

X

12

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

CASE NO:

38241/22

In the urgent *ex parte* application of:

THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS

In re:

1. The Remaining Extent of Portion 442 (a portion of Portion 19) of the Farm 405 Randjesfontein, Registration Division JR, Province of Gauteng, measuring 124,9340 hectares, held by Deed of Transfer T7262/1986 ("**Farm 405 Randjesfontein**").
2. Erf 170 Hurlingham Township, Registration Division IR, Province of Gauteng, measuring 4051 (four thousand and fifty-one) square metres, currently held by Deed of Transfer T12514/2019, ("**Erf 170 Hurlingham**"), in the name of Mr. van de Vyver, bonded through First Rand Bank.
3. Erf 1 Hyde Park Township, Registration Division IR, Province of Gauteng, measuring 3251 (three thousand two hundred and fifty-one) square metres, currently held by Deed of Transfer T58668/2017, ("**Erf 1 Hyde Park**"), situated at number 34 Second Road, Hyde Park, Sandton.
4. All positive balances and interest accrued in First National Bank account number 62615841469 held in the name of Majorkey Capital (Pty) Ltd (**Majorkey Capital**);
5. All positive balances and interest accrued in Standard Bank attorney's trust account number 300000634 held in the name of Segwapa Inc (**Segwapa Inc**);

6. All positive balances and interest accrued in First National Bank account number 62526279171 held in the name of Maqhawe Morobe (**Morobe**);
7. All positive balances and interest accrued in Standard Bank account number 242605540 held in the name of Naldobix (Pty) Ltd (**Naldobix**);
8. All positive balances and interest accrued in First National Bank account number 62484869543 held in the name of Desiree Mufamadi (**Mufamadi**);
9. All positive balances and interest accrued in First National Bank account number 62157737043 held in the name of B&B Media (Pty) Ltd (**B&B Media**);
10. All positive balances and interest accrued in First National Bank account number 62810569535 held in the name of Mfuthu Power & Rail (Pty) Ltd (**Mfuthu Power & Rail**);
11. All positive balances and interest accrued in Nedbank Bank account number 1160948712 held in the name of Mqwayi Import & Export (Pty) Ltd (**Mqwayi Import & Export**);
12. All positive balances and interest accrued in ABSA account number 4084920884 held in the name of Michael Blumberg (**Blumberg**);
13. All positive balances and interest accrued in First National Bank account number 62700491707 held in the name of Mondosys (Pty) Ltd (**Mondosys**);
14. All positive balances and interest accrued in First National Bank account number 62503929062 held in the name of Zondi 404 (Pty) Ltd (**Zondi 404**);
15. All positive balances and interest accrued in First National Bank account number 62756065738 held in the name of Mandla Xaba (**Xaba**);
16. All positive balances and interest accrued in Standard Bank account number 242511007 held in the name of Motsatsi Nakeng (**Nakeng**);

17. All positive balances and interest accrued in Nedbank account number 1146560966 held in the name of the late Christoffel Rudolph Hattingh (**Hattingh**);
18. All positive balances and interest accrued in FNB account number 62704156894 held in the name of Dixoset (Pty) Ltd (**Dixoset**); and
19. All positive balances and interest accrued in ABSA attorney's trust account number 4066678447 held in the name of Makaula Zilwa Incorporated (**Zilwa Inc**).

