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28 OCTOBER 2026

MEDIA STATEMENT

POSTPONEMENT OF HEARING IN THE FULL COURT PROCEEDINGS CONCERNING THE DETENTION OF PROSPECTIVE ASYLUM SEEKERS (Case number: 2026/220414)

The Gauteng Division of the High Court, Johannesburg, wishes to inform the public and the media that the hearing before a Full Court in the proceedings concerning the detention of prospective asylum seekers, previously scheduled for **29 October 2026**, has been postponed and will now be heard from **16 to 18 November 2026**.

The proceedings comprise 33 urgent applications referred by the Judge President of the Gauteng Division to a Full Court to determine important legal and constitutional questions concerning the detention of undocumented foreign nationals who express an intention to apply for asylum. The referral followed differing judicial approaches regarding the effect of the Constitutional Court's judgment in *Scalabrini Centre of Cape Town v Minister of Home Affairs and Others* and was intended to promote legal certainty, uniformity of judicial practice, and the consistent administration of justice.

The postponement has become necessary due to the substantial expansion of the proceedings since they were enrolled. Five amici curiae and two intervening parties have been admitted. In addition, one of the applicants belatedly filed a Rule 16A notice raising constitutional issues, while several parties filed affidavits out of time, resulting in further affidavits and supplementary written submissions. The matter, initially allocated a single hearing day, now requires three hearing days for its proper determination.

On 21 October 2026, one of the applicants filed a notice in terms of Rule 16A of the Uniform Rules of Court raising additional constitutional issues concerning the detention of persons who express an intention to seek asylum. Rule 16A requires notice to be given of constitutional issues raised in litigation and affords interested persons an opportunity to seek admission as amici curiae. To give effect to these objectives, and notwithstanding that five amici curiae have already been admitted, the Court has directed truncated time periods in terms



of Rule 6(12) to enable any interested person or organisation wishing to participate as an amicus curiae in relation to the constitutional issues identified in the Rule 16A notice to do so. Any person or organisation wishing to apply for admission as an amicus curiae pursuant to the Rule 16A notice must file its application for admission, together with its written submissions, by **Friday, 6 November 2026**.

Persons seeking access to the referral notice, the Rule 16A notice, or the digital court files may contact **Mr Kwena Ramoroka**, Secretary to **Judge Lebogang Modiba**, the Case Management Judge, at **KwRamoroka@judiciary.org.za**.

Ends.

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Issued by the Office of the Chief Justice

