

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

Case no: CCT

WCC case no: 23874/12

In the matter between:

**THE HELEN SUZMAN FOUNDATION**

Applicant

and

**THE PRESIDENT OF THE REPUBLIC OF  
SOUTH AFRICA**

First Respondent

**THE MINISTER OF POLICE**

Second Respondent

**THE HEAD OF THE DIRECTORATE FOR PRIORITY  
CRIME INVESTIGATION**

Third Respondent

**THE GOVERNMENT OF THE REPUBLIC OF  
SOUTH AFRICA**

Fourth Respondent

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**FOUNDING AFFIDAVIT OF THE HELEN SUZMAN FOUNDATION**

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I, the undersigned

**FRANCIS ANTONIE**

do hereby make oath and say that:

## INTRODUCTION

1. I am an adult male director of the Helen Suzman Foundation ("**HSF**") situated at 2 Sherborne Road, Parktown, Johannesburg. I am duly authorised to depose to this affidavit on behalf of the HSF.
2. The facts contained herein are, to the best of my knowledge and belief, true and correct and, unless the contrary appears from the context, are within my personal knowledge. Where I make any legal submissions, I do so on the basis of legal advice which I accept to be correct.

## NATURE AND PURPOSE OF THIS APPLICATION

3. This is an application:
  - 3.1 in terms of Rule 16(4) of the Constitutional Court Rules for confirmation of an order of constitutional invalidity made by the Full Court of the Western Cape Division of the High Court, Cape Town ("**High Court**") on 13 December 2013 (per the Honourable Justices Desai, Le Grange and Cloete) ("**the Order**"), annexed hereto marked "**FA1**". The judgment providing reasons for the Order ("**the Judgment**") is annexed hereto marked "**FA2**". In the Order, sections 16, 17A, 17CA, 17D, 17DA and 17K(4) to (9) of the South African Police Service Act, 1995 ("**SAPS Act**")<sup>1</sup> were declared unconstitutional and invalid to the extent that they

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<sup>1</sup> The High Court Order mistakenly referred to the South African Police Service Amendment Act 10 of 2012 ("**2012 Amendment Act**"), when what was clearly intended was to refer to the SAPS Act as amended by the 2012 Amendment Act, since the sections referred to and declared invalid are those found in the SAPS Act (as amended). In this affidavit I therefore simply refer to the SAPS Act.

failed to secure an adequate degree of independence for the Directorate for Priority Crime Investigation ("**DPCI**"); and

- 3.2 in terms of Rule 19 of the Constitutional Court Rules for leave to appeal against certain portions of the Judgment and, in particular, the High Court's failure to declare unconstitutional and invalid sections 17E(8), 17G, 17H, 17I and 17K(1) to (2B) of the SAPS Act to the extent that those sections also fail to secure an adequate degree of independence for the DPCI.
4. The Judgment and the Order related to two separate matters (under WCC case no: 23874/12 and WCC case no: 23933/12) which have not been consolidated, but which, for the sake of practical convenience, were heard concurrently by the High Court.
5. The parties in this application are the parties under WCC case no: 23874/12.
6. The full case in favour of a declaration of unconstitutionality and underlying the leave to appeal application in relation to certain findings by the High Court is not repeated in full in this affidavit; it appears from the papers filed on behalf of the HSF in the High Court.

## **THE PARTIES**

7. The applicant is the HSF. The HSF was established in 1993, and is a non-governmental organisation whose objectives are "*to defend the values that underpin our liberal constitutional democracy and to promote respect for human rights*". The HSF's objectives are closely aligned with the

fundamental principles of democracy and constitutionalism to be decided by this Court.

8. The respondents have, once again, failed to establish an independent body tasked with fighting organised crime and corruption as required by the Constitution and the decision of this Court in *Glenister v President of the Republic of South Africa and Others* 2011 (3) SA 347 (CC) ("**Glenister II**").
9. The HSF approaches this Court, firstly, in its own interest. It is an organisation that is primarily concerned with the principles of democracy and constitutionalism, and the rule of law. These principles are implicated and threatened by the unconstitutional provisions of the SAPS Act.
10. The HSF also approaches this Court in the public interest. All South Africans have an interest in the rule of law, the requirements of a properly functioning constitutional democracy, and in particular the urgent steps necessary to eliminate corruption and organised crime in our nascent democracy. This Court in *Glenister II* held unequivocally that:

