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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 360

14 March 2003

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REGULATIONS

The Minister for Justice and Constitutional Development has under section 11 of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), and after consultation with the Heads of the Special Investigating Unit and Special Tribunal established by Proclamation No. R. 118 of 31 July 2001, made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates -
 - "Head of the Unit" means the Head of the Special Investigating Unit appointed under section 3(1) of the Act;
 - "the Act" means the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996);
 - "Tribunal President" means the Tribunal President appointed under section 7(2) of the Act.

Recording of proceedings

2. (1) The proceedings of the Special Tribunal shall be recorded in the manner determined by the Tribunal President.

(2) The proceedings of the Special Investigating Unit in terms of section 5(2)(c) of the Act shall be recorded in the manner determined by the Head of the Unit.

(3) No shorthand notes or mechanical record of the proceedings of the Special Investigating Unit, contemplated in subregulation (2) may be transcribed except by order of the Head of the Unit.

Taking of oath

3. (1) Any person appointed or designated to —

(a) take down or record the proceedings of the Special Tribunal in shorthand or by mechanical means, shall at the outset take an oath or make an affirmation in the following form:

* *"I, AB., declare under oath/affirm that I shall faithfully and to the best of my ability take down/record the proceedings of the Special Tribunal and related matters in shorthand/by mechanical means as ordered by the Tribunal President."*;

(b) take down or record the proceedings of the Special Investigating Unit in terms of section 5(2)(c) of the Act in shorthand or by mechanical means, shall at the outset take an oath or make an affirmation in the following form:

"I, A.B., declare under oath/affirm that I shall faithfully and to the best of my ability take down/record the proceedings of the Special Investigating Unit and related matters in shorthand/by mechanical means as ordered by the Head of the Unit.";

(c) transcribe the record of proceedings of the Special Tribunal, referred to in sub-

regulation (1)(a) shall, upon completion of the transcription, take an oath or make an affirmation in the following form:

"I, A.B., declare under oath/affirm that I have fully and to the best of my ability transcribed all the shorthand notes/the whole of the mechanical record of the proceedings of the Special Tribunal handed to me in this matter." ; and

- (d) transcribe the record of proceedings of the Special Investigating Unit, referred to in sub-regulation (1)(b) shall, upon completion of the transcription, take an oath or make an affirmation in the following form:

"I, A.B., declare under oath/affirm that I have fully and to the best of my ability transcribed all the shorthand notes/the whole of the mechanical record of the proceedings of the Special Investigating Unit handed to me in this matter.".

- (2) The Head of the Unit may direct that before any person appointed in terms of section 3(2), or seconded in terms of section 3(3) of the Act performs any function in terms of the Act, such person shall take an oath, or make an affirmation, of fidelity or secrecy in the following form:

"I, A.B., declare under oath/affirm that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Special Investigating Unit or with the written leave of the Head of the Unit or by order of the Special Tribunal or the High Court, I shall not communicate to any person any matter or information which may come to my knowledge in connection with any investigation by the Special Investigating Unit, or allow or permit any person to have access to any records of the Special Investigating Unit, including any note, record or transcription of the proceedings of the said Unit, in my possession or custody or in the possession or custody of the said Unit or any member thereof.".

Confidentiality

4. No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with any investigation of the Special Investigating Unit, or allow or permit any other person to have access to any records of the Special Investigating Unit, except by order of the Special Tribunal or the High Court, or in so far as it is necessary in the

performance of his or her functions with the Special Investigating Unit or the Special Tribunal, or where it is permitted by leave of the Head of the Unit, or where such matter, information or record is disclosed or referred to in any pleadings or papers or evidence in any proceedings instituted in the Special Tribunal or any court.

Delegation

5. (1) The Head of the Unit may in writing delegate any of his or her functions, in terms of these Regulations, to any other member of the Special Investigating Unit subject to the conditions, directions or guidelines that he or she may determine.