IN THE APPLICATION FOR A PRESERVATION ORDER IN TERMS OF SECTION 38 OF ACT 121 OF 1998

DRAFT ORDER

On ~~August 2022~~ 9 Sept 2022

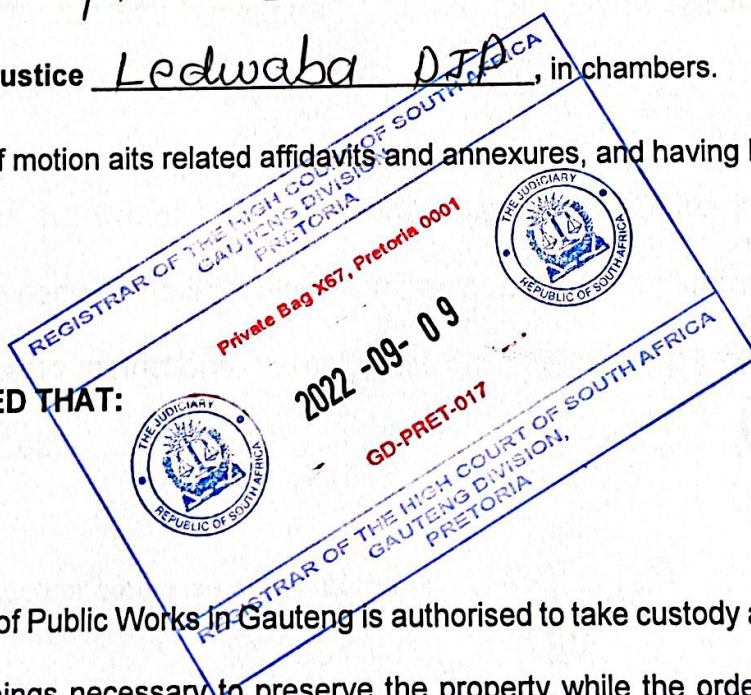
Before the Honourable Justice Ledwaba DJP, in chambers.

Having read the notice of motion aits related affidavits and annexures, and having heard counsel for the applicant,

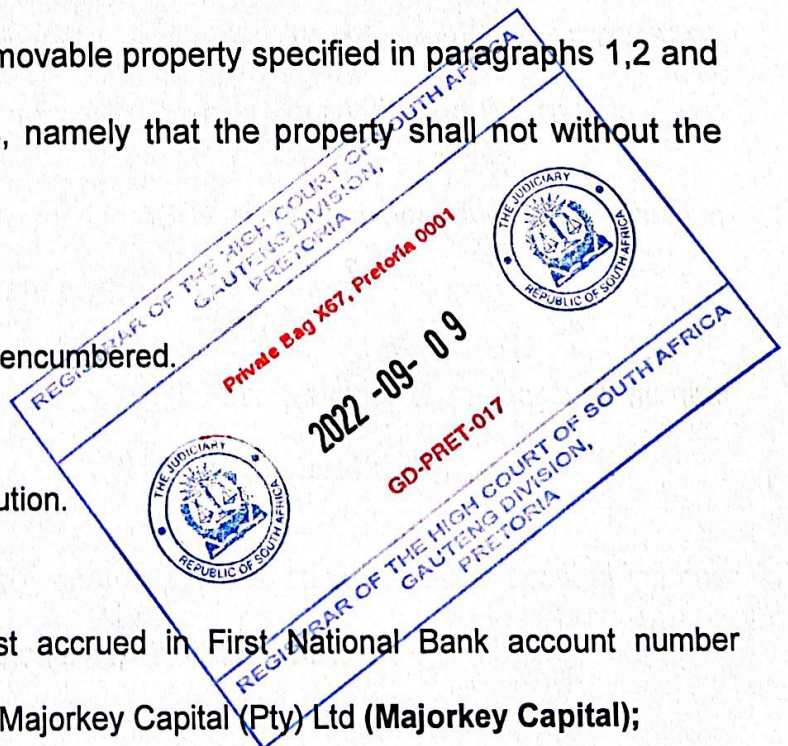
IT IS HEREBY ORDERED THAT:

The Property

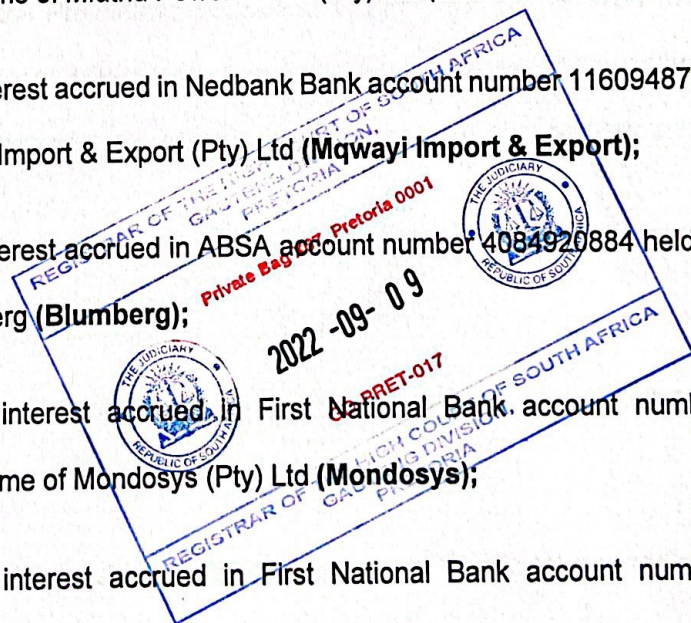
1. The Department of Public Works in Gauteng is authorised to take custody and control and do any and all things necessary to preserve the property while the order is in place of Remaining Extent of Portion 442 (a portion of Portion 19) of the Farm 405 Randjesfontein, Registration Division JR, Province of Gauteng, measuring 124,9340 hectares, held by Deed of Transfer T7262/1986 ("Farm 405 Randjesfontein").