*"corruption threatens to fell at the knees virtually everything we hold dear and precious in our hard-won constitutional order. It blatantly undermines the democratic ethos, the institutions of democracy, the rule of law and the foundational values of our nascent constitutional project. It fuels maladministration and public fraudulence and imperils the capacity of the state to fulfil its obligations to respect, protect, promote and fulfil all the rights enshrined in the Bill of Rights. When corruption and organised crime flourish, sustainable development and*

*economic growth are stunted. And in turn, the stability and security of society is put at risk."* (para [166])

11. The First Respondent is the President of the Republic of South Africa and has his office located at Tuynhuys Building, Parliament Street, Cape Town. The First Respondent is cited in his capacity as head of the National Executive and by virtue of the fact that the executive authority of the Republic is vested in him in terms of section 85(1) of the Constitution. Section 85(2)(d) of the Constitution provides that the First Respondent must exercise his executive authority by, *inter alia*, "*preparing and initiating legislation*" (together with other members of the Cabinet), and ultimately assenting thereto in terms of section 84(2)(a). The First Respondent assented to the 2012 Amendment Act, which introduced the provisions of the SAPS Act that form the focus of the constitutional challenge in this matter.
12. The Second Respondent is the Minister of Police, acting in his official capacity ("**the Minister**"). The Minister's office is located at the Department of Police, 9th Floor, Room 915, 120 Plein Street, Cape Town. The Minister is cited in his official capacity as the Cabinet member responsible for the South African Police Service ("**SAPS**") and by virtue of the fact that he administers the SAPS Act.
13. The Third Respondent is the Head of the DPCI, acting in his official capacity ("**the Head**"). The Head's office is located at 1 Promat Building, Creswell Street, Silverton, Pretoria and he is cited by virtue of the interest he may have in the relief sought. No relief is sought against the Head, save for a costs order in the event that he chooses to oppose the relief sought herein.

In the High Court the Head gave notice of his intention to abide the decision of the High Court. Accordingly, all references in this affidavit to "**the Respondents**" should be construed as references only to the First, Second and Fourth Respondents.

14. The Fourth Respondent is the Government of the Republic of South Africa, care of the State Attorney, 4th Floor, Liberty Life Building, 22 Long Street, Cape Town.
15. The Respondents were, and continue to be, represented by the State Attorney, Cape Town.

## **JURISDICTION**

16. This Court has jurisdiction to hear this matter under sections 167 and 172 of the Constitution and sections 15(1)(a) and (b) of the Superior Courts Act, 2013.

## **STRUCTURE OF THE REMAINDER OF THE AFFIDAVIT**

17. The remainder of this affidavit is structured as follows:

- 17.1 Part A

- 17.1.1 the information to be furnished to the Registrar of this Court in compliance with the requirements of Rule 21 of the Constitutional Court Rules; and

17.1.2 the findings of the High Court in relation to the specific sections which it found do not pass constitutional muster and the grounds upon which this Court should confirm the declaration of constitutional invalidity in the Order.

17.2 Part B

17.2.1 a brief discussion on the historical background of this matter; and

17.2.2 the grounds of appeal to this Court.

#### **PART A: THE REQUIREMENTS OF RULE 21**

18. The record before the High Court in relation to the HSF's application ran to just under 400 pages. There is no portion of evidence that requires transcription.

19. In relation to the duration of the matter, I point out that argument in the High Court took 5 days. This included both the matter launched by the HSF and the matter under case no 23933/12. The Respondents were represented by three separate sets of counsel. In view of the above, and assuming that both applications are heard together, the potential for intervention by *amici curiae* and having regard to the practice of the Constitutional Court in limiting the time for argument, the HSF anticipates that argument in the matter should not last more than 1.5 days.

20. There are no other circumstances of which the HSF is aware which are relevant to the directions to be given by the Chief Justice.