(2) The Head of the Unit may at any time revoke any delegation made in terms of sub-regulation (1).

Offence and penalty

6. Any person who contravenes the provisions of regulation 4 shall be guilty of an offence and on conviction be liable to a fine, or to imprisonment for a period not exceeding three months.

Staff rules

7. Subject to sections 3(3) and 7(7) of the Act, the Head of the Unit and the Tribunal President may issue their own directives to regulate the conduct of their respective staff.

Interested party

8. An interested party contemplated in section 8(2) of the Act means any party who, or which, has a direct and substantial interest in any judgment or order the Special Tribunal may make in any proceedings instituted before it in terms of the Act, or who, or which will be prejudiced if any such judgment or order is carried into effect.

Repeal of regulations

9. The Regulations published under Government Notice No. R. 420 of 14 March 1997 are hereby repealed.

No. R. 360

14 Maart 2003

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996
(WET NO. 74 VAN 1996): REGULASIES

Die Minister vir Justisie en Staatkundige Ontwikkeling het kragtens artikel 11 van die Wet op Spesiale Ondersoekkeenheide en Spesiale Tribunale, 1996 (Wet No. 74 van 1996), en na oorleg met die Hoofde van die Spesiale Ondersoekkeenheid en Spesiale Tribunaal ingestel by Proklamasie No. R. 118 van 31 Julie 2001, die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomsrywings

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken -
"die Wet" die Wet op Spesiale Ondersoekkeenheide en Spesiale Tribunale, 1996 (Wet No. 74 van 1996);
"Hoof van die Eenheid" die Hoof van die Spesiale Ondersoekkeenheid aangestel ingevolge artikel 3(1) van die Wet; en
"Tribunaalpresident" die Tribunaalpresident aangestel ingevolge artikel 7(2) van die Wet.

Notulering van verrigtinge

2. (1) Die verrigtinge van die Spesiale Tribunaal moet genotuleer word op die wyse deur die Tribunaalpresident bepaal.

(2) Die verrigtinge van die Spesiale Ondersoekkeenheid ingevolge artikel 5(2)(c) van die Wet word genotuleer op die wyse deur die Hoof van die Eenheid bepaal.

(3) Geen snelskrifaantekeninge of meganiese opname van die verrigtinge van die Spesiale Ondersoekkeenheid bedoel in subregulasie (2) mag getranskribeer word nie behalwe op las van die Hoof van die Eenheid.

Aflê van eed

3. (1) Enige persoon wat aangestel of aangewys is om -

(a) die verrigtinge van die Spesiale Tribunaal in snelskrif aan te teken of op meganiese wyse op te neem, moet vooraf 'n eed of bevestiging in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig dat ek die verrigtinge van die Spesiale Tribunaal en verbandhoudende aangeleenthede getrou en na die beste van my vermoë in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Tribunaalpresident gelas."

(b) die verrigtinge van die Spesiale Ondersoekkeenheid ingevolge artikel 5(2)(c) van die Wet in snelskrif aan te teken of op meganiese wyse op te neem, moet vooraf 'n eed of bevestiging in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig dat ek die verrigtinge van die Spesiale Ondersoekkeenheid en verbandhoudende aangeleenthede getrou en na die beste van my vermoë in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Hoof van die Eenheid gelas."

- (c) die verrigtinge van die Spesiale Tribunaal bedoel in subregulasie (1)(a) te transkribeer, moet, nadat die transkripsie afgehandel is, 'n eed of bevestiging in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig dat ek al die snelskrifaantekeninge/die volledige meganiese opname van die verrigtinge van die Spesiale Tribunaal wat aan my oorhandig is, volledig en na die beste van my vermoë getranskribeer het."; en

- (d) die verrigtinge van die Spesiale Ondersoekkeenheid bedoel in subregulasie (1)(b) te transkribeer, moet, nadat die transkripsie afgehandel is, 'n eed of bevestiging in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig dat ek al die snelskrifaantekeninge/die volledige meganiese opname van die verrigtinge van die Spesiale Ondersoekkeenheid wat aan my oorhandig is, volledig en na die beste van my vermoë getranskribeer het."

