

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2023-027571**

In the matter between:

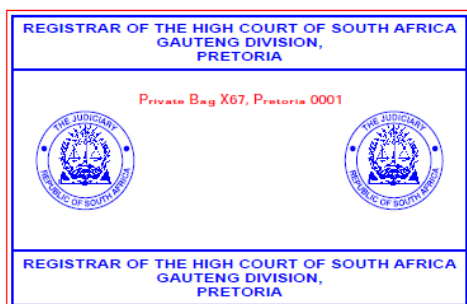
Freedom Alliance of South Africa NPC Plaintiff / Applicant / Appellant

and

The Minister of Health and 22 Others Defendant / Respondent

Notice of motion

NOTE: This document was filed electronically by the Registrar on 27/3/2023 at 11:22:15 AM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED BY:



**Registrar of High Court of South
Africa , Gauteng Division,Pretoria**

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO.: _____

In the matter between:

FREEDOM ALLIANCE OF SOUTH AFRICA

Applicant

and

THE MINISTER OF HEALTH

First Respondent

THE DEPARTMENT OF HEALTH

Second Respondent

**THE DEPARTMENT OF HEALTH,
EASTERN CAPE PROVINCE**

Third Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, EASTERN CAPE
PROVINCE**

Fourth Respondent

**THE DEPARTMENT OF HEALTH,
FREE STATE PROVINCE**

Fifth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, FREE STATE PROVINCE**

Sixth Respondent

**THE DEPARTMENT OF HEALTH,
GAUTENG PROVINCE**

Seventh Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, GAUTENG PROVINCE**

Eighth Respondent

**THE DEPARTMENT OF HEALTH,
KWAZULU-NATAL PROVINCE**

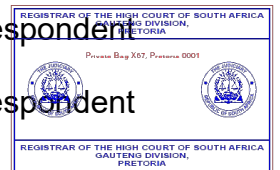
Ninth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, KWAZULU NATAL**

Tenth Respondent

**THE DEPARTMENT OF HEALTH,
LIMPOPO PROVINCE**

Eleventh Respondent



**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, LIMPOPO PROVINCE**

Twelfth Respondent

**THE DEPARTMENT OF HEALTH,
MPUMALANGA PROVINCE**

Thirteenth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, MPUMALANGA PROVINCE**

Fourteenth Respondent

**THE DEPARTMENT OF HEALTH,
NORTHERN CAPE PROVINCE**

Fifteenth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, NORTHERN CAPE**

Sixteenth Respondent

**THE DEPARTMENT OF HEALTH,
NORTH-WEST PROVINCE**

Seventeenth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, NORTH-WEST PROVINCE**

Eighteenth Respondent

**THE DEPARTMENT OF HEALTH,
WESTERN CAPE PROVINCE**

Nineteenth Respondent

**MEMBER OF THE EXECUTIVE
COUNCIL: DEPARTMENT OF
HEALTH, WESTERN CAPE
PROVINCE**

Twentieth Respondent

**THE PRESIDENT OF THE REPUBLIC
OF SOUTH AFRICA**

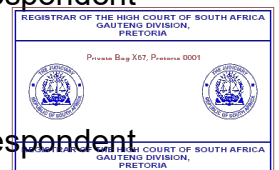
Twenty-first Respondent

**SOUTH AFRICAN HEALTH
PRODUCTS REGULATORY
AUTHORITY**

Twenty-second Respondent

PFIZER

Twenty-third Respondent

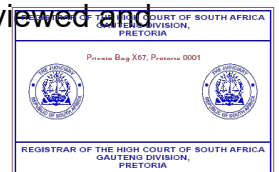


NOTICE OF MOTION

TAKE NOTICE THAT the abovenamed applicant hereby calls upon the twenty-second respondent to show cause, if any, why an order should not be granted in the following terms:

THAT:

1. The twenty-second respondent's decision, taken on or about 25 January 2022, and purportedly taken under section 15 of the Medicines and Related Substances Act 101 of 1965, to register Pfizer's "COMIRNATY" vaccine, is unlawful, reviewed and set aside.



2. The twenty-second respondent's decision, taken on or about 15 November 2022, to register Pfizer's "Ready To Use (RTU) adult vaccine", is unlawful, reviewed and set aside.

3. The twenty-second respondent's decision, dated on or about 15 November 2022, to register Pfizer's "Dilute To Use (DTU) paediatric vaccine", is unlawful, reviewed and set aside.

