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31 August 2011

Hon Max Vuyisile Sisulu MP
Office of the Speaker of the National Assembly
PO Box 15
Cape Town
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Dear Honourable Sisulu

Private Member's Legislative Proposal

I hereby submit a Private Member's Legislative Proposal for your consideration. This proposal follows in Appendix A.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Athol Trollip'.

Athol Trollip MP
DA Parliamentary Leader

**Memorandum on legislative proposal for amendments to be made to the
Executive Members' Ethics Act (Act 82 of 1998)**

Private Member's Legislative Proposal

**Submitted in terms of Section 73(2) of the Constitution and National
Assembly Rule 234**

31 August 2011

DA Parliamentary Leader Athol Trollip MP, Democratic Alliance (DA)

A. Particulars of the proposed legislation

It is proposed that legislation be drafted that will propose the following changes to the Executive Members' Ethics Act:

- That the following clause be added at the end of Section 2(d) of the Executive Members' Ethics Act: "In the case of the financial interests disclosed by the President in terms of paragraph (c), the public portion of the President's financial disclosure must be available on the Presidency's website no more than thirty (30) days after the disclosure has been made to the relevant official in the office of the President."
- That the following be added as an additional clause [clause (e)] to Section 2 of the Executive Members' Ethics Act: "Require that gifts and conflicts of interest declared by the President must be adjudicated by the Public Protector."
- That the following be added as an additional clause [clause (f)] to Section 2 of the Executive Members' Ethics Act: "Require that the President must to the satisfaction of the Public Protector meet the criteria outlined in Section 2.1 of the Executive Ethics Code ("General Standards"), and that in deciding whether the President complied with the provisions of Section 2.1 of the Executive Ethics Code, the Public Protector must take into account the promotion of an open, democratic and accountable government."
- That the following be added as an additional clause [clause (g)] to Section 2 of the Executive Members' Ethics Act: "Require that the Auditor General implements measures to ensure that state deals involving any of the President's family members are scrutinised to ensure that correct tender procedures have been followed in each case."

B. Objects of the proposed legislation

Since President Zuma assumed office in 2009, it has been reported that a growing number of his family members and friends appear to be linked to lucrative state deals.

President Zuma's position affords him significant power, which makes his family and friends influential by proxy. The potential for the individuals closest to the President to be favoured in state deals is considerable.

The legislative amendments proposed by the DA will, if implemented, put in place important safeguards to limit the scope for presidential influence-peddling. When it comes to the President and his family, the highest standards of transparency and accountability should apply.

The DA proposes that amendments be made to the Executive Members' Ethics Act to ensure that the following broad issues are dealt with:

- 1) That the ease with which the public can access the President's declaration of interests is improved.
- 2) That the President's compliance with the general standards of ethical conduct as outlined in Section 2.1 of the Executive Members' Ethics Code is adjudicated by the Public Protector, in the same way that all other members of the executive must meet the criteria outlined in Section 2.1 of the Executive Members' Ethics Code to the satisfaction of the President or the Premier, as the case may be.
- 3) That the adjudication of any gifts or conflicts of interest declared by the President are adjudicated by the Public Protector, in the same way that the President or Premier, as the case may be, adjudicates conflicts of interest or gifts declared by members of the executive.
- 4) That state deals involving the President's family members should come under specific Auditor-General scrutiny to ensure that all tender processes are followed and there are no special favours.

C. Financial implications

No financial implications stemming from this proposed amendment are foreseen.