## PART A: CONFIRMATION OF THE HIGH COURT DECLARATION OF CONSTITUTIONAL INVALIDITY

21. Paragraphs 1 and 2 of the Order read as follows:

- "1. *It is declared that s 16 as well as ss 17A, 17CA, 17D, 17DA and 17K(4) to (9) contained in Ch 6A of [the SAPS Act, as amended by] the South African Police Service Amendment Act No 10 of 2012 are inconsistent with the Constitution and invalid to the extent that they fail to secure an adequate degree of independence for the Directorate for Priority Crime Investigation.*
2. *The declaration of constitutional invalidity in paragraph 1 above is suspended for 12 (twelve) months in order for Parliament to remedy the defects."*

22. For the convenience of this Court, I set out a brief description below of each section of the SAPS Act which was declared constitutionally invalid by the High Court together with its reasons for making such declaration:

- 22.1 **Section 17CA:** appointment of members of the DPCI. In striking down this section in its entirety, the High Court held at (incorrectly numbered) paragraph [122.1] of the Judgment that "*[t]he appointment process of the Head lacks adequate criteria for such appointment and vests an unacceptable degree of political control in the Minister and Cabinet, which is also in conflict with the standard of international best practice*".

- 22.2 **Section 17CA(15)**: extension of tenure of the Head. While this particular provision forms part of the broader section 17CA which was struck down in its entirety, the High Court held at (incorrectly numbered) paragraph [122.2] of the Judgment that section 17CA(15) is specifically inconsistent with the Constitution and invalid to the extent that "*[t]he power vested in the Minister to extend the tenure of the head and Deputy Head is intrinsically inimical to the requirement of adequate independence*".
- 22.3 **Section 17DA**: suspension or removal of the Head. The High Court held at (incorrectly numbered) paragraph 122.3 of the Judgment that section 17DA is inconsistent with the Constitution and invalid to the extent that "*[t]he suspension and removal 'process' not only vests an inappropriate degree of control in the Minister, but also allows for two separate and distinct processes, determined on the basis of arbitrary criteria, each able to find application without any reference to the other*".
- 22.4 **Sections 16, 17D and 17K(4) to (9)**: jurisdiction of the DPCI, and political control of the DPCI by the National Executive, including the making of policy guidelines. The High Court held at (incorrectly numbered) paragraph 122.4 of the Judgment that "*[t]here is an unacceptable degree of political oversight in the jurisdiction of the DPCI, and the relevant provisions are themselves so vague that not even those responsible for their implementation are able to agree on how they should be applied*".

- 22.5 **Section 17A**: the definitions section. The High Court struck down this section in its entirety. The HSF submits that, in view of the above findings of the High Court, this section was correctly struck down, particularly in regard to its definition of "*national priority offence*".
23. For the reasons set out above, as well as all the reasons set forth in the HSF's founding and replying papers in the High Court, which are part of the record, which will be amplified in argument before this Court, the HSF submits that this Court should confirm the High Court's declaration of constitutional invalidity in relation to sections 16, 17A, 17CA, 17D, 17DA and 17K(4) to (9) of the SAPS Act.

## **PART B: HISTORICAL BACKGROUND**

24. In *Glenister II*, this Court declared Chapter 6A of the SAPS Act (as it stood prior to the 2012 Amendment Act) to be unconstitutional and invalid to the extent that it failed to secure an adequate degree of independence for the State's corruption and organised crime fighting unit, the DPCI.
25. In summarising the main grounds for declaring Chapter 6A unconstitutional, this Court held at paragraphs [248]-[250]:

*"I have concluded that the absence of specially secured conditions of employment, the imposition of oversight by a committee of political Executives, and the subordination of the DPCI's power to investigate at the hands of members of the Executive, who control the DPCI's policy guidelines, are inimical to the degree of independence that is required.*

...

*Regarding the entity's conditions of service, I have found that the lack of employment security, including the existence of renewable terms of office and of flexible grounds for dismissal that do not rest on objectively verifiable grounds like misconduct or ill-health, are incompatible with adequate independence. So too is the absence of statutorily secured remuneration levels. I have further found that the appointment of its members is not sufficiently shielded from political influence.*

*Regarding oversight, I have concluded that the untrammelled power of the Ministerial Committee to determine policy guidelines in respect of the functioning of the DPCI, as well as for the selection of national priority offences, is incompatible with the necessary independence. . . . I have also found that the mechanisms to protect against interference are inadequate, in that Parliament's oversight function is undermined by the level of involvement of the Ministerial Committee, and in that the complaints system involving a retired judge regarding past incidents does not afford sufficient protection against future interference."*

(emphases added)

26. This Court, however, suspended the declaration of invalidity for eighteen months to afford Parliament an opportunity to remedy the constitutional defects in the SAPS Act.
27. In purported compliance with *Glenister II*, Parliament enacted the 2012 Amendment Act, which amended, *inter alia*, Chapter 6A of the SAPS Act. Soon after its enactment, however, the HSF challenged the constitutionality of certain parts of the SAPS Act, as amended, in the High Court, arguing that

that SAPS Act failed to pass constitutional muster when measured against the degree of independence required by the Constitution as espoused by this Court in *Glenister II*.

