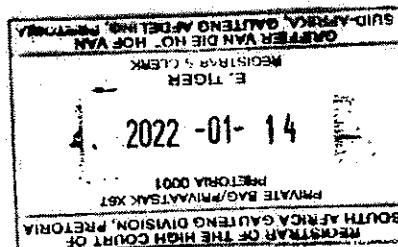


IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO: 14 52 / 22

In the matter between:

THE ROAD ACCIDENT FUND



Applicant

and

THE AUDITOR-GENERAL OF SOUTH AFRICA

Respondent

NOTICE OF MOTION

PART A

KINDLY TAKE NOTICE THAT on **01 FEBRUARY 2022**, at 10h00 or so soon thereafter as counsel may be heard, application will be made to the above Honourable Court for an order in the following terms:

1. Dispensing with the forms and service provided for in the Uniform Rules of Court ("*the Rules*"), and directing that this matter be enrolled for hearing on an urgent basis, in terms of Rule 6(12)(a).

2. Condoning any non-compliance with the forms, time periods and other provisions of the Rules to the extent necessary, including the wholly electronic exchange of papers, in accordance with paragraph 92 of the Judge President's Consolidated Directive of 11 May 2020.
3. Pending the final determination of the review application set out in Part B: interdicting and restraining the respondent (*"the AGSA"*) from publishing or in any way disclosing its disclaimer of opinion and audit report, issued by the AGSA on 20 December 2021 (*"the Decision"*), to Parliament or to any other person.
4. Directing any party opposing the relief sought in this application to pay the costs of this application, including the costs of two counsel.
5. Granting such further and/or alternative relief as may be appropriate.

TAKE NOTICE FURTHER THAT the founding and supporting affidavits of **THEMBELIHLE MSIBI** and **BERNICE POTGIETER**, which are annexed hereto, will be used in support of this urgent application.

TAKE NOTICE FURTHER THAT a certificate signed by the applicant's counsel in this matter, is annexed hereto in accordance with paragraph 90 of the Judge President's Consolidated Directive of 11 May 2020, read together with the Judge President's Notice of 2 August 2020.

TAKE NOTICE FURTHER THAT if the AGSA intends to oppose this application, it is required to:

- a) Notify the applicant's attorneys in writing of its intention to do so on or before **Tuesday, 18 January 2022** and that such notice appoint an address referred to in Rule 6(5)(b) at which the AGSA will accept notice and service of all documents in these proceedings; and
- b) File your answering affidavit, if any, on or before **Friday, 21 January 2022**.
- c) The applicant will then file its replying affidavit, if any, by **Wednesday, 26 January 2022**.

TAKE NOTICE FURTHER THAT in accordance with paragraphs 85 and 86 of the Judge President's Consolidated Directives of 11 May 2020, read together with the Judge President's Notice of 2 August 2020, all papers must be uploaded onto CaseLines, and only when the uploading of papers on CaseLines is impossible to achieve, may a physical set of papers be delivered as directed by the Urgent Court Judge, which shall include an affidavit explaining, in full, why it was impossible to transmit the papers via CaseLines or email. Invitations to access this matter on CaseLines will be sent to the email addresses provided for the respondent's legal representatives once the Registrar has created the CaseLines file.

TAKE NOTICE FURTHER that the applicant's legal representatives will accept service via email at the email address provided further below.

PART B

PLEASE TAKE NOTICE FURTHER THAT, on a date to be determined by the

registrar of this Honourable Court, application will be made for an order in the following terms:

1. Condoning the applicant's truncation of periods for filing of papers, to the extent necessary.
2. Declaring that the Decision of the AGSA is invalid and/or unlawful, and granting a remedy –
 - 2.1. reviewing and setting the Decision aside; alternatively
 - 2.2. suspending its declaration of invalidity for a period of 6 months, in order to allow for the AGSA meaningfully to engage with the applicant to remedy the defect.
3. Directing any party opposing the relief sought in this application to pay the costs of this application, including the costs of two counsel.
4. Granting such further and/or alternative relief as may be appropriate.

TAKE NOTICE FURTHER THAT the affidavits of **THEMBELIHLE MSIBI** and **BERNICE POTGIETER** annexed hereto, will be used in partial support of this application, subject to the rights of the applicant *inter alia* to supplement its affidavits pursuant to Rule 53(4) of the Rules.

TAKE NOTICE FURTHER THAT the AGSA is called upon to do the following:

- a) To show cause why the Decision referred to in prayers 2 to 2.2 of Part B of this notice of motion should not be reviewed and set aside;
- b) To dispatch to the Registrar of this Court, within 15 days after receipt of this notice of motion, the record of the Decision referred to in prayers 2 to 2.2 of Part B of this notice of motion, together with such reasons as it is by law required or desires to give or make and to notify the applicant that it has done so.

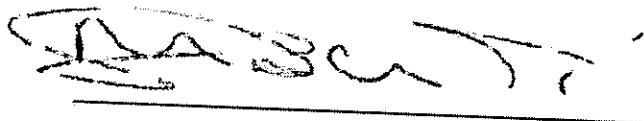
KINDLY TAKE NOTICE THAT the applicant may, within 10 (ten) days after the Registrar has made the record available to it, by delivery of a notice and accompanying affidavit, amend, add to or vary the terms of the notice of motion and supplement the founding affidavit, in terms of Rule 53(4) of the Rules.

KINDLY TAKE NOTICE FURTHER THAT if you intend opposing this application you shall:

- a) Within 10 (ten) days after receipt of the notice of motion or any amendment thereof, deliver notice to the applicant that you intend so to oppose and shall in such notice appoint an address within 15 (fifteen) kilometres of the office of the Registrar at which you will accept notice and service of all processes in such proceedings; and
- b) Within 30 (thirty) days after the expiry of the time referred to in Rule 53(4), deliver any affidavits you may desire in answer to the allegations made by the applicant.

c) The applicant will file its replying affidavit within 10 (ten) days thereafter.

DATED at SANDTON on this the 14TH day of **JANUARY 2022.**



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 APPLICANT'S ATTORNEYS
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 NEEUW MUCKLENEUK
 PRETORIA
TEL: 012 051 9953
EMAIL: jones@ditsele.com
REF: JONES DITSELA

TO: THE REGISTRAR OF THE ABOVE
 HONOURABLE COURT
PRETORIA

AND TO: **THE AUDITOR-GENERAL OF SOUTH AFRICA**
 RESPONDENT
 4 DAVENTRY STREET
 LYNWOOD BRIDGE OFFICE PARK
 LYNWOOD MANOR
 PRETORIA

SERVICE BY EMAIL AND SHERIFF