

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number:

In the matter between:

ORGANISATION UNDOING TAX ABUSE NPC

Applicant

and

MINISTER OF FINANCE

First Respondent

NATIONAL TREASURY

Second Respondent

MINISTER OF TRADE, INDUSTRY & COMPETITION

Third Respondent

DEPARTMENT OF TRADE, INDUSTRY & COMPETITION

Fourth Respondent

COMPANIES & INTELLECTUAL PROPERTY COMMISSION

Fifth Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the applicant intends to make application to the above Honourable Court on a date and time to be determined by the Registrar of this Court for an order in the following terms:

1. It is declared that sections 83(4) and 84 of the Public Finance Management Act, 1 of 1999 ("the PFMA") is inconsistent with the Constitution and accordingly invalid to the extent that it holds the accounting authorities of public entities that are not companies registered in terms of the Companies Act, 71 of 2008 [*the*

Companies Act] to a lower standard of accountability than directors of state-owned entities that are registered in terms of the Companies Act.

2. The declaration of invalidity in prayer 1 is suspended for a period of 24 months to allow Parliament to remedy these constitutional defects and bring the provisions of sections 83(4) and 84 of the PFMA in line with the provisions of section 162 of the Companies Act.
 - 2.1 More specifically to 2 above, Parliament is to amend sections 83(4) and 84 of the PFMA to allow for accounting authorities of public entities not registered as companies under the Companies Act to be declared delinquent on the same grounds as directors of state-owned companies registered under the Companies Act, who can be declared delinquent by a court of competent authority.
3. Pending remedying of the defects, section 162 of the Companies Act shall apply to all accounting authorities of public entities, regardless of whether such public entities are state-owned companies registered under the Companies Act or not.
4. In the event that Parliament does not remedy the constitutional defects within 24 months from the date of the order, paragraph 3 of the order shall continue to apply.
5. The costs of the applicants, including costs of two counsel, shall be paid jointly and severally by any respondent(s) opposing the application.
6. Further and/or alternative relief.

TAKE NOTICE FURTHER that the founding affidavit of **STEFANIE FICK** together with annexures thereto will be used in support of this application.

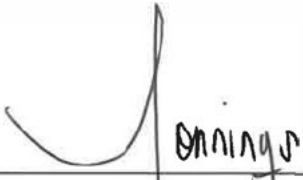
TAKE NOTICE FURTHER that the applicant has appointed the address of **JENNINGS INCORPORATED**, set out below at which the applicant will accept notice and service of all process in connection with the application.

TAKE NOTICE FURTHER that if the respondents wish to oppose the order sought they are required:

- (a) within 5 days after receipt of this notice of motion to deliver notice to the applicant that they intend to oppose;
- (b) in such notice, to appoint an address referred to in Rule 6(5)(d) of the Uniform Rules of Court at which you will accept notice and service of all documents in these proceedings; and
- (c) within 15 days after having notice of intention to oppose the application, to file answering affidavits, if any.

If no notices of intention to oppose are given, the application will be enrolled for hearing on the unopposed motion roll.

DATED AT PRETORIA ON THIS 14th DAY OF AUGUST 2025.



JENNINGS INCORPORATED
ATTORNEYS FOR THE APPLICANT
56 JEROME ROAD
LEOPARD COURT, GROUND FLOOR
LYNNWOOD GLEN
PRETORIA
Tel: 012 110 4442
Email: [REDACTED]
[REDACTED]
Ref: A JENNINGS/OUT037

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT
PRETORIA

AND TO: **THE STATE ATTORNEY, PRETORIA**
ATTORNEYS FOR THE FIRST TO FIFTH RESPONDENTS
GROUND FLOOR
SALU BUILDING
316 THABO SEHUME STREET
PRETORIA

AND TO: **THE DIRECTOR-GENERAL: NATIONAL TREASURY**
40 CHURCH STREET
OLD RESERVE BANK BUILDING
SECOND FLOOR
PRETORIA

AND TO: **THE DIRECTOR-GENERAL: DEPARTMENT OF TRADE, INDUSTRY**
AND COMPETITION
DTIC CAMPUS
77 MEINTJIES STREET
BLOCK A, THIRD FLOOR
SUNNYSIDE
PRETORIA

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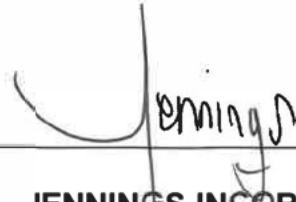
COMPANIES & INTELLECTUAL PROPERTY COMMISSION

Fifth Respondent

NOTICE IN TERMS OF RULE 41A

KINDLY TAKE NOTICE THAT the Applicant does not intend to refer this matter to mediation and is of the view that the matter is unlikely to be resolved through mediation, which process will invariably only unduly protract the above proceedings and incur unnecessary costs.

DATED AT PRETORIA ON THIS THE 14TH DAY OF AUGUST 2025.



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ATTORNEYS FOR THE APPLICANT**

56 JEROME ROAD
LEOPARD COURT, GROUND FLOOR
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Tel: 012 110 4442

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