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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.



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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

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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

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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*.