28. In the High Court, the HSF challenged the following specific provisions in the SAPS Act:

28.1 appointment of members of the DPCI (section 17CA);

28.2 extension of tenure of the Head (section 17CA(15));

28.3 suspension or removal of the Head (section 17DA);

28.4 jurisdiction of the DPCI and political control of the DPCI by the National Executive, including the making of policy guidelines (sections 16 and 17D read with sections 17K and 17I);

28.5 conditions of service of members of the DPCI (section 17G);

28.6 financial control of the DPCI (section 17H, read with section 17K); and

28.7 integrity testing of members of the DPCI (section 17E(8)).

29. In the High Court, the HSF was successful in challenging sections 16, 17A, 17CA, 17D, 17DA and 17K(4) to (9).

30. While the HSF agrees with the bases upon which the High Court declared these particular sections of the SAPS Act to be inconsistent with the Constitution and invalid (and thus seeks confirmation of such declaration of invalidity), it respectfully submits that the High Court erred in failing to declare

unconstitutional and invalid the following further sections of the SAPS Act: 17E(8), 17G, 17H, 17I and 17K(1) to (2B). It is in this context that the HSF seeks leave to appeal. I set out each ground of appeal in more detail below.

## **PART B: GROUNDS OF APPEAL**

### **Sections 17H and 17K(1) to (2B) - Financial Control**

31. At paragraph 95 of the founding affidavit in the High Court, the HSF submitted that pursuant to section 17H of the SAPS Act, the Head is required to "*prepare and provide the National Commissioner with the necessary estimate of revenue and expenditure of the [DPCI] for incorporation on the estimate and expenditure of the [SAPS]*". If the National Commissioner and the Head are unable to agree on the estimate of revenue and expenditure for the DPCI, the Minister shall mediate between the two. It is unclear how the matter will be resolved if mediation is unsuccessful. Oral argument was advanced in this regard during the hearing of this matter.

32. The High Court held at paragraph [117] of the Judgment that

*"The Head provides the National Commissioner with its estimate for incorporation in the SAPS estimate. The Commissioner does not have the final say. The Head must agree with him. If they cannot agree, the Minister mediates. If the mediation is successful, then that is the end of the dispute. If the mediation is unsuccessful, the Minister does not have the final say. The dispute has to go before Parliament. Section 17K(2B) explicitly provides that the Head shall make a presentation to Parliament on the budget of the DPCI. Accordingly, the DPCI is now*

*afforded an adequate opportunity to defend its budgetary requirements before Parliament in accordance with the requirement for independence referred to in the New National Party case."*

33. I maintain that in order to ensure independence, the budget of the DPCI must be sufficient for it to fulfil all its statutory and constitutional functions, and the DPCI must be in control of determining such budget for approval by Parliament. It should not be dependent on the grace, hand-outs or agreement from the SAPS or the National Executive. Parliament must appropriate the funds specifically for the DPCI on the DPCI's own submissions as to its requirements.
34. Section 17K(2B) does not assist in this regard. It vaguely states that the Head "*shall make a presentation to Parliament on the budget*" of the DPCI. The budget in question would, however, already have been discussed, determined and mediated.
35. The purpose of a presentation on the budget in Parliament of any public body is to defend and answer questions about the budget laid before Parliament by the National Commissioner. It is not an opportunity for the Head to distance himself from the budget actually presented to Parliament to argue for allocations which deviate materially from those proposed in the SAPS budget, of which the DPCI's budget forms part. The fact that the DPCI's budget is "*exclusive*" or "*specific*", as provided in sections 17K(2A), does not in any way cure the defect that there is substantial executive involvement in the formulation and determination of any budget presented to Parliament.