2. The Department of Public Works in Gauteng is authorised to take custody and control and do any and all things necessary to preserve the property while the order is in place of Erf 170 Hurlingham Township, Registration Division IR, Province of Gauteng, measuring 4051 (four thousand and fifty-one) square metres, currently held by Deed of Transfer T12514/2019, ("**Erf 170 Hurlingham**"), in the name of Mr van de Vyver, bonded through FirstRand Bank.
3. The Department of Public Works in Gauteng is authorised to take custody and control and do any and all things necessary to preserve the property while the order is in place of Erf 1 Hyde Park Township, Registration Division IR, Province of Gauteng, measuring 3251 (three thousand two hundred and fifty-one) square metres, currently held by Deed of Transfer T58668/2017, ("**Erf 1 Hyde Park**"), situated at number 34 Second Road, Hyde Park, Sandton.
4. The Register of the Pretoria and Johannesburg Deeds Office is directed to endorse the title deed of the immovable property specified in paragraphs 1,2 and 3 with the following restrictions, namely that the property shall not without the consent of this Court:
 - 4.1 be mortgaged or otherwise encumbered.
 - 4.2 be attached or sold in execution.
5. All positive balances and interest accrued in First National Bank account number 62615841469 held in the name of Majorkey Capital (Pty) Ltd (**Majorkey Capital**);



6. All positive balances and interest accrued in Standard Bank attorney's trust account number 300000634 held in the name of Segwapa Inc (**Segwapa Inc**);
7. All positive balances and interest accrued in First National Bank account number 62526279171 held in the name of Maqhawe Morobe (**Morobe**);
8. All positive balances and interest accrued in Standard Bank account number 242605540 held in the name of Naldobix (Pty) Ltd (**Naldobix**);
9. All positive balances and interest accrued in First National Bank account number 62484869543 held in the name of Desiree Mufamadi (**Mufamadi**);
10. All positive balances and interest accrued in First National Bank account number 62157737043 held in the name of B&B Media (Pty) Ltd (**B&B Media**);
11. All positive balances and interest accrued in First National Bank account number 62810569535 held in the name of Mfuthu Power & Rail (Pty) Ltd (**Mfuthu Power & Rail**);
12. All positive balances and interest accrued in Nedbank Bank account number 1160948712 held in the name of Mqwayi Import & Export (Pty) Ltd (**Mqwayi Import & Export**);
13. All positive balances and interest accrued in ABSA account number 4084920884 held in the name of Michael Blumberg (**Blumberg**);
14. All positive balances and interest accrued in First National Bank account number 62700491707 held in the name of Mondosys (Pty) Ltd (**Mondosys**);
15. All positive balances and interest accrued in First National Bank account number 62503929062 held in the name of Zondi 404 (Pty) Ltd (**Zondi 404**);



