

**TERMS OF REFERENCE OF THE ENQUIRY INTO THE FITNESS OF MR MXOLISI  
NXASANA TO HOLD OFFICE AS NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS**

WHEREAS section 9(1)(b) of the National Prosecuting Authority, 1998 (Act No. 32 of 1998) ("the NPA Act") provides that:

"Any person to be appointed as National Director, Deputy National Director or Director must....

(b) be a fit and proper person, with due regard to his or her experience, conscientiousness and integrity to be entrusted with the responsibility of the office concerned".

AND WHEREAS section 12(6) of the NPA Act provides that the President of the Republic of South Africa may institute an enquiry into the fitness of the National Director or a Deputy National Director to hold such office;

AND WHEREAS on 30 August 2013 the President appointed MR MXOLISI NXASANA as National Director of Public Prosecutions ("the NDPP");

AND WHEREAS certain facts have since come to light that raise real and important questions regarding Mr Nxasana's fitness and propriety to hold office;

NOW THEREFORE the President acting in terms of the power conferred by section 12(6) of the NPA Act hereby establishes an Enquiry to enquire into Mr Nxasana's fitness to hold the office of the NDPP.

The Terms of Reference of the Enquiry are as follows:

1. To enquire into the fitness of Mr Nxasana to hold the office of the NDPP and

whether the facts and circumstances reflected below are consonant with the conscientiousness and integrity of an incumbent of the office of the NDPP as prescribed by law, regard being had to:

- a. His two previous separate convictions on charges of assault;
  - b. The complaints of professional misconduct laid against him with the Kwazulu-Natal Law Society;
  - c. His having faced criminal charges for acts of violence;
  - d. His arrest and detention on criminal charges;
  - e. Issuing and/or making media statements and/or causing media statements to be issued that undermine or bring the office of NDPP or the National Prosecuting Authority into disrepute;
  - f. Any other matter as may be relevant to the abovementioned issues and his fitness and propriety to hold the office of the NDPP as contemplated in section 9(1)(b) of the NPA Act.
2. To make findings, report on and make recommendations concerning the matters set out in paragraph 1 above.
  3. These terms of reference may be amended or varied at any stage prior to the conclusion of the enquiry, as may be required.
  4. The enquiry shall be completed within six (6) weeks from date commencement of the Enquiry. This period may be extended by the President on representation by the Chairperson.
  5. The Chairperson of the Enquiry shall submit a report and recommendations within

a period of two (2) weeks after the Enquiry completes its work. All documents filed during the enquiry shall form part of such report.

6. The Chairperson shall determine the rules of the enquiry.