PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 123 OF 2023

by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL: OFFICE OF THE PREMIER OF THE FREE STATE PROVINCE

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Office of the Premier of the Free State Province (hereinafter referred to as "the Office of the Premier");

AND WHEREAS the Office of the Premier may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Office of the Premier, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

(a) serious maladministration in connection with the affairs of the Office of the Premier;
(b) improper or unlawful conduct by employees of the Office of the Premier;
(c) unlawful expenditure of public money;
(d) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Office of the Premier; or
(e) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 January 2018 and the date of publication of this Proclamation or which took place prior to 1 January 2018 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by the Office of the Premier or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this 17th day of May Two thousand and twenty three.

MC Ramaphosa

President

By Order of the President-in-Cabinet:

RO Lamola

Minister of the Cabinet

SCHEDULE

1. Serious maladministration in the affairs of the Office of the Premier as identified by the Auditor-General of South Africa in reports which are titled “Report of the auditor-general to the Free State Legislature on vote no. 1: Department of the Premier” dated 31 July 2019 and 27 October 2020, respectively, and the Office of the Premier’s annual report for the 2017/2018 financial year in relation to—

(a) the approval, allocation or payment of bursaries, including travel, accommodation and stipends to persons—
  (i) who were not entitled thereto; or
  (ii) contrary to applicable manuals, policies, procedures, prescripts, instructions or practices of, or applicable to, the Office of the Premier; and

(*b*) payments made in respect of student accommodation,

including the causes of such maladministration and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Office of the Premier or losses suffered by the Office of the Premier or the State.

2. Any irregular, improper or unlawful conduct by—

(*a*) officials or employees of the Office of the Premier; or

(*b*) any other person or entity,

relating to the allegations referred to in paragraph 1 of this Schedule.

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PROKLAMASIE 123 VAN 2023

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID: KANTOOR VAN DIE PREMIER VAN DIE VRYSTAAT PROVINSIE

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die Kantoor van die Premier van die Vrystaat Provinsie (hierna na verwys as "die Kantoor van die Premier");

EN AANGESIEN die Kantoor van die Premier verliese kon gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld ten opsigte van die Kantoor van die Premier, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

(*a*) ernstige wanadministrasie in verband met die aangeleenthede van die Kantoor van die Premier;
(*b*) onbehoorlike of onregmatige optrede deur werknemers van die Kantoor van die Premier;
(*c*) onregmatige besteding van publieke geld;
(*d*) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Kantoor van die Premier; of
(*e*) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2018 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2018 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae tot hierdie Proklamasie, insluitend die

verhaal van enige verliese wat deur die Kantoor van die Premier of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die 17de dag van Mei Twee duisend drie-en-twintig.

MC Ramaphosa
President
Op las van die President-in-Kabinet:
RO Lamola
Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in verband met die aangeleenthede van die Kantoor van die Premier soos deur die Ouditeur-Generaal van Suid-Afrika geïdentifiseer in verslae getiteld "Report of the auditor-general to the Free State Legislature on vote no. 1: Department of the Premier" gedateer 31 Julie 2019 end 27 Oktober 2020, onderskeidelik, en die Kantoor van die Premier se jaarverslag vir die 2017/2018 finansiële jaar met betrekking tot—

(a) die goedkeuring, toekenning en betaling van beurse, insluitend vervoer, akkomodasie en toelae aan persone—

(i) wat nie daarop geregtig was nie; of

(ii) strydig was met toepaslike handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Kantoor van die Premier van toepassing is; en

(*b*) betalings ten opsigte van studenteakkommodasie,

insluitend die oorsake van sodanige wanadministrasie en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is deur die Kantoor van die Premier of verliese deur die Kantoor van die Premier of die Staat gely.

2. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—

(*a*) beamptes of werknemwers van die Kantoor van die Premier; of

(*b*) enige ander persoon of entiteit,

met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.