4. Insofar as may be necessary:

4.1. the applicant's failure to institute a review application, in respect of one or more of the decision referred to in paragraphs 1, 2 and 3 above, is hereby condoned, and the time periods prescribed in the Promotion of Administrative Justice Act 3 of 2000 ("**PAJA**") for the institution of review proceedings are hereby extended to the date of institution of this application;

- 4.2. the applicant is exempted from any obligation to exhaust internal remedies, in respect of one or more of the decision referred to in paragraphs 1, 2 and 3 above.
5. Insofar as any respondent opposes the relief sought in this application, the applicant is awarded costs of this application to be paid by such respondent, jointly and severally with any other respondent so opposing.
6. The applicant is granted such further and/or alternative relief as may be ~~just in the~~ circumstances.



TAKE NOTICE FURTHER that the affidavit of **DR HERMAN JACOBUS EDELING** attached hereto (and all attendant annexures and confirmatory affidavits) shall be used in support of the relief sought.

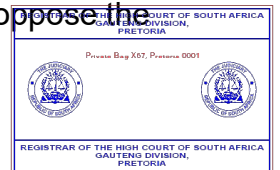
TAKE NOTICE FURTHER that in terms of Rule 53(1)(b) of the Uniform Rules of Court, the twenty-second respondent is required, within fifteen (15) days of receipt of this notice of motion, to dispatch to the Registrar:

- a) All records, including internal memoranda, Pfizer's documentation as it pertains to the COMIRNATY, DTU and RTU vaccines, Pfizer's trial data as it pertains to the COMIRNATY, DTU and RTU vaccines, correspondence with Pfizer as it pertains to the COMIRNATY, DTU and RTU vaccines, directives, policy documents, records of deliberations, minutes of meetings and any other documents relating to the aforementioned impugned decisions.

- b) Such full written reasons for the impugned decision(s) as the twenty-second respondent can give in relation thereto.

TAKE FURTHER NOTICE that the applicant may within ten (10) days of receipt of the record from the Registrar, by delivery of notice of motion and accompanying affidavit amend, add to or vary the terms of its notice of motion and supplement its founding affidavit, in terms of Rule 53(4) of the Rules of Court.

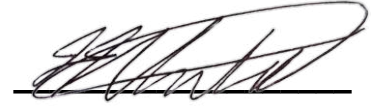
TAKE NOTICE FURTHER THAT should any of the respondents desire to oppose the granting of the relief sought, such party shall:



1. within 15 days after receipt of the amended notice of motion and supplementary founding affidavit (if any), deliver notice to the applicants that such party intends to so oppose the application;
2. in such notice of intention to oppose the application, appoint an address within referred to in Rule 6(5)(b) at which such party will accept notice and service of all process in these proceedings; and
3. within 30 days after the expiry of the period afforded to the applicant in terms of Rule 53(4) deliver any affidavit such party may desire in answer to the allegations made by the applicant.

TAKE FURTHER NOTICE that if no intention to oppose is given, the application will be set down for hearing at a date and time to be arranged with the Registrar of the above Court.

SIGNED AND DATED AT PRETORIA ON THIS THE 23RD DAY OF MARCH 2023



**HURTER SPIES INC.
APPLICANT'S ATTORNEYS**

**LOFTUS PARK
2ND FLOOR, BUILDING A
416 KIRKNESS STREET**



**ARCADIA
PRETORIA, 0007**

TEL: 012 941 9239

E-MAIL: eloff@hurterspies.co.za

johann@hurterspies.co.za

REF: D ELOFF/MAT5408

**TO: THE REGISTRAR OF THE HIGH COURT
PRETORIA**

**AND TO: THE FIRST RESPONDENT
THE MINISTER OF HEALTH
CIVITAS BUILDING, FLOOR 20
CORNER STRUBEN AND THABO SEHUME STREETS
PRETORIA
C/O THE STATE ATTORNEY, PRETORIA
316 THABO SEHUME STREET
PRETORIA**

**AND TO: THE SECOND RESPONDENT
DEPARTMENT OF HEALTH
1112 VOORTREKKER RD
PRETORIA
C/O THE STATE ATTORNEY, PRETORIA
316 THABO SEHUME STREET
PRETORIA.**

