PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 225 OF 2024

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 SPORT, ARTS, CULTURE AND RECREATION

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 Sport, Arts, Culture and Recreation ("the Department");

AND WHEREAS the Department 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 in respect of the Department, 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;
(b) improper or unlawful conduct by officials or employees of the Department;
(c) unlawful appropriation or expenditure of public money;
(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
(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 2019 and the date of publication of this Proclamation or which took place prior to 1 January 2019 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 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 25th day of October Two thousand and twenty four.
MC Ramaphosa
President

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By Order of the President-in-Cabinet:
T Simelane
Minister of the Cabinet

SCHEDULE

1. Serious maladministration in connection with the affairs of the Department, including the causes of such maladministration, arising from the procurement of, or contracting for goods, works or services in relation to—

(a) the supply and installation of a surveillance CCTV and monitoring system in the Department's Surrey House in 2019; and

(b) the Heritage Day Social Cohesion Carnival hosted by the Department in 2019,

by or on behalf of the Department and payments made in respect thereof in a manner that was—

(i) not fair, competitive, transparent, equitable or cost-effective; or

(ii) contrary to applicable—

(aa) legislation;

(bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or

(cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Department;

(iii) fraudulent;

(iv) conducted or facilitated by the manipulation of the Department's supply chain management processes—

(aa) by service providers or other third parties; and

(bb) in collusion with or through the intervention of employees of the Department,

to corruptly or unduly benefit themselves or others,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.

2. Any irregular, improper or unlawful conduct by—

(a) employees or officials of the Department; or

(b) any other person or entity,

in relation to the allegations set out in paragraph 1 of this Schedule.

PROKLAMASIE KENNISGEWING 225 VAN 2024

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 SPORT, KUNS, KULTUUR EN ONTSPANNING

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 Gauteng Departement van Sport, Kuns, Kultuur en Ontspanning (hierna na verwys as "die Departement");

EN AANGESIEN die Staat of die Departement 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 Departement, 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 Departement;
(b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Departement;
(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 Departement; 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 2019 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2019 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,_insluitend die verhaal van enige verliese wat deur die Departement of die Staat gely is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 25de dag van Oktober Twee duisend-vier-en-twintig.

MC Ramaphosa
President
Op las van die President-in-Kabinet:

T Simelane
Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in verband met die aangeleenthede van die Departement, insluitend die oorsake van sodanige wanadministrasie, voortspruitend uit die verkryging van, of kontraktering vir, goedere, werke of dienste in verband met—

(*a*) die voorsiening en installering van 'n besigtiging CCTV en moniteringstelsel in die Departement se Surrey House in 2019; en

(*b*) die Erfenisdag Sosiale Samehorigheid Karnaval aangebied deur die Departement in 2019,

deur of namens die Departement en betalings in verband daarmee gemaak op 'n wyse wat—

(i) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of

(ii) strydig was met toepaslike—

(*aa*) wetgewing;

(*bb*) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of betrokke Provinsiale Tesourie uitgevaardig is; of

(*cc*) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is;

(iii) bedrieglik was; of

(iv) bedryf of gefasiliteer is deur die manipulasie van die Departement se voorsieningsketting bestuursprosesse—

(*aa*) deur diensverskafffers of ander derde partye; en

(*bb*) deur samespanning met, of deur die tussenbeidetreding van, werknemers van die Departement,

om hulself of ander op korrupte en ten onregte te bevoordeel,

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Departement aangegaan is.

2. Enige onreëlmatige, onbehoorlike of onwettige optrede deur–

(*a*) werknemers of beamptes van die Departement; of

(*b*) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.