- (2) Die Hoof van die Eenheid kan gelas dat, voordat enige persoon wat kragtens artikel 3(2) aangestel of kragtens artikel 3(3) van die Wet gesekondeer is, enige werksaamheid ingevolge die Wet verrig, sodanige persoon die eed sal aflê of 'n bevestiging van getrouheid of geheimhouding sal maak in die volgende vorm:

"Ek, A.B., verklaar onder eed/bevestig dat, behalwe vir sover dit vir die uitvoering van my pligte in verband met die werksaamhede van die Spesiale Ondersoekkeenheid of met die skriftelike magtiging van die Hoof van die Eenheid of ingevolge 'n bevel van die Spesiale Tribunaal of die Hoë Hof nodig is, ek geen aangeleentheid of inligting wat in verband met die Spesiale Ondersoekkeenheid se ondersoek tot my kennis mag kom, aan enigiemand sal meedeel nie en iemand sal toelaat of veroorloof om toegang tot stukke van die Spesiale Ondersoekkeenheid te verkry nie, met inbegrip van enige aantekening, opname of transkripsie van die verrigtinge van genoemde Eenheid in my besit of bewaring of in besit of bewaring van genoemde Eenheid of 'n lid daarvan."

Vertroulikheid

4. Niemand mag enige aangeleentheid of inligting wat in verband met die Spesiale Ondersoekeenheid se ondersoek tot sy of haar kennis mag kom, aan iemand anders meedeel of iemand anders toelaat of veroorloof om toegang te verkry tot stukke van die Spesiale Ondersoekeenheid nie, behalwe ingevolge 'n bevel van die Spesiale Tribunaal of die Hoë Hof, of vir sover dit vir die uitoefening van sy of haar werksaamhede met die Spesiale Ondersoekeenheid of die Spesiale Tribunaal nodig is, of waar dit deur toestemming van die Hoof van die Eenheid toegelaat word, of waar sodanige aangeleentheid, inligting of rekord blootgelê of verwys word na in enige pleitstukke of dokumente of getuïenis in enige verrigtinge ingestel in die Spesiale Tribunaal of enige hof.

Delegering

5. (1) Die Hoof van die Eenheid mag enige van sy of haar bevoegdhede ingevolge hierdie Regulasies skriftelik aan enige ander lid van die Spesiale Ondersoekeenheid deleger, onderworpe aan sodanige voorwaardes, voorskrifte of riglyne wat hy of sy bepaal.

(2) Die Hoof van die Eenheid mag ter eniger tyd enige delegasie ingevolge subregulasie (1) maak, herroep.

Misdryf en straf

6. Enige persoon wat die bepalings van regulasie 4 oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Reëls vir personeel

7. Behoudens artikels 3(3) en 7(7) van die Wet kan die Hoof van die Eenheid en die Tribunaalpresident hulle eie reëls maak om die gedrag van hul onderskeie personeel te reël.

Belanghebbende party

8. 'n Belanghebbende party beoog in artikel 8(2) van die Wet beteken enige party wie of wat 'n regstreekse en wesenlike belang het by 'n uitspraak of bevel wat die Spesiale Tribunaal mag maak in enige verrigtinge wat voor dit ingestel is ingevolge die Wet, en wie of wat benadeel sal word

indien sodanige uitspraak of bevel ten uitvoer gebring word.