36. Section 17K(2B) is, at best, an arbitrary afterthought inserted into section 17K of the SAPS Act which does little to insulate the DPCI adequately from financial control by the National Commissioner and the Minister, and simply places the Head in the untenable position where s/he is expected to defend and explain the contents of a budget for which s/he may not have been responsible and with which s/he may not agree.
37. The National Commissioner remains the accounting officer of the DPCI under section 17H(4)(a) of the SAPS Act. In this light, and under the provisions of the Public Finance Management Act, 1999, the National Commissioner is the only party who may procure goods and services on behalf of the SAPS, including the DPCI. This, in addition, renders section 17H(6) contradictory and uncertain to the extent that it purports to divest some "*control*" to the Head over the monies appropriated by Parliament in respect of the "*expenses*" of the DPCI. In light of the purpose and extent of section 17H(4)(a), it is clear that the DPCI would not have statutory power over what goods or services precisely are procured, and how and to whom monies are expended, despite whatever physical control over appropriated funds it may have.
38. Moreover, in terms of section 17H(4)(b), the National Commissioner must simply "*involve*" the Head in consultations relating to estimates of revenue and expenditure of the DPCI, including consultations with the National Treasury. This section's vague requirement that the Head merely needs to be involved in consultations as to revenue and expenditure estimates of the corruption fighting unit, which is required to be independent, clearly indicates

that the Head is in no way in control of the budgeting process, and thus that the DPCI does not enjoy adequate financial independence.

39. Finally, to the extent that the High Court held that section 17K(2B) meets the requirement for adequate independence referred to at paragraphs [98]-[99] of *New National Party v Government of the Republic of South Africa and Others* 1999 (3) SA 191 (CC) ("**NNP**"), the HSF respectfully submits that this is incorrect. *NNP*, contrary to what the High Court held, is actually authority for the HSF's submission that it is indispensable to an institution's independence that its budget be allocated by Parliament directly, after that institution itself has had the opportunity to draft and defend its own budgetary estimates before Parliament directly, and not at any time through the medium of the National Executive or the National Commissioner.
40. Thus, the pronouncement in *NNP* helpfully elucidates how and why it is antithetical to independence for the DPCI to be required to request and receive its budget through the National Commissioner.
41. The HSF respectfully submits that the High Court erred in its finding that section 17K(2B) cures the abovementioned defects. The reasoning does not address the absence of safeguards in the SAPS Act. The HSF maintains that such financial dependence on the National Commissioner and the National Executive is incompatible with the independence required of the DPCI under the Constitution.
42. In this light, The HSF respectfully requests this Court to grant leave to appeal and to uphold this ground of appeal.

### **Section 17E(8) - Integrity Testing**

43. At paragraph 100 of the founding affidavit in the High Court, the HSF submitted that section 17E of the SAPS Act empowers the Minister to prescribe measures to test the "integrity" of members of the DPCI, including random entrapment, the use of polygraph and testing for alcohol and drug abuse. This would doubtless encompass the use of interception of communication devices against DPCI members at every level, including the Head. Written argument was advanced in the High Court in this regard.
44. The High Court, however, made no pronouncement on the constitutional validity of section 17E(8).
45. The HSF maintains that it is unclear why a member of the National Executive should be given this power and responsibility over an independent agency. This provision clearly has the potential to be used as an intimidation tactic and its implications are ominous. If integrity testing is to be done, it must be conducted under the auspices of the DPCI or an independent third party and not by an individual with a quintessentially political role, who, as this Court and the High Court acknowledged, could be the subject of an investigation by the DPCI and thus have a vested interest in how these tests are carried out and who they target.
46. The HSF respectfully requests this Court to grant leave to appeal and to uphold this ground of appeal.

**Section 17G - Conditions of Service**

47. Despite the clear pronouncements of this Court in relation to the need for secure conditions of service, including secure levels of remuneration, in *Glenister II* (at paras [208], [227] and [249]), Parliament has elected to make no changes at all to section 17G.
48. At paragraph 101 of my founding affidavit, I submitted that it is the Minister who determines the conditions of service of members of the DPCI under sections 17G and 24 of the SAPS Act. There are no guarantees in respect of these conditions, except (to some extent) in the cases of the Head, the Deputy Head and the Provincial Heads of the DPCI.
49. The High Court held at paragraph 110 of the High Court Judgment and Order that the HSF does not take issue with the remuneration provisions now incorporated into the SAPS Act. I respectfully submit that this is not the case.
50. The fact that there are no guarantees in respect of the conditions of service under section 17G read with section 24 of the SAPS Act and that all conditions of service are at the grace of the Minister are clearly unacceptable further incursions on DPCI's independence. This much was said in my founding papers and I respectfully request this Honourable Court to uphold this ground of appeal.

