

PROCLAMATION NO. R. 37 OF 2019

**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) (the Act), have been made in respect of the affairs of the South African Social Security Agency (the SASSA);

AND WHEREAS the SASSA or the State may have 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 SASSA, 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 SASSA;
- (b) improper or unlawful conduct by officials or employees of the SASSA;
- (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;
- (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 SASSA; 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 3 June 2015 and the date of publication of this Proclamation or which took place prior to 3 June 2015 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 SASSA or the State, 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 13th day of June Two thousand and nineteen.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

TM Masutha
Minister of the Cabinet

SCHEDULE

1. Maladministration in the affairs of the SASSA and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SASSA in relation to the—
 - (a) fleet management of the SASSA within the Eastern Cape Region;
 - (b) fuel fleet card management of the SASSA within the Eastern Cape Region and KwaZulu-Natal Region;
 - (c) asset management of the SASSA within the Eastern Cape Region; and
 - (d) contract management of the SASSA in respect of persons appointed by the SASSA as Family Finders within the Limpopo Region.

2. The procurement of or contracting for goods, works or services by or on behalf of the SASSA and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective;
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the SASSA;
 - (c) fraudulent;and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SASSA or the State or any resulting loss or damages suffered by the SASSA or the State in relation to—
 - (aa) the refurbishment of offices of the SASSA within the Eastern Cape Region in terms of the Local Office Improvement Project;
 - (bb) medical goods or services procured within the Gauteng Region during the period 1 April 2016 to 30 September 2016;
 - (cc) services procured from Keyser Cleaning Services within the Eastern Cape Region; and
 - (dd) the procurement of blankets by the KwaZulu-Natal Regional Office during the period 1 April 2016 to 30 September 2016.

3. The payment or receipt of social assistance or benefits through Foster Child Care Grants in respect of persons who do not, or did not qualify for such assistance

or benefits or any portion thereof and any conduct directed at promoting or facilitating payment or receipt of such assistance or benefits.

4. Any unlawful or improper conduct by officials or employees of the SASSA, the applicable contractors, suppliers or service providers of the SASSA or any other person or entity in relation to the allegations set out in paragraphs 1 to 3 of this Schedule.

PROKLAMASIE NO. R. 37 VAN 2019**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) (die Wet), gemaak is in verband met die aangeleentheid van die Suid Afrikaanse Agentskap vir Maatskaplike Sekerheid (die SAAMS);

EN AANGESIEN die SAAMS of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele verrigtinge voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentheid in die Bylae vermeld ten opsigte van die SAAMS, 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 aangeleentheid, dit 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 aangeleentheid van die SAAMS;
- (b) onbehoorlike of onregmatige optrede deur beampptes of werknemers van die SAAMS;
- (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 in verband met die sake van die SAAMS gepleeg is; 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 3 Junie 2015 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 3 Junie 2015 of na die datum van publikasie van hierdie Proklamasie, maar 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 SAAMS of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 13 dag van Junie Tweeduisend–en-negentien.

CM Ramaphosa

President

Op las van die President-in-Kabinet:

TM Masutha

Minister van die Kabinet

BYLAE

1. Wanadministrasie in die werksaamhede van die SAAMS en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die SAAMS aangegaan was ten opsigte van die—

- (a) vlootbestuur van die SAAMS in die Oos-Kaap Streek;
- (b) brandstof vlootkaart bestuur van die SAAMS in die Oos-Kaap Streek en die Kwazulu-Natal Streek;
- (c) batebestuur van die SAAMS in die Oos-Kaap Streek; en
- (d) kontrakbestuur van die SAAMS in verband met persone wat as Familievinders deur die SAAMS in die Limpopo Streek aangestel was.

2. Die aanskaffing van, of kontraktering vir goedere, werk of dienste deur of namens die SAAMS en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
- (b) strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas omsendskrywes of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die SAAMS van toepassing is;
- (c) bedrieglik was;

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die SAAMS of die Staat aangegaan is of enige gevolglike verlies of skade wat die SAAMS of die Staat gely het ten opsigte van—

- (aa) die opknapping van kantore van die SAAMS in die Oos-Kaap Streek in gevolg die "Local Office Improvement Project";
- (bb) mediese goedere of dienste wat gedurende die tydperk van 1 April 2016 tot 30 September 2016 in die Gauteng Streek verkry is;
- (cc) dienste wat van "Keyser Cleaning Services" in die Oos-Kaap Streek verkry is; en
- (dd) die verkryging van komberse deur die KwaZulu-Natal Streekkantoor gedurende die tydperk 1 April 2016 tot 30 September 2016.

3. Die betaling of ontvangs van maatskaplike bystand of voordele deur Pleegsorg Kindertoelaes ten opsigte van persone wat nie vir sulke bystand of voordele of enige gedeelte daarvan kwalifiseer of gekwalifiseer het nie, en enige optrede gerig op die bevordering of fasilitering van betaling of ontvangs van sodanige bystand of voordele.

4. Enige onregmatige of onreëlmatige optrede deur beamptes of werknemers van die SAAMS, die betrokke kontrakteurs, verskaffers of diensverskaffers van die SAAMS of enige ander persoon of entiteit ten opsigte van die bewerings soos in paragrawe 1 tot 3 van hierdie Bylae uiteengesit.