

REPUBLIC OF SOUTH AFRICA

**SPECIAL INVESTIGATING UNITS AND
SPECIAL TRIBUNALS AMENDMENT BILL**

*(As introduced in the National Assembly (proposed section 75 Bill); Bill and prior notice
of its introduction published in Government Gazette No 36567 of 14 June 2013)*

(The English text is the official text of the bill)

(Ms D A Schäfer MP)

[PMB5 - 2013]

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.

BILL

To amend the Special Investigating Units and Special Tribunals Act, Act No 74 of 1996, by amending the procedure for the appointment of the Head of a Special Investigating Unit so as to make the appointment subject to a recommendation by the National Assembly; to limit the period for which a person can hold the position of Acting Head of the Special Investigating Unit; by requiring the approval of the National Assembly for the removal of the Head of a Special Investigating Unit; and to provide for specific timeframes within which a Special Investigating Unit must report to Parliament.

IT IS HEREBY 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, Act 74 of 1996 (hereinafter referred to as the Act), is hereby amended—

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

“(a) The President must, on the recommendation of the National Assembly, appoint a 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 the President.

(b) If the office of Head of a Special Investigation 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[.], which period shall not exceed six months.” ; and

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

“(d) the President may at any time remove the Head of a Special Investigating Unit from office, with the approval of the National Assembly and if there are sound reasons for doing so.” .

Amendment of section 4 of Act 74 of 1996

2. Section 4 of the Act is hereby amended by the substitution for paragraph (f) of the following subsection:

“(f) every six months to report to the National Assembly on the progress made in respect of each investigation and matter referred to or brought before it.”

Short title and commencement

3. This Act is called the Special Investigating Units and Special Tribunals Amendment Act of 2013, and comes into force on its publication in the *Gazette*.

**MEMORANDUM ON THE OBJECTIVES OF THE SPECIAL
INVESTIGATING UNITS AND SPECIAL TRIBUNALS
AMENDMENT BILL OF 2013**

1. BACKGROUND

The Special Investigating Unit was established for the purpose of investigating serious malpractices or maladministration in connection with the administration of State institutions, State assets and public money. However, in the last few years there has been a decline in the number of cases handled and an undermining of the public's confidence in this unit.

These problems have mainly arisen as a result of the removal of a Head of the Special Investigating Unit, and failure by the executive to appoint a permanent head for an extended period of time, resulting in a lack of leadership and internal cohesion. Thus there is a need to prevent this from recurring in the future. The efficient functioning of the Special Investigating Unit is crucial for the country to effectively combat corruption.

2. OBJECTIVES OF THE BILL

The objectives of the Bill are: -

- 2.1 to provide that the appointment of Heads of Special Investigating Units be on the recommendation of the National Assembly;
- 2.2 to limit the period of time for which a person may act in the position of Head of a Special Investigating Unit;
- 2.3 to subject the removal of a Head of a Special Investigating Unit to the approval of the National Assembly; and
- 2.4 to require Special Investigating Units to report on their progress in investigations and other matters referred to them to the National Assembly every six months.

3. FINANCIAL IMPLICATIONS FOR THE STATE

None

4. PARLIAMENTARY PROCEDURE

As it was the case for the Act, this Bill falls within the ambit of section 75 of the Constitution.