

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

NO FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

No.		Gazette No.	Page No.
PROCLAMATIONS • PROKLAMASIES			
R. 4	Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing Special Investigating Unit: Agriculture Sector Education and Training Authority	41433	11
R. 4	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande Spesiale Ondersoekeenhed: "Agriculture Sector Education and Training Authority"	41433	14
R. 5	Special Investigating Units and Special Tribunals Act (74/1996): Proclamation referring matter to Special Investigating Unit: Tshwane South Technical and Vocational Education and Training College	41433	17
R. 5	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande Spesiale Ondersoekeenhed: "Tshwane South Technical and Vocational Education and Training College"	41433	20
R. 6	Special Investigating Units and Special Tribunals Act (74/1996): Proclamation referring matters to Special Investigating Unit: Raymond Mhlaba Local Municipality	41433	23
R. 6	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande Spesiale Ondersoekeenhed: Raymond Mhlaba Local Municipality.....	41433	25
R. 7	Special Investigating Units and Special Tribunals Act (74/1996): Amendment of Proclamation No. R. 59 of 2016 ...	41433	27
R. 7	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Wysiging van Proklamasie No. R. 59 van 2016	41433	29

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**National Treasury/ Nasionale Tesourie**

R. 98	Financial Markets Act (19/2012): Regulations	41433	31
R. 99	Financial Sector Regulation Act (9/2017): Commencement of amendments to Financial Markets Act, 2012, as contained in Financial Sector Regulation Act, 2017	41433	127

South African Revenue Service/ Suid-Afrikaanse Inkomstediens

R. 100	Customs and Excise Act, 1964: Amendment of Schedule No. 4 (No. 4/1/376).....	41433	130
R. 100	Doeane- en Aksynswet, 1964: Wysiging van Bylae No. 4 (No. 4/1/376).....	41433	131
R. 101	Customs and Excise Act, 1964: Amendment of Schedule No. 4 (No. 4/2/381).....	41433	132
R. 101	Doeane- en Aksynswet, 1964: Wysiging van Bylae No. 4 (No. 4/2/381).....	41433	133
R. 102	Customs and Excise Act, 1964: Amendment of Schedule No. 6 (No. 6/2/3).....	41433	134
R. 102	Doeane- en Aksynswet, 1964: Wysiging van Bylae No. 6 (No. 6/2/3).....	41433	135
R. 103	Customs and Excise Act, 1964: Amendment of Schedule No. 3 (No. 3/1/726).....	41433	136
R. 103	Doeane- en Aksynswet, 1964: Wysiging van Bylae No. 3 (No. 3/1/726).....	41433	137

PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. R. 4 OF 2018

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) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Agriculture Sector Education and Training Authority (hereinafter referred to as "Authority");

AND WHEREAS the Authority or the State 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 Authority, 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 Authority;
- (b) improper or unlawful conduct by board members, employees or officials of the Authority;
- (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 Authority; 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 1 April 2010 and the date of publication of this Proclamation or which took place prior to 1 April 2010 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 Authority 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 Pretoria this Fourteenth day of December Two thousand and seventeen.

**J G Zuma
President**

By Order of the President-in-Cabinet:

**T M Masutha
Minister of the Cabinet**

SCHEDULE

1. The expenditure of Discretionary Grant funding by or on behalf of the Authority in a manner that was—

- (a) not fair, competitive, transparent, equitable or cost-effective;
- (b) contrary to the applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or
 - (iii) manuals, codes, policies, procedures, prescripts, instructions or practices of, or applicable to the Authority,

in relation to—

- (aa) Project Number NSFSP-064;
- (bb) a donation made to the Food and Allied Workers Union in respect of its 2016 National Congress;
- (cc) projects not included in the Annual Performance Plan of the Authority for the 2014/2015, 2015/2016 and 2016/2017 financial years; and
- (dd) the allocation or reallocation of surplus discretionary funds in respect of the 2015/2016 financial year,

and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Authority or the State.

2. The procurement of, or contracting for training related services, audit related services and legal services by or on behalf of the Authority and payments made in relation thereto, in a manner that was—

- (a) not fair, equitable, transparent, competitive or cost-effective; or

- (b) contrary to the applicable—
(i) legislation;
(ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or
(iii) manuals, codes, policies, procedures, prescripts, guidelines, instructions or practices of, or applicable to, the Authority;

and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Authority or the State.

3. Maladministration relating to—

- (a) bursaries granted to officials or employees of the Authority; and
(b) the appointment of a firm of attorneys to represent the Chief Executive Officer of the Authority during grievance proceedings,

and any losses or prejudice suffered by the Authority or the State as a result of such maladministration.

4. Any unlawful or improper conduct by board members, employees or officials of the Authority or any other person or entity, in relation to the allegations set out in paragraphs 1 to 3 of this Schedule.

PROKLAMASIE NO. R. 4 VAN 2018

**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) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die "Agriculture Sector Education and Training Authority" (hierna na verwys as "die Gesag");

EN AANGESIEN die Gesag of die Staat moontlike 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 aangeleenthede in die Bylae vermeld ten opsigte van die Gesag, 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 aangeleenthede, 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 aangeleenthede van die Gesag;
- (b) onbehoorlike of onregmatige optrede deur raadslede, werknemers of beampies van die Gesag;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmataige 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 Bedrywigheude, 2004 (Wet No. 12 van 2004), en welke misdrywe in verband met die sake van die Gesag gepleeg is; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belang van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 April 2010 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 April 2010 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 Gesag of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Twee duisend-en-sewentien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. Die besteding van “Discretionary Grant” befondsing deur of namens die Gesag op wyse wat—

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

ten opsigte van—

- (aa) Projeknommer NSFSP-064;
- (bb) 'n skenking wat gemaak is aan die “Food and Allied Workers Union” ten opsigte van dié se Nasionale Kongres;
- (cc) projekte wat nie in die Jaarlikse Prestasieplan van die Gesag vir die 2014/2015, 2015/2016 en 2016/2017 finansiële jare ingesluit was nie; en
- (dd) die toekenning of herverdeling van surplus diskresionêre fondse ten opsigte van die 2015/2016 finansiële jaar,

en verwante ongemagtigde, onreëlmataige of vrugtelose en verspilde uitgawes wat deur die Gesag of die Staat opgedoen was.

