

openbaar of, nadat hy of sy daartoe beveel is, valse inligting verstrek het, wetende dat die inligting vals is of nie glo dat dit waar is nie, moet die hof hierdie feite as *prima facie* getuienis aanvaar dat enige eiendom **[of deel daarvan, waartoe]** waarmee die inligting verband hou—”;

(c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

2. On page 2, after line 19, to insert:

(d) by the substitution in the Afrikaans text for subsection (3) of the following subsection:

“(3) Vir die doeleindes van die bepaling van die waarde van 'n verweerder se opbrengs van onregmatige aktiwiteite in 'n ondersoek kragtens artikel 20(1)—

(a) indien die hof bevind dat hy of sy deur 'n misdryf bevoordeel is en dat—

(i) hy of sy eiendom te eniger tyd by, of sedert, sy of haar skuldigbevinding gehou het; of

(ii) eiendom te eniger tyd sedert die begin van 'n tydperk van sewe jaar voor die vasgestelde datum aan hom of haar oorgedra is,

moet die hof hierdie feite as *prima facie* getuienis **[aanneem]** aanvaar dat die eiendom **[of deel daarvan]** wat deur hom of haar ontvang is op die vroegste tydstep waarop dit in sy of haar besit **[is]** was, as 'n voordeel, betaling, diens of beloning ontvang is in verband met die misdrywe of verwante kriminele aktiwiteite bedoel in artikel 18(1);

(b) indien die hof bevind dat hy of sy deur middel van 'n misdryf bevoordeel is en dat uitgawes wat sedert die begin van die tydperk in paragraaf (a) beoog deur hom of haar **[aangeneem]** aangegaan is, moet die hof hierdie feite as *prima facie* getuienis aanvaar dat enige sodanige uitgawes bestry is uit die voordele, betalings, dienste of belonings met inbegrip van enige eiendom **[of deel daarvan]** wat deur hom of haar ontvang is in verband met die misdrywe of verwante kriminele aktiwiteite bedoel in artikel 18(1) wat deur hom of haar gepleeg is.”; and

(e) by the deletion in the Afrikaans text in subsection (4) of the words "of deel daarvan".

CLAUSE 3

1. On page 4, after line 4, to insert:

(b) by the substitution for subsection (5) of the following subsection:

“(5) A court conducting an enquiry under **[subsection (2)]** this section shall not apply sections 21 and 22.”; and

CLAUSE 4

1. On page 4, from line 11, to omit all the words from "amended" up to "subsection:" in line 12 and to substitute:

amended—

- (a) by the substitution in the Afrikaans text for paragraph (b) of subsection (6) of the following paragraph:

"(b) vir die redelike regskoste van so 'n persoon in verband met enige **[geregtelike stappe]** verrigtinge wat ingevolge hierdie Hoofstuk teen hom of haar ingestel is of enige strafregtelike **[prosedure waartoe]** verrigtinge waarmee sodanige **[prosedure]** verrigtinge mag verband hou,"; and

- (b) by the substitution for subsection (9) of the following subsection:

CLAUSE 6

1. In the Afrikaans text on page 5, in line 25, to omit "paragraaf (a) deur die volgende paragraaf" and to substitute:

die woorde wat subparagraaf (ii) van paragraaf (a) voorafgaan deur die volgende woorde

2. In the Afrikaans text, on page 5, in line 26, to omit "(a)".

NEW CLAUSES

1. That the following be new Clauses to follow Clause 7:

Amendment of section 44 of Act 121 of 1998

24. Section 44 of the principal Act is hereby amended by the substitution in the Afrikaans text for subsection (1) of the following subsection:

"(1) **[n Hoë Hof wat 'n eiendomsinstandhoudingsbevel verleen,] 'n** Eiendomsinstandhoudingsbevel kan die voorsiening maak wat **[hy]** die Hoë Hof goeddink vir—

(a) **[vir die]** redelike lewenskoste van 'n persoon wat 'n belang besit in eiendom wat aan 'n eiendomsinstandhoudingsbevel onderhewig is en sy of haar familie of gesin; en

(b) **[vir die]** redelike regskoste van so 'n persoon in verband met enige **[geregtelike stappe]** verrigtinge wat ingevolge hierdie **[hoofstuk]** Wet teen hom of haar **[gedoen]** ingestel word of enige ander verbandhoudende strafregtelike verrigtinge."

