PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 130 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

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 KwaZulu-Natal (hereinafter referred to as "the OTP: KZN");

AND WHEREAS the OTP: KZN or the State 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 to this Proclamation, in respect of the OTP: KZN, 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 OTP: KZN;

(*b*) improper or unlawful conduct by the employees or officials of the OTP: KZN;

(*c*) unlawful appropriation or expenditure of public money or property;

(*d*) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;

(*e*) intentional or negligent loss of public money or damage to public property;

(*f*) 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 OTP: KZN; or

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(*g*) 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 April 2007 and the date of publication of this Proclamation or which took place prior to 1 April 2007 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 to this Proclamation 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 OTP: KZN or the State, in relation to the said matters in the Schedule to this Proclamation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this 15th day of May Two thousand and twenty three.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

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SCHEDULE

1. Serious maladministration in respect of the affairs of the OTP: KZN in respect of the appointment of a consultant to support six provincial priority programmes including the Luwamba Wellness Centre Project, and Operation Sukuma Sakhe Projects, including the causes of such maladministration.

2. Unauthorised, irregular or fruitless and wasteful expenditure incurred by the OTP: KZN or losses suffered by the OTP: KZN or the State in relation to the allegation set out in paragraph 1 of this Schedule.

3. Any irregular, improper or unlawful conduct by—

(a) contractors, employees or officials of the OTP: KZN; or

(b) the suppliers, service providers or any other person or entity,

relating to the allegations set out in paragraphs 1 and 2 of this Schedule.

PROKLAMASIE 130 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

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 KwaZulu-Natal (hierna na verwys as “die OTP: KZN”);

EN AANGESIEN die OTP: KZN of die Staat verliese 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 OTP: KZN, 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 OTP: KZN;

(*b*) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die OTP: KZN;

(*c*) onregmatige bewilliging of besteding van publieke geld of eiendom;

(*d*) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;

(*e*) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;

(*f*) 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 OTP: KZN; of

(*g*) 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 April 2007 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 April 2007 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 tot hierdie Proklamasie 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 OTP: KZN of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die 15de dag van Mei Twee duisend drie en twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet:

RO Lamola
Minister van die Kabinet

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BYLAE

1. Ernstige wanadministrasie in verband met die aangeleenthede van die OTP: KZN ten opsigte van die aanstelling van 'n konsultant om ses provinsiale prioriteitsprogramme, insluitend die Luwamba Welstand Sentrum Projek en Operasie Sukuma Sakhe Projekte, te ondersteun, insluitend die oorsake van sodanige wanadministrasie.

2. Ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is deur die OTP: KZN of die Staat met betrekking tot die bewering uiteengesit in paragraaf 1 van hierdie Bylae.

3. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—

(*a*) kontrakteurs, werknemers of beamptes van die OTP: KZN; of

(*b*) die verskaffers, diensverskaffers of enige ander persoon of entiteit,

met betrekking tot die bewerings uiteengesit in paragrawe 1 en 2 van hierdie Bylae.

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