

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

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## **THE PRESIDENCY**

No. 800

2 October 2012

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

**Act No. 11 of 2012: Judicial Matters Amendment Act, 2012**



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

**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 1 October 2012)*

# ACT

To amend the Special Investigating Units and Special Tribunals Act, 1996, so as to further regulate the litigation functions of a Special Investigating Unit; to provide for the secondment of a member of a Special Investigating Unit to another State institution; to empower a Special Investigating Unit to charge and recover fees for performing any of its functions; and to authorise any such fees previously levied; to amend the National Prosecuting Authority Act, 1998, so as to further regulate the remuneration of Deputy Directors and prosecutors; and to regulate the continued employment and conditions of service of persons employed by the National Prosecuting Authority as financial investigators and analysts; and to provide for matters connected therewith.

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

**Amendment of section 2 of Act 74 of 1996, as amended by section 36 of Act 12 of 2004**

1. Section 2 of the Special Investigating Units and Special Tribunals Act, 1996, is hereby amended by the substitution in subsection (1)(b) for the words preceding the proviso of the following words: 5
- “establish one or more Special Tribunals to adjudicate upon **[justiciable]** civil **[disputes]** proceedings emanating from any investigation of any particular Special Investigating Unit:”.

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**Amendment of section 3 of Act 74 of 1996, as amended by section 1 of Act 2 of 2001**

2. Section 3 of the Special Investigating Units and Special Tribunals Act, 1996, is hereby amended by the addition of the following subsection:

“(6) The Head of a Special Investigating Unit may, on such conditions as he or she may deem fit, second a member, if the member consents, either for a particular task or for a specified period, to the service of a State institution on condition that the rights, privileges and service benefits and conditions of the member are not adversely affected by such secondment.”.

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**Amendment of section 4 of Act 74 of 1996**

3. Section 4 of the Special Investigating Units and Special Tribunals Act, 1996, is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

“(b) to collect evidence regarding acts or omissions which are relevant to its investigation [and, if applicable, to institute proceedings in a Special Tribunal against the parties concerned];

(c) to [present evidence in] institute and conduct civil proceedings [brought before] in a Special Tribunal or any court of law for—

(i) any relief to which the State institution concerned is entitled, including the recovery of any damages or losses and the prevention of potential damages or losses which may be suffered by such a State institution;

(ii) any relief relevant to any investigation; or

(iii) any relief relevant to the interests of a Special Investigating Unit;”;

(b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) from time to time as directed by the President to report on the progress made in the investigation and matters brought before the Special Tribunal concerned or any court of law;”.

**Amendment of section 5 of Act 74 of 1996, as amended by section 31 of Act 62 of 2000 and section 2 of Act 2 of 2001**

4. Section 5 of the Special Investigating Units and Special Tribunals Act, 1996, is hereby amended—

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

“(1) Subject to this Act and the regulations, the Head of a Special Investigating Unit may—

(a) determine the procedure to be followed in conducting an investigation; and

(b) charge and recover fees and expenses from a State institution for anything done in terms of this Act in respect of that State institution or a State institution identified by that State institution, together with legal costs relating to the institution and conducting of civil proceedings in terms of this Act, and interest, calculated at the rate prescribed in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975), from the date of demand.”;

(b) by the insertion after subsection (1) of the following subsection:

“(1A) (a) A State institution which is unable to pay the fees, expenses or legal costs or any part thereof, charged or to be recovered in terms of subsection (1)(b) for a specific financial year or any part thereof, may apply to the National Treasury or, when applicable, the relevant provincial treasury as contemplated in the Public Finance Management Act, 1999 (Act No. 1 of 1999), to be exempted from the payment of such fees, expenses or legal costs or any part thereof.

(b) The National Treasury or relevant provincial treasury, which receives an application in terms of paragraph (a) must, after consultation with the Head of the Special Investigating Unit and after considering the financial position of the State institution—

(i) make a finding regarding the ability of the State institution to pay the fees, expenses or legal costs or any part thereof charged or to be recovered in terms of subsection (1)(b) for a specific financial year or any part thereof; and

(ii) inform the Head of the Special Investigating Unit and the State institution concerned of the outcome of the application.