Amendment of section 47 of Act 121 of 1998

25. Section 47 of the principal Act is hereby amended by the substitution in the Afrikaans text in subsection (1) for subparagraph (ii) of paragraph (a) of the following subparagraph:

"(ii) moet die **[bevel]** eiendomsinstandhoudingsbevel intrek indien die **[betrokke eiendomsinstandhoudingsbevel ingetrek word]** verrigtinge teen die betrokke verweerder afgehandel is.".

NEW CLAUSES

1. That the following be new Clauses to follow Clause 8:

Amendment of section 49 of Act 121 of 1998

27. Section 49 of the principal Act is hereby amended by the substitution in the Afrikaans text for paragraph (a) of subsection (4) of the following paragraph:

"(a) moet die hof enige bevel rakende koste teen die applikant verleen; **[of]** en".

Amendment of section 50 of Act 121 of 1998

28. Section 50 of the principal Act is hereby amended by the substitution in the Afrikaans text in subsection (2) for the expression "tegeldemaking" of the expression "fasilitering".

CLAUSE 9

1. On page 4, in line 45, after "amended " to insert "— (a)".

2. On page 4, in line 47, after "49(1)," to insert "; and".

3. On page 4, after line 47, to insert:

(b) by the substitution in the Afrikaans text for subsection (4) of the following subsection:

"(4) 'n Hoë Hof wat 'n bevel verleen vir die uitsluiting van 'n belang in eiendom kragtens subartikel (1) kan, in die belang van die regspleging of die openbare belang, **[n]** daardie bevel verleen op die voorwaardes wat die hof geskik ag, met inbegrip van 'n voorwaarde wat van die persoon wat om die uitsluiting aansoek gedoen het, vereis **[word]** om alle redelike stappe te doen, binne 'n tydperk wat die hof mag bepaal, om die toekomstige gebruik van die eiendom **[in]** as 'n misdaadinstrument van 'n misdryf bedoel in Bylae 1 te voorkom.".

NEW CLAUSES

1. That the following be new Clauses to follow Clause 9:

Amendment of section 53 of Act 121 of 1998

30. Section 53 of the principal Act is hereby amended—

(a) by the substitution in the Afrikaans text for paragraph (b) of subsection (1) of the following paragraph:

"(b) die bevel maak wat die hof in die omstandighede geskik ag; of"; and

(b) by the substitution in the Afrikaans text for subsection (4) of the following subsection:

"(4) Die hof kan, by die aanvoer van oortuigende gronde, die bevel by verstek wysig of intrek of **[die een of ander bevel verleen]** 'n ander aanwysing maak op die voorwaardes wat hy goeddink."

Amendment of section 54 of Act 121 of 1998

31. Section 54 of the principal Act is hereby amended—

(a) by the substitution in the Afrikaans text for subsection (3) of the following subsection:

"(3) Die aanhoor van die aansoek moet, in die mate wat dit **[praktiese en bestaanbaar is met die regsbelange]** prakties en met die belang van die regspleging bestaanbaar is, binne 30 dae vanaf die indiening van die aansoek **[gehou word]** plaasvind.";

(b) by the substitution in the Afrikaans text for subsection (6) of the following subsection:

"(6) Die Nasionale Direkteur of die betrokke curator bonis, of 'n persoon wat skriftelik deur hulle daartoe gemagtig is, kan getuienis en getuies aanbied ter **[voorlegging]** weerlegging, en ter verdediging van hul **[eis tot]** aanspraak op die eiendom **[aanvoer]** en kan 'n getuie wat by die verhoor verskyn, **[ondervra]** kruisondervra."; and

(c) by the substitution in the Afrikaans text for paragraph (c) of subsection (9) of the following paragraph:

"(c) Iemand wat skuldig bevind word aan 'n misdryf kragtens hierdie subartikel, is strafbaar met **[n]** die straf wat by wet vir meened voorgeskryf word."

NEW CLAUSE

1. That the following be a new Clause to follow Clause 10:

Amendment of section 57 of Act 121 of 1998

33. Section 57 of the Principal Act is hereby amended—

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

"(1) The *curator bonis* must, subject to any order for the exclusion of interests in forfeited property under section 52(2)(a) or 54(8) and in accordance with the directions of the Committee—

- (a) deposit any moneys forfeited under section 56(2) into the Account;

- (b) deliver property forfeited under section 56(2) to the Account; or

- (c) dispose of property forfeited under section 56(2) by sale or any other means **[subject to the directions of the High Court]** and deposit the proceeds of the sale or disposition into the Account."; and

- (b) by the deletion of subsection (4).

