of his or her service as such member, including allowances for subsistence and travelling expenses incurred by him or her in the performance of his or her functions in terms of this Act, as the Minister of Justice in consultation with the Minister of Finance may determine.”.

5

Amendment of section 5 of Act 74 of 1996

10

2. Section 5 of the principal Act is hereby amended by the deletion of subsection (8).

Amendment of section 6 of Act 74 of 1996

3. Section 6 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) Subject to subsection (6), the premises referred to in subsection (1) shall only be entered by virtue of an entry warrant issued by a member of a Special Tribunal, magistrate or judge of [the Supreme Court, other than the Head of the Special Investigating Unit concerned] a High Court, if it appears to such member, magistrate or judge from information on oath that there are reasonable grounds for believing that any book, document or object which may have a bearing on the investigation—

15

(i) is in the possession or under the control of any person or on or in any premises within the area of jurisdiction of such Special Tribunal, magistrate or judge; and

(ii) cannot reasonably be obtained in any other manner.”.

20

25

Short title and commencement

4. This Act is called the Special Investigating Units and Special Tribunals Amendment Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

WYSIGINGSWET OP SPESIALE ONDERSOEKEENHEDE
EN SPESIALE TRIBUNALE, 2001

Wet No. 2, 2001

hierdie Wet aangegaan, betaal word wat die Minister van Justisie in oorleg met die Minister van Finansies bepaal.

(b) 'n Lid van 'n Spesiale Ondersoekeenheid [**wat 'n regter is of**] wie se vergoeding uit publieke geld bestry word, kan die toelaes in verband met sy of haar dienste as so 'n lid, met inbegrip van toelaes vir verblyf- en reiskostes deur hom of haar in die verrigting van sy of haar werksaamhede ingevolge hierdie Wet aangegaan, betaal word wat die Minister van Justisie in oorleg met die Minister van Finansies bepaal.”.

Wysiging van artikel 5 van Wet 74 van 1996

- 10 2. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (8) te skrap.

Wysiging van artikel 6 van Wet 74 van 1996

3. Artikel 6 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:

“(a) Behoudens subartikel (6), word die perseel bedoel in subartikel (1) slegs betree uit hoofde van 'n betredingslasbrief wat deur 'n lid van 'n Spesiale Tribunaal, landdros of regter van [**die Hooggereghof, anders as die Hoof van die betrokke Spesiale Ondersoekeenheid,**] 'n Hoë Hof uitgereik is, indien dit vir sodanige lid, landdros of regter uit inligting onder eed of bevestiging blyk dat daar redelike gronde bestaan om te vermoed dat 'n boek, dokument of voorwerp wat op die ondersoek betrekking kan hê—
(i) in die besit of onder die beheer van 'n persoon of op of in enige perseel binne die regssgebied van sodanige Spesiale Tribunaal, landdros of regter is; en
(ii) nie redelikerwys op enige ander manier verkry kan word nie.”.

Kort titel en inwerkingtreding

- 25 4. Hierdie Wet heet die Wysigingswet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 2001, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