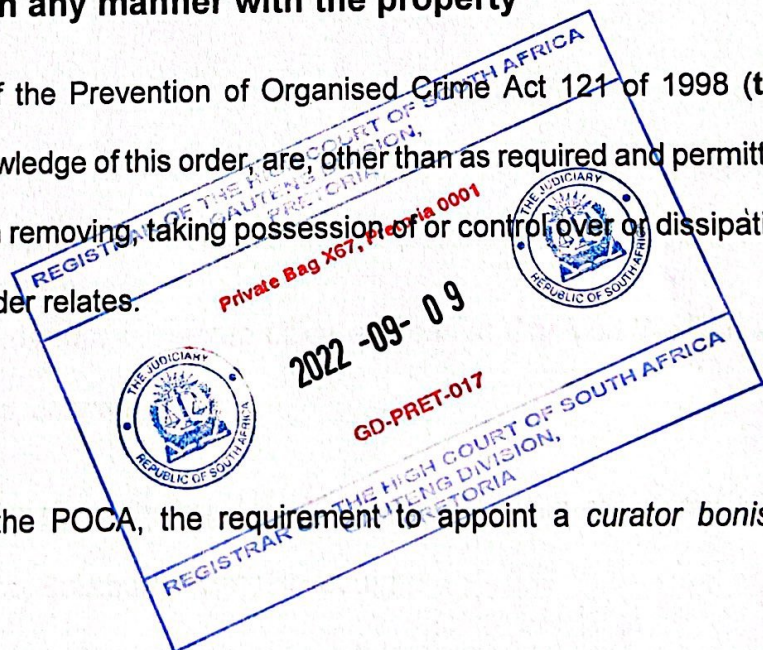
- 17
16. All positive balances and interest accrued in First National Bank account number 62756065738 held in the name of Mandla Xaba (**Xaba**);
 17. All positive balances and interest accrued in Standard Bank account number 242511007 held in the name of Motsatsi Nakeng (**Nakeng**);
 18. All positive balances and interest accrued in Nedbank account number 1146560966 held in the name of the late Christoffel Rudolph Hattingh (**Hattingh**);
 19. All positive balances and interest accrued in FNB account number 62704156894 held in the name of Dixoset (Pty) Ltd (**Dixoset**); and
 20. All positive balances and interest accrued in ABSA attorney's trust account number 4066678447 held in the name of Makaula Zilwa Incorporated (**Zilwa Inc**).

Prohibition against dealing in any manner with the property

21. In terms of section 38(2) of the Prevention of Organised Crime Act 121 of 1998 (**the POCA**), all persons with knowledge of this order, are, other than as required and permitted by this order, prohibited from removing, taking possession of or control over or dissipating the property to which this order relates.

Curator bonis

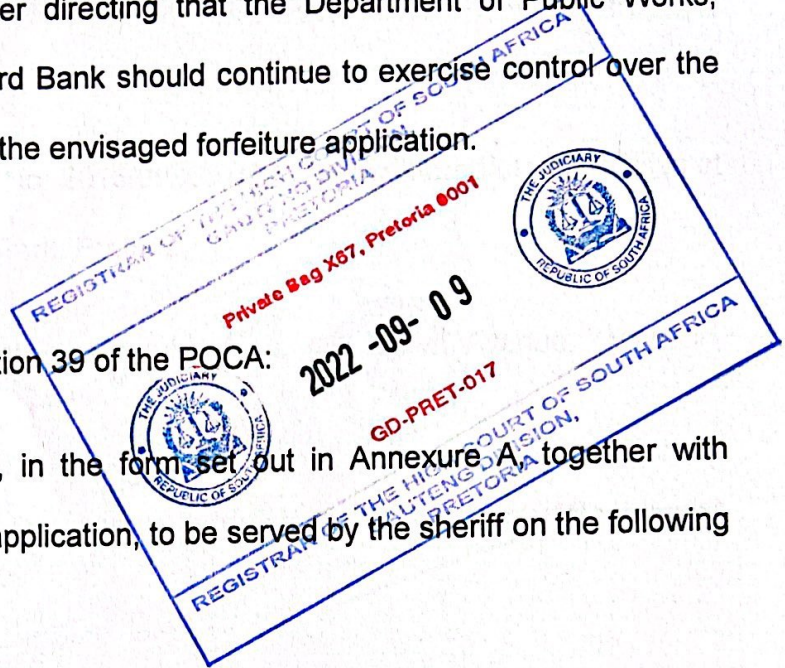
22. In terms of section 42 of the POCA, the requirement to appoint a *curator bonis* is dispensed with.
23. The property is to remain in the custody of the Department of Public Works and the respective banks until finalisation of the forfeiture application.



24. Applicant therefore seeks an order directing that the Department of Public Works, Nedbank, FNB, ABSA and Standard Bank should continue to exercise control over the property pending the finalisation of the envisaged forfeiture application.

