

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

Case number: 15996/2017

In the matter between

<b>ORGANISATION UNDOING TAX ABUSE NPC</b>	First Applicant
<b>SOUTH AFRICAN AIRWAYS PILOTS' ASSOCIATION</b>	Second Applicant

and

<b>DUDUZILE CYNTHIA MYENI</b>	First Respondent
<b>SOUTH AFRICAN AIRWAYS SOC LIMITED</b>	Second Respondent
<b>AIRCHEFS SOC LIMITED</b>	Third Respondent
<b>MINISTER OF FINANCE</b>	Fourth Respondent
<b>MINISTER OF JUSTICE AND CORRECTIONAL SERVICES</b>	Fifth Respondent

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**NOTICE OF MOTION: APPLICATION FOR INTERIM ENFORCEMENT**

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**TAKE NOTICE THAT** the Applicants will apply on a date to be arranged with Her Ladyship Madam Justice Tolmay for an order in the following terms:

- 1 To the extent necessary, the forms and service provided for in the Rules of Court are dispensed with and the matter is to be heard on an expedited basis in terms of Rule 6 (12) of the Rules of this Court.

2 The operation and execution of paragraphs (a), (b) and (d) of the order of Tolmay J dated 27 May 2020 are not suspended by any application for leave to appeal or any appeal, and these paragraphs of the order continue to be operational and enforceable and will operate and be executed in full until the final determination of all present and future leave to appeal application and appeals.

3 In the alternative to paragraph 2:

3.1 Section 18 of the Superior Courts Act 10 of 2013 is declared to be unconstitutional and invalid to the extent that it removes judicial discretion and peremptorily requires an application for interim enforcement of a decision pending appeal to satisfy all the requirements in sections 18(1) and (3).

3.2 The declaration of invalidity in paragraph 3.1 is suspended for a period of 12 months to allow the legislature an opportunity to correct the defect.

3.3 Until the replacement or amended legislation comes into force, section 18(3) of the Superior Courts Act is to be read as follows:

“(3) A court may only order otherwise as contemplated in subsection (1) or (2) if the party who applied to the court to order otherwise in addition proves, on a balance of probabilities, that he or she will suffer irreparable harm if the court does not so order and that other party will not suffer irreparable harm is

the court so orders, unless the court holds that the party who applied to order otherwise in terms of subsection (1) has established, on a balance of probabilities, that it is in the interests of justice to order otherwise”

3.4 If no replacement or amended legislation come into force within the period set out in paragraph 3.2, section 18(3) will be deemed to be read as set out in paragraph 3.3.

3.5 The operation and execution of paragraphs (a) and (b) of the order of Tolmay J dated 27 May 2020 are not suspended by any application for leave to appeal or any appeal, and these paragraphs of the order continue to be operational and enforceable and will operate and be executed in full until the final determination of all present and future leave to appeal application and appeals.

4 Any respondent opposing this application is ordered to pay the Applicants' costs, including the costs of three counsel.

5 Further and/or alternative relief.

**TAKE NOTICE FURTHER** that the applicants will rely of the affidavit of **STEFANIE FICK** in support of this application.

**TAKE NOTICE FURTHER** that if any of the respondents intends to oppose this application, such respondent must, by a date to be provided by Her Ladyship Madam Justice Tolmay in due course, deliver its notion of intention to oppose, and

thereafter deliver an answering affidavit, if any, within 15 days or by such date as this Court otherwise directs.

DATED at JOHANNESBURG on this the 9<sup>th</sup> day of JULY 2020.



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TO:  
**THE REGISTRAR OF THE ABOVE  
HONOURABLE COURT  
PRETORIA**

AND TO:

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AND TO

THE MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
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