**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 ENQUIRY HEARS CONSTITUTIONAL MANDATE OF THE OFFICE OF PUBLIC PROTECTOR**

**Parliament, Tuesday, 12 July 2022 –** The Committee for Section 194 Enquiry today heard from Mr Hassen Ebrahim, a witness who is experienced in Constitution drafting and other matters, outlining the role of the Office of the Public Protector.

Mr Ebrahim went into great detail about the historical background of the Office of the Public Protector including its establishment, appointment of the Public Protector including characteristics of fitness and propriety, standard of conduct including procedural fairness and the removal of the Public Protector as well as definitions of misconduct and incompetence.

The committee was established by the National Assembly (NA) on 16 March 2021 to conduct a constitutional inquiry into the Public Protector’s fitness to hold office. It started its hearings yesterday into the fitness to hold office by Adv Busisiwe Mkwhebane.

Mr Ebrahim explained that removing the Public Protector from office is a very serious matter, it cannot be undertaken lightly at all. He highlighted, among other things, the significance of the role that the Public Protector plays in South Africa’s constitutional democracy. He said the removal of the Public Protector can only occur by, among other things, a supporting vote of at least two-thirds of the Members of the NA.

According to him, in the process of discharging its function, the committee should have due regard for the chilling effect that its decision may have on the effective exercise of the Public Protector’s powers by incumbents to that office. He said engaging in a process in terms of section 194 of the Constitution is a critical means of ensuring accountability and the rule of law. It is in the public interest for the process to be final.

In summary, Mr Ebrahim said the Constitution, and the associated legislative framework, require the Public Protector to, among other things, focus on ensuring that public functions are carried out in a responsive and open manner; there is accountability, there is respect for the separation of powers - each branch of government operates in its legitimate sphere - and in so doing respect the decisions of the Executive, Legislature and Judiciary. Furthermore, he said the Public Protector must be impartial and not assume the powers or functions of any other public functionary or encroach on its integrity.

Several Members of the committee wanted clarity on the issue of “Office” versus “person” as was raised several times during cross-examination by Adv Dali Mpofu on behalf of the Public Protector. Adv Mpofu also raised questions about legality of the proceedings and bias.

The Chairperson of the committee, Mr Qubudile Dyantyi, reiterated that the committee is not biased. “Political parties might have opinions on the fitness to hold office by the Public Protector, they may be for or against this process. My interest and concern is what happens in this committee and proceedings. I will not drag anything that happens outside this meeting regarding partiality. I cannot allow this committee to be side-tracked,” added Mr Dyantyi.

The committee is expected to conclude its work by the end of September 2022. The hearings will continue tomorrow and can be followed live on Parliament’s media platforms.

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE COMMITTEE FOR SECTION 194 ENQUIRY, MR QUBUDILE DYANTYI.**

For media enquiries or interviews, please contact the committee’s Media Officer:
**Name: Rajaa Azzakani (Ms)**
**Tel: 021 403 8437**