PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. R. 32 OF 2020

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 National Lotteries Commission, previously known as the National Lotteries Board, (hereinafter referred to as "the NLC");

AND WHEREAS the State or the NLC 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 NLC, 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 NLC;

(*b*) improper or unlawful conduct by employees or officials of the NLC;

(*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;

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(*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 NLC; 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 2014 and the date of publication of this Proclamation or which took place prior to 1 January 2014 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 State or the NLC, 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 20 day of October Two thousand and twenty.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

RO Lamola
Minister of the Cabinet

SCHEDULE

1. Maladministration in the affairs of the NLC in relation to the—

(*a*) investment of funds in the National Lottery Distribution Trust Fund, established in terms of section 21 of the Lotteries Act, 1997 (Act No. 57 of 1997), contrary to the provisions of the said Act; and

(*b*) allocation of money in the Fund referred to in paragraph (*a*) to beneficiaries who were not entitled thereto in terms of the Lotteries Act, 1997,

including the causes of such maladministration.

2. Any improper or unlawful conduct by the officials or employees of the NLC, or any other person or entity, in relation to the allegations set out in paragraph 1 of this Schedule, including the causes of such improper or unlawful conduct and any losses, damage or actual or potential prejudice suffered by the NLC or the State.

PROKLAMASIE NO. R. 32 VAN 2020

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 Nasionale Loteryekommissie, voorheen bekend as die Nasionale Loterye Raad (hierna na verwys as “die NLK”);

EN AANGESIEN die Staat of die NLK 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 NLK, 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 NLK;

(*b*) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die NLK;

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(*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 NLK; 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 2014 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2014 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 NLK of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 20 dag van Oktober Twee duisend-en-twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet:

RO Lamola
Minister van die Kabinet

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BYLAE

1. Wanadministrasie van die aangeleenthede van die NLK met betrekking to die—

(*a*) belegging van fondse in die Nasionale Lotery Distribusie Trustfonds, ingestel deur artikel 21 van die Wet op Loterye, 1997 (Wet No. 57 van 1997), strydig met die bepalings van die gemelde Wet; en

(*b*) toekenning van geld in die Fonds na verwys in paragraaf (*a*) aan begustigdes wat nie ingevolge die Wet op Loterye, 1997, daarop geregtig was nie,

insluitend die oorsake van sodanige wanadministrasie.

2. Enige onbehoorlike of onwettige optrede deur die beamptes of werknemers van die NLK of enige ander persoon of entiteit, ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae, met inbegrip van die oorsake van sodanige onbehoorlike of onwettige gedrag en enige verliese, skade of werklike of potensiële nadeel wat deur die NLK of die Staat gely is.