AND TO: **THE THIRD RESPONDENT**
EASTERN CAPE DEPARTMENT OF HEALTH
DUKUMBANA BUILDING
INDEPENDENCE AVENUE
BHISHO

AND TO: **THE FOURTH RESPONDENT**
THE MEC: EASTERN CAPE DEPARTMENT OF HEALTH
DUKUMBANA BUILDING
INDEPENDENCE AVENUE
BHISHO

AND TO: **THE FIFTH RESPONDENT**
FREE STATE DEPARTMENT OF HEALTH
CNR. CHARLES & HARVEY RD
CITY CENTRE
BLOEMFONTEIN

AND TO: **THE SIXTH RESPONDENT**
THE MEC: FREE STATE DEPARTMENT OF HEALTH
CNR. CHARLES & HARVEY RD
CITY CENTRE
BLOEMFONTEIN

AND TO: **THE SEVENTH RESPONDENT**
GAUTENG DEPARTMENT OF HEALTH
45 COMMISSIONER ST
JOHANNESBURG, 2000

AND TO: **THE EIGHTH RESPONDENT**
THE MEC: GAUTENG DEPARTMENT OF HEALTH
45 COMMISSIONER ST
JOHANNESBURG, 2000

AND TO: **THE NINTH RESPONDENT**
KWAZULU-NATAL DEPARTMENT OF HEALTH
NATALIA BUILDING, 11TH FLOOR
330 LANGALIBALELE STREET
PIETERMARITZBURG

AND TO: **THE TENTH RESPONDENT**
THE MEC: KWAZULU NATAL DEPARTMENT OF HEALTH
NATALIA BUILDING, 11TH FLOOR
330 LANGALIBALELE STREET
PIETERMARITZBURG



AND TO: **THE ELEVENTH RESPONDENT**
LIMPOPO DEPARTMENT OF HEALTH
18 COLLEGE STREET
HOSPITAL PARK
POLOKWANE

AND TO: **THE TWELFTH RESPONDENT**
THE MEC: LIMPOPO DEPARTMENT OF HEALTH
46 HANS VAN RENSBURG STREET
POLOKWANE

AND TO: **THE THIRTEENTH RESPONDENT**
MPUMALANGA DEPARTMENT OF HEALTH
OFFICE 14
JASPIS STREET
AEORAND
MIDDELBURG

AND TO: **THE FOURTEENTH RESPONDENT**
THE MEC: MPUMALANGA DEPARTMENT OF HEALTH
GOVERNMENT BOULEVARD
BUILDING 3, RIVERSIDE PARK
EXTENSION 2, NELSPRUIT

AND TO: **THE FIFTEENTH RESPONDENT**
THE NORTHERN CAPE DEPARTMENT OF HEALTH
JAMES EXUM BUILDING
DU TOIT SPAN ROAD
KIMBERLEY

AND TO: **THE SIXTEENTH RESPONDENT**
THE MEC: NORTHERN CAPE DEPARTMENT OF HEALTH
JAMES EXUM BUILDING
DU TOIT SPAN ROAD
KIMBERLEY

AND TO: **THE SEVENTEENTH RESPONDENT**
NORTH WEST DEPARTMENT OF HEALTH
CNR 1ST STREET & SEKAME STREET
MAHIKENG

AND TO: **THE EIGHTEENTH RESPONDENT**
THE MEC: NORTH WEST DEPARTMENT OF HEALTH
CNR 1ST STREET & SEKAME STREET
MAHIKENG

AND TO: **THE NINETEENTH RESPONDENT**
WESTERN CAPE DEPARTMENT OF HEALTH
4 DORP STREET
CAPE TOWN



AND TO: **THE TWENTIETH RESPONDENT**
THE MEC: WESTERN CAPE DEPARTMENT OF HEALTH
4 DORP STREET
PROVINCIAL ADMINISTRATION BUILDING, 21ST FLOOR
CAPE TOWN

AND TO: **THE TWENTY FIRST RESPONDENT**
THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
UNION BUILDINGS
GOVERNMENT AVENUE
PRETORIA

AND TO: **THE TWENTY SECOND RESPONDENT**
SAHPRA
BUILDING A
LOFTUS PARK
402 KIRKNESS STREET
ARCADIA, PRETORIA

AND TO: **THE TWENTY THIRD RESPONDENT**
PFIZER
85 BUTE ROAD
SANDOWN
SANDTON