Herroeping van regulasies

9. Die Regulasies by Goewermentskennisgewing No. R. 420 van 14 Maart 1997 gepubliseer, word hierby herroep.
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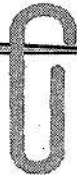
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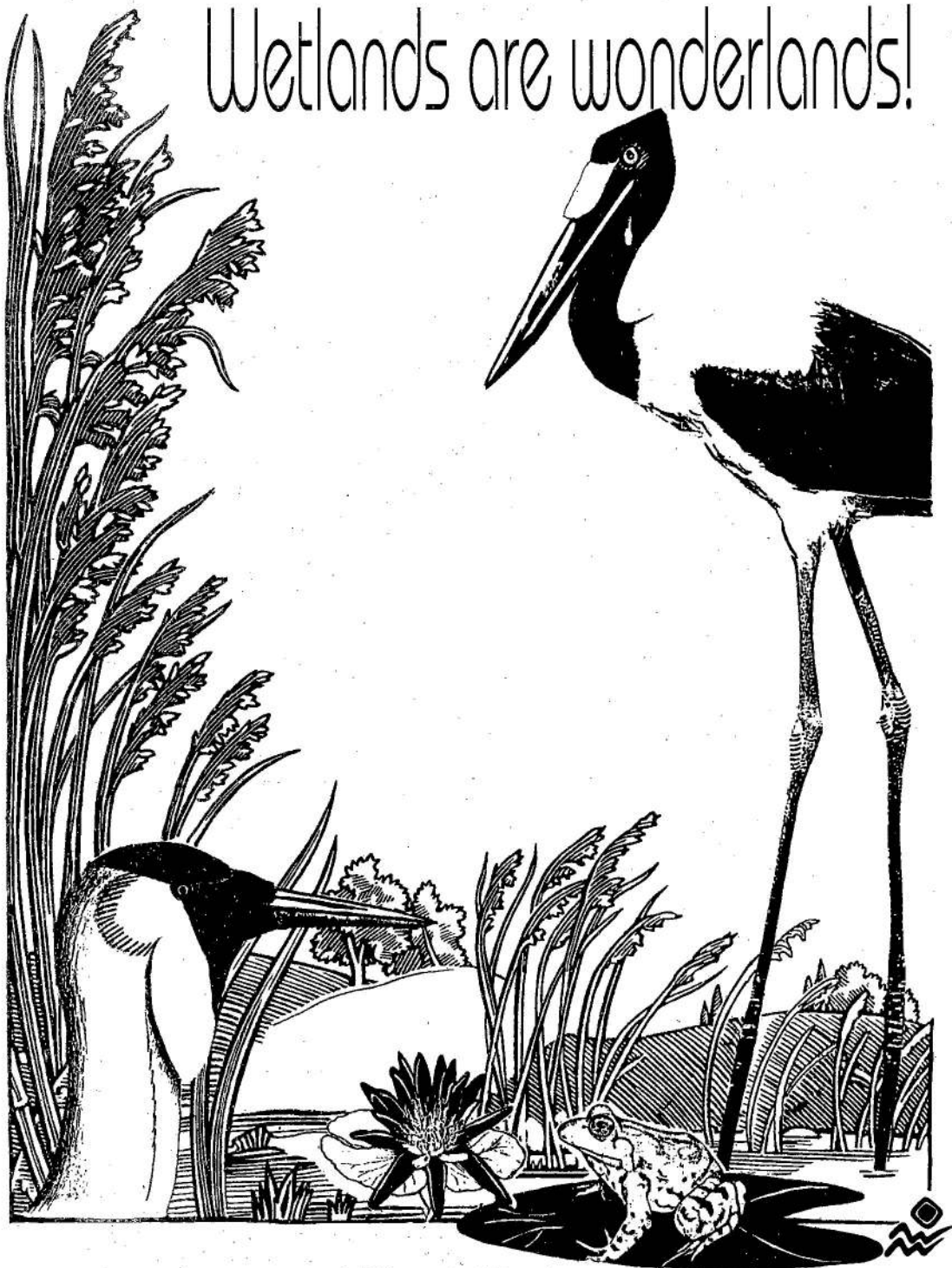
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Department of Environmental Affairs and Tourism



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