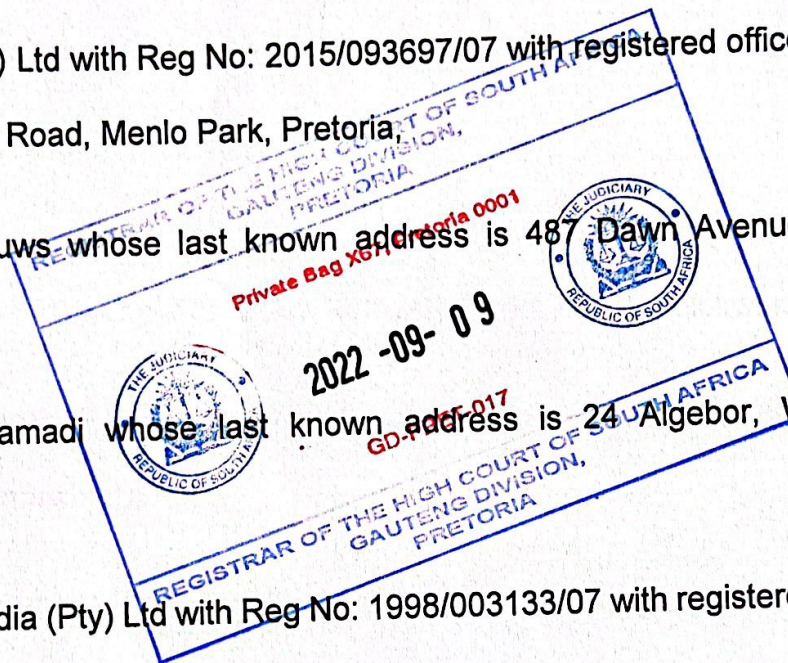
Service and publication

25. The applicant must in terms of section 39 of the POCA:
- 25.1 cause notice of this order, in the form set out in Annexure A, together with documents supporting the application, to be served by the sheriff on the following individuals/entities:
 - 25.2 The Department of Public Works with registered office address at AVN Building, 251 Nana Sita Street, Pretoria Central, Pretoria;
 - 25.3 David Daniel Van Der Vyver, whose last known address is 136 Fifth Street, Parkmore, Sandton;
 - 25.4 The Deeds Office Pretoria with registered office address at Merino Building, 140 Pretorius St, Pretoria Central, Pretoria;
 - 25.5 The Registrar of Deeds with registered office address at Cnr Von Weilligh and Rahina Moosa Streets, Johannesburg;
 - 25.6 Majorkey Capital (Pty) Ltd with Reg No: 2016/13501/07 with registered office address at 15th Avenue, Boksburg North, Boksburg;
 - 25.7 Segwapa Inc. with registered office address at Thandani Office Park, 16 Invicta Road, Carlswald, Midrand;



A

- 25.8 Maqhawe Morobe whose last known address is 445B Crutse Street, Jabavu, Soweto;
- 25.9 Naldobix (Pty) Ltd with Reg No: 2015/093697/07 with registered office address at 323 Lynwood Road, Menlo Park, Pretoria;
- 25.10 Christian Gouws whose last known address is 487 Dawn Avenue, Lynwood, Pretoria;
- 25.11 Desiree Mufamadi whose last known address is 24 Algebor, Wilgeheuwel, Roodepoort;
- 25.12 B AND B Media (Pty) Ltd with Reg No: 1998/003133/07 with registered address at 2 Federation Road, Park Town, Johannesburg;
- 25.13 Mfuthu Power & Rail with Reg NO: 2017/183844/07 with registered office address at 445B Crutse Street, Jabavu, Soweto;
- 25.14 Mqwayi Import & Export with Reg No: 2005/086871/07 with registered office address at 88 Airport Jack, Queens and Jack Street, Germiston;
- 25.15 Michael Richard Blumberg whose last known address is No 23 Club Terrace, Club Street, Linksfield;
- 25.16 Umbomi Development (Pty) Ltd with Reg No: 2017/412551/07 with registered office address at 15th Avenue, Boksburg North, Boksburg;
- 25.17 Mondosys (Pty) Ltd with Reg No: 2010/014022/07 with registered office address at C/O Abeddac Metals 169 15th Avenue, Boksburg North;