**Section 17I - Co-ordination by Cabinet**

51. Section 17I of the SAPS Act is a provision which, at first glance, is benign in its impact on the independence of the DPCI. On deeper scrutiny, however,

this provision is quite malignant when read with sections 16 (National prevention and investigation of crime), 17D(1) (Functions of the Directorate to prevent, combat and investigate, *inter alia*, national priority offences and selected offences subject to any policy guidelines) and 17K(4) (determination by the Minister of policy guidelines), all of which were held to be constitutionally invalid by the High Court.

52. At paragraph 92 of my founding affidavit (in the context of section 17D(1A) of the SAPS Act and the broader discussion of political involvement, oversight and potential interference) I submitted that it is unclear why there is a need for the DPCI's co-operation with other State bodies (including the prosecutorial service and intelligence) to be done through the medium of and procedures determined by a Ministerial Committee contemplated in section 17I(2) of the SAPS Act. The DPCI should, as an independent body, be able to liaise with any other organ of state or functionary as circumstances require and not be dictated to by the National Executive. The "co-ordination" of activities in the manner envisaged by section 17I is inimical to the constitutionally required structural and operational independence of the DPCI. Such co-ordination was specifically identified by this Court in *Glenister II* as an unacceptable incursion into the independence of the DPCI (para [228]).
53. It is clear that when read in the context of sections 16, 17D and 17K, section 17I(2) has the potential to undermine the independence of the DPCI to the extent that the members of the National Executive, who are extrinsic to the DPCI and may have political reasons to interfere with its functioning, co-ordinate the activities of the DPCI in relation to other government

departments or institutions, which may stifle effective investigation of corruption or organised crime.

54. In *Glenister II*, this Court held at paragraphs [233]-[234] that:

*"We point out in this regard that the DPCI is not, in itself, a dedicated anti-corruption entity. It is in express terms a directorate for the investigation of 'priority offences'. What those crimes might be depends on the opinion of the head of the Directorate, as to national-priority offences — and this is in turn subject to the Ministerial Committee's policy guidelines. The very anti-corruption nature of the Directorate therefore depends on a political say-so, which must be given, in the exercise of a discretion, outside the confines of the legislation itself. This cannot be conducive to independence, or to efficacy.*

*Again, we should not assume, and we do not assume, that the power will be abused. Our point is different. It is that senior politicians are given competence to determine the limits, outlines and contents of the new entity's work. That in our view is inimical to independence."*

55. For many of the same reasons that sections 16, 17D and 17K(4) to (9) were held to be constitutionally invalid, I submit that section 17I should also be declared unconstitutional and invalid and I request this Honourable Court to uphold this ground of appeal.

## CONCLUSION

56. Regarding Part A of this application and for the reasons set out above, the HSF submits that this Court should confirm the order of constitutional invalidity in relation to sections 16, 17A, 17CA, 17D, 17DA and 17K(4) to (9) of the SAPS Act.
57. Regarding Part B of this application, the HSF respectfully submits that, for the reasons set out above, this Court should grant leave to appeal and declare sections 17E(8), 17G, 17H, 17I and 17K(1) to (2B) of the SAPS Act unconstitutional and invalid to the extent that they fail to secure an adequate degree of independence for the DPCI.
58. It is appropriate in the present circumstances, the HSF submits, for this Court to exercise its powers under section 172(1)(b) of the Constitution to suspend the declaration of invalidity for 12 months, so as to allow Parliament sufficient time to make the necessary amendments to the SAPS Act.
59. Given the continuing failure by the Respondents to fulfil their constitutional obligation to create an adequately independent unit to fight corruption and organised crime, and the lengthy delays that have already been occasioned, it is submitted that the suspension should not be extended beyond 12 months. If the correction of the defects in the SAPS Act is prioritised, as it should be, there is no reason why such amendments as are necessary consequent upon this Court's judgment and order cannot be expeditiously implemented.

**WHEREFORE**, the HSF prays for an order in terms of the notice of application to which this affidavit is attached.

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**FRANCIS ANTONIE**

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at \_\_\_\_\_ on this the \_\_\_\_\_ day of **JANUARY 2014**, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, have been complied with.

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COMMISSIONER OF OATHS

**Full names:**

**Address:**

**Capacity:**