NEW CLAUSES

1. That the following be new Clauses to follow Clause 11:

Amendment of section 64 of Act 121 of 1998

35. Section 64 of the Principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of the following paragraph:

"(a) all moneys derived from the **[execution]** fulfilment of confiscation and forfeiture orders contemplated in Chapters 5 and 6;"

- (b) by the insertion after paragraph (a) of the following paragraph:

"(aA) all property derived from the fulfilment of forfeiture orders as contemplated in section 57;"

- (c) by the substitution for paragraph (c) of the following paragraph:

"(c) any property or moneys appropriated by Parliament, or paid into, or allocated to the Account in terms of any other [act] Act;"

- (d) by the substitution for paragraph (e) of the following paragraph:

"(e) any property or amount of money received or acquired from any source; and"; and

(e) by the substitution for paragraph (f) of the following paragraph:

"(f) all property or moneys transferred to the Account in terms of this Act."

Amendment of section 69 of Act 121 of 1998

36. Section 69 of the Principal Act is hereby amended—

(a) by the substitution for paragraph (b) of the following paragraph:

"(b) make recommendations to Cabinet with regard to the allocation of property and moneys from the Account to specific law enforcement agencies;"; and

(b) by the substitution for paragraph (c) of the following paragraph:

"(c) make recommendations to Cabinet with regard to the allocation of property and moneys from the Account to any institution, organisation or fund contemplated in section 68(c);".

Insertion of section 69A in Act 121 of 1998

37. The following section is hereby inserted after section 69 of the Principal Act:

"Utilisation of Account and accountability

69A (1) The property and money standing to the credit of the Account may be utilised by Cabinet, after considering the recommendations of the Committee, for—

(a) the allocation of property and amounts of money from the Account to specific law enforcement agencies;

(b) the allocation of property and amounts of money from the Account to any institution, organisation or fund contemplated in section 68(c); and

(c) the administration of the Account.

(2) All amounts of money withdrawn, or property allocated, from the Account under subsection (1) shall be so withdrawn or allocated as a direct charge against the National Revenue Fund.

(3) (a) Whenever Cabinet allocates property or money under subsection (1) to a specific law enforcement agency or to an institution, organisation or fund contemplated in section 68(c)—

(i) Cabinet shall indicate the specific purpose for which that property or money is to be utilised; and

(ii) the Minister shall forthwith cause all particulars of such allocation to be tabled in Parliament.

(b) Property or money allocated under subsection (1) may not be utilised for any other purpose than that specified in terms of paragraph (a)(i).

(4) No allocation of property or money shall be made under subsection (1) to an institution, organisation or fund contemplated in section 68(c) unless an accounting officer for that institution, organisation or fund is appointed or designated for such institution, organisation or fund.

(5) An accounting officer appointed or designated under subsection (4) shall be charged with the responsibility of accounting for all money allocated under subsection (1), the acquisition, receipt, custody and disposal of all property so allocated and all payments made by him or her in respect of the purpose for which the allocation had been made.

(6) The Committee may, after consultation with the Treasury and the Auditor-General, in such manner as it deems necessary issue guidelines to accounting officers appointed or designated under subsection (4) in connection with the systems of bookkeeping and accounting to be followed by them.

(7) Accounting by a law enforcement agency or institution, organisation or fund for property and money allocated to it from the Account under subsection(1) shall be done separately from accounting for money and property received from any other source.

(8) The Auditor-General shall audit the books of accounts, accounting statements, financial statements and financial management of each law enforcement agency or institution, organisation or fund to which property or money had been allocated under subsection (1) in respect of that allocation and the provisions of section 6 of the Auditor-General Act, 1989 (Act 52 of 1989), shall apply in respect of any such audit.

(9) The Auditor-General shall submit a copy of the report on an audit under subsection (8) to the Committee."

NEW CLAUSE

1. That the following be a new Clause to follow Clause 14:

Amendment of section 80 of Act 121 of 1998

41. Section 80 of the principal Act is hereby amended by the substitution in the

Afrikaans text for subsection (1) of the following subsection:

"(1) Die persoon wat vir doeleindes van artikel 31 van die Wet op die Opbrengs van Misdaad, 1996 (Wet No. 76 van 1996), aangewys is, en enige *curator bonis*, kurator of ander funksionaris wat ingevolge die bepalings van daardie Wet aangestel is, word by die inwerkingtreding van hierdie Wet geag behoorlik tot die ooreenstemmende pos kragtens hierdie Wet aangewys of aangestel te **[wees] gewees het** en gaan voort om daardie pos te beklee ooreenkomstig die toepaslike wette [wat van toepassing is]."

LONG TITLE

1. On page 2, in the second line, after "improvements;" to insert:

to further regulate the Criminal Assets Recovery Account;