- 25.18 Zondi 404 (Pty) Ltd with Reg No: 2011/136966/07 with registered office address at 33 Ballyclaire Drive, Ballywoods Office Park, Cedarwood House, Bryanston,
- 25.19 Mandla Xaba whose last known address is 139 Eagle Rock, Stellenbosch Place, Northcliff;
- 25.19 Motsatsi Nakeng whose last known address is C/O Madila Mathews Nakeng Deeds Office Polokwane, 101 Dorp St, Polokwane Central, Polokwane
- 25.20 The late Christoffel Rudolph Hatting whose last known address is 18 Essex Road, Lonehill, Johannesburg;
- 25.21 Dixoset (Pty) Ltd with Reg No: 2012/135822/07 with its registered office address at 445B Crutse Street, Jabavu, Soweto;
- 25.22 Makaula Zilwa Inc. with registered office address at Flexible Workplace Building, 106 Johan Avenue, Dennehof, Sandton;
- 25.23 Cause notice of this order, in the form set out in section 39, to be published in the Government Gazette as soon as practicable after the order is granted.

Entry of appearance to oppose forfeiture order

26. Any person who has an interest in the property and who intends opposing the application for an order forfeiting the property to the State or applying for an order excluding his or her interest from a forfeiture order in respect of the property, must enter an appearance giving notice of his or her intention in terms of section 39(3) of the POCA.
27. Such notice must be delivered to the applicant:

27.1 in the case of any person specifically identified for service in terms of this order, within 14 calendar days of service; and

27.1 in the case of any other person, 14 calendar days after the date when a notice of the order was published in the Government Gazette.

28. A notice in terms of section 39 must contain full particulars of the chosen address for the delivery of documents concerning further proceedings in this matter and must be accompanied by an affidavit setting out:

28.1 the full particulars of the identity of the person giving the notice;

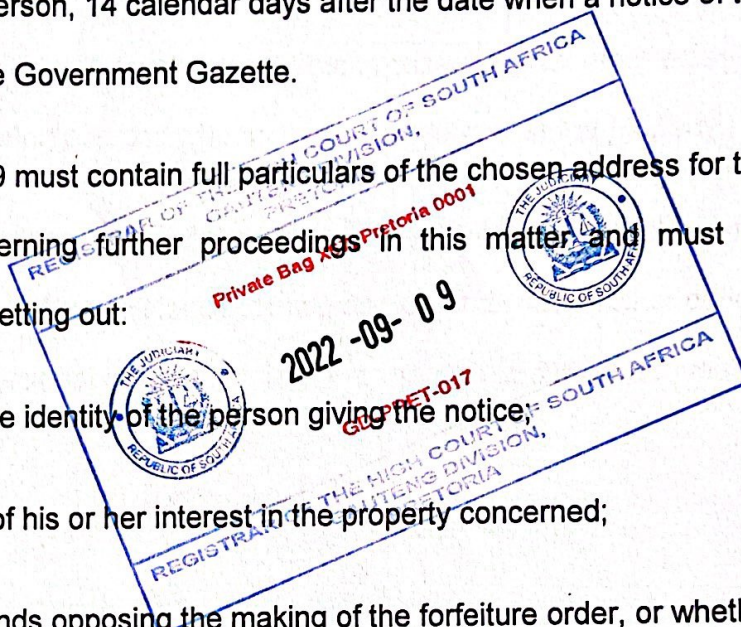
28.2 the nature and extent of his or her interest in the property concerned;

28.3 whether he or she intends opposing the making of the forfeiture order, or whether he or she intends applying for an order excluding his or her interest in that property from the operation of the order;

28.4 whether he or she admits or denies that the property concerned is an instrumentality of an offence referred to in schedule 1 of the POCA, or is the proceeds of unlawful activities and the basis for such defence;

28.5 if he or she intends applying for the exclusion of his or her interests from the operation of the forfeiture order, the basis for such an application.

29. Any person who is affected by the order may on good cause shown, apply for reconsideration. Such application shall be made:



29.1 in instances where the person is able to justify the application on grounds of urgency, upon 3 days' notice (or such shorter period as the court may determine on good cause shown).

29.2 in other instances, upon at least 7 days' notice to the applicant and all other persons identified in this order as being persons who may have an interest in the property.

29. Such an application must be made not later than 8 days after the person applying for reconsideration becomes aware of the existence of the order, or within such further period as the court may consider reasonable, bearing in mind the underlying objectives of Chapter 6 of the POCA.

BY ORDER OF COURT

REGISTRAR OF THE HIGH COURT

DATE

