

PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE R. 74 OF 2022



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: NATIONAL DEPARTMENT OF HEALTH AND PROVINCIAL DEPARTMENTS OF HEALTH

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 of the National Department of Health and the Provincial Departments of Health (hereinafter referred to as "Institutions");

AND WHEREAS the State or the Institutions 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 Institutions, 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 Institutions;

- (b) improper or unlawful conduct by the officials or employees of the Institutions;
- (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 Institutions; 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 2013 and the date of publication of this Proclamation or which took place prior to 1 January 2013 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 Institutions or State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at
Johannesburg this 11 day of April Two thousand
and twenty two



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

SCHEDULE

1. Unlawful or improper conduct by claimants or applicants or their agents in the institution of civil action or civil application proceedings for relief against the Institutions in respect of medical negligence claims in a manner that was-
- (a) fraudulent; or
 - (b) conducted by or facilitated through the improper or unlawful conduct of-
 - (i) employees or officials of the Institutions; or
 - (ii) any other person or entity,to corruptly or unduly benefit themselves or any other person,
- and any related losses or irregular or fruitless and wasteful expenditure incurred by the Institutions or the State as a result thereof.

PROKLAMASIE KENNISGEWING R. 74 VAN 2022

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; NASIONALE DEPARTEMENT
VAN GESONDHEID EN PROVINSIALE DEPARTEMENTE VAN GESONDHEID**

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 Nasionale Departement van Gesondheid en Provinsiale Departemente van Gesondheid (hierna na verwys as "Instellings");

EN AANGESIEN die Staat of die Instellings 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 aangeleentheid in die Bylae vermeld ten opsigte van die Instellings, 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, 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

Instellings;

- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Instellings;
- (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 Instellings; 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 2013 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2013 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, insluitend die verhaal van enige verliese wat deur die Staat of die Instellings gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te **Johannesburg**
op hede die11.....dag vanApril..... Twee
duisend twee-en-twintig


President

Op las van die President-in-Kabinet:


Minister van die Kabinet

BYLAE

1. Onregmatige of onbehoorlike optrede deur eisers of aansoekers of hul agente in die instelling van siviele aksie of siviele aansoek verrigtinge vir regshulp teen die Instellings ten opsigte van mediese nalatigheid eise op 'n wyse wat
 - (a) bedrieglik; of
 - (b) uitgevoer deur die onbehoorlike of onregmatige gedrag van
 - (i) werknemers of amptenare van die Instellings; of
 - (ii) enige ander persoon of entiteit,om hulself of enige ander persoon korrup of onbehoorlik te bevoordeel, en enige verwante verliese of onreëlmatige of vrugtelose en verkwistende uitgawes wat deur die Instellings of die Staat aangegaan is as gevolg daarvan.