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**PROCLAMATIONS • PROKLAMASIES**

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**PROCLAMATION 136 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: GAUTENG DEPARTMENT OF HEALTH AND ITS PROVINCIAL HOSPITAL IN TEMBISA**

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 Gauteng Department of Health (hereinafter referred to as “the Department”) and its Provincial Hospital in Tembisa (hereinafter referred to as “Tembisa Hospital”);

AND WHEREAS the Department and Tembisa Hospital 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 Department and the Tembisa Hospital, 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 Department and the Tembisa Hospital;
  - (b) improper or unlawful conduct by officials or employees of the Department and the Tembisa Hospital;
  - (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 Department or the Tembisa Hospital; or
  - (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 January 2020 and the date of publication of this

Proclamation or which took place prior to 1 January 2020 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 Department or Tembisa Hospital 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 Pretoria this Ninth day of August Two thousand and twenty three.

**MC Ramaphosa**

**President**

By Order of the President-in-Cabinet:

**RO Lamola**

**Minister of the Cabinet**

#### **SCHEDULE**

1. The procurement of, or contracting for goods and services by or on behalf of the Department for the Tembisa Hospital, or by the Tembisa Hospital, and payments made in respect thereof in a manner that was—

- (a) not fair, competitive, transparent, equitable or cost-effective;
- (b) contrary to applicable—
  - (i) legislation;
  - (ii) manuals, guidelines, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
  - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department or the Tembisa Hospital,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department or the Tembisa Hospital or the State or losses suffered by the aforementioned parties.

2. Any unlawful or improper conduct by officials or employees of the Department or the Tembisa Hospital, the applicable suppliers or service providers or any other person or entity, in relation to the allegations set out in paragraph 1 of this Schedule.

**PROKLAMASIE 136 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: GAUTENG DEPARTEMENT VAN GESONDHEID EN SY PROVINSIALE HOSPITAAL IN TEMBISA**

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 aangeleentheid van die Gauteng Departement van Gesondheid (hierna na verwys as "die Departement") en sy Provinsiale Hospitaal in Tembisa (hierna na verwys as "Tembisa Hospitaal");

EN AANGESIEN die Staat of die Departement en die Tembisa Hospitaal verliese gelyk het wat moontlik 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 aangeleentheid in die Bylae vermeld, ten opsigte van die Departement en die Tembisa Hospitaal 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 aangeleentheid, dit 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 aangeleentheid van die Departement en die Tembisa Hospitaal;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Departement en die Tembisa Hospitaal;
- (c) onregmatige bewilliging of besteding van openbare 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 openbare geld of skade aan openbare eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, van 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 in verband met die sake van die Departement en die Tembisa Hospitaal gepleeg is; 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 Januarie 2020 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2020 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 Ondersoekenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Departement en die Tembisa Hospitaal gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Negende dag van Augustus Twee duisend-en-drie- en twintigf.

**MC Ramaphosa**

**President**

Op las van die President-in-Kabinet:

**RO Lamola**

**Minister van die Kabinet**

#### **BYLAE**

1. Die aanskaffing van of kontraktering vir produkte en dienste deur of namens die Departement vir die Tembisa Hospitaal, of deur die Tembisa Hospitaal en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
- (b) strydig was met toepaslike—
  - (i) wetgewing;
  - (ii) handleidings, riglyne, praktyknotas, omsendbriewe of instruksies wat deur die Nasionale Tesourie of toepaslike Provinsiale Tesourie uitgevaardig is; of
  - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement of die Tembisa Hospitaal van toepassing is,

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur die Departement of die Tembisa Hospitaal, of die Staat opgedoen was, of verliese wat deur die voormelde partye gely is.

2. Enige onwettige of onbehoorlike gedrag deur beamptes of werknemers van die Departement of die Tembisa Hospitaal, die verskaffers of diensverskaffers of enige ander persoon of entiteit, ten opsigte van die bewering uiteengesit in paragraaf 1 van hierdie Bylae.