2. Die aanskaffing van, of kontraktering vir opleidingverwante dienste, oudenverwante dienste en regsdienste deur of namens die Gesag en betalings wat in verband daarmee gemaak is op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of

(b) strydig was met toepaslike—
(i) wetgewing;
(ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of
(iii) handleidings, kodes, beleid, procedures, voorskrifte, instruksies of praktyke van, of wat op die Gesag van toepassing is,
en verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Gesag of die Staat opgedoen was.

3. Wanadministrasie in verband met—

(a) beurse wat toegeken is aan beamptes of werknemers van die Gesag; en
(b) die aanstelling van 'n prokureursfirma om die Hoof Uitvoerende Beampte van die Gesag te verteenwoordig tydens grieweprosedure,
en enige verliese of nadeel wat die Gesag of die Staat gely het as gevolg van sodanige wanadministrasie.

4. Enige onwettige of onbehoorlike gedrag deur raadslede, werknemers of beamptes van die Gesag of enige ander persoon of entiteit, wat in verband staan met die bewerings waarna in paragrawe 1 tot 3 van hierdie Bylae verwys word.

PROCLAMATION NO. R. 5 OF 2018

**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) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Tshwane South Technical and Vocational Education and Training College (hereinafter referred to as "the College");

AND WHEREAS the College or the State 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 College, 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 College;
- (b) improper or unlawful conduct by employees of the College;
- (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 College; 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 1 January 2005 and the date of publication of this Proclamation or which took place prior to 1 January 2005 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 College or State in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Fourteenth day of December Two thousand and seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

1. (a) The procurement of, or contracting for goods, works or services by or on behalf of the College and payments made in respect thereof in a manner that was—

- (i) not fair, competitive, transparent, equitable or cost-effective;
- (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the College;
- (iii) conducted or facilitated by or through the intervention of employees of the College with undeclared conflicts of interest; or
- (iv) fraudulent,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the College or the State.

(b) For purposes of paragraph (a) “**goods, works or services**” means—

- (i) the rendering of security services at the Centurion, Odi, Pretoria-West and Atteridgeville Campuses of the College;
- (ii) the rendering of cleaning services at the Centurion and Odi Campuses of the College;
- (iii) the supply and installation of security access control at the Atteridgeville and Odi Campuses of the College;
- (iv) the supply of golf shirts;
- (v) the planning, design and construction of a resource centre, library and internet café;
- (vi) training related services;
- (vii) the supply and installation of electrical cabling at the Atteridgeville Campus in terms of Tender TSC2008/9/02;
- (viii) event management services for the 2014 Spring-day celebration;

- (ix) the extension of a contract of a service provider to provide auditing services to the College; and
 - (x) the appointment of two service providers to render unspecified services to the College.
2. Any unlawful or improper conduct by—
(a) employees of the College;
(b) contractors, suppliers or service providers of the College; or
(c) any other person or entity,
relating to the allegations referred to in paragraph 1 of this Schedule.

PROKLAMASIE NO. R. 5 VAN 2018

**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) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die "Tshwane South Technical and Vocational Education and Training College" (hierna na verwys as "die Kollege");

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

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

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Kollege, 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 aangeleenthede, 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 aangeleenthede van die Kollege;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die Kollege;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmataige 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 Bedrywigheide, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Kollege; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belang van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2005 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2005 of na die datum van

publikasie van hierdie Proklamasie, 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 Kollege of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Twee duisend-en-sewentien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. (a) Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Kollege en betalings wat in verband daarmee gemaak is op 'n wyse wat—
 - (i) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
 - (ii) strydig was met toepaslike—
 - (aa) wetgewing;
 - (bb) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of relevante Plaaslike Tesourie uitgevaardig is; of
 - (cc) handleidings, beleid, procedures, voorskrifte, instruksies of praktyke van, of wat op die Kollege van toepassing is;
 - (iii) gedoen of gefasiliteer was deur of deur die ingryping van werknemers van die Kollege met 'n ongeopenbaarde belangebotsing; of
 - (iv) bedrieglik was,en enige verwante ongemagtigde, onreëlmataige of vrugtelose en verspilde uitgawes wat deur die Kollege of die Staat aangegaan is.
(b) Vir doeleindeste van paragraaf (a) beteken "**goedere, werke of dienste**"—
 - (i) die verskaffing van sekuriteitsdienste by die Centurion, Odi, Pretoria-Wes en Atteridgeville Kampusse van die Kollege;
 - (ii) die verskaffing van skoonmaakdienste by die Centurion en Odi Kampusse van die Kollege;
 - (iii) die verskaffing en installering van sekuriteit-toegangsbeheer by die Atteridgeville en Odi Kampusse van die Kollege;
 - (iv) die verskaffing van gholf hemde;

- (v) die beplanning, ontwerp en konstruksie van 'n hulpbron sentrum, biblioteek en Internet kafee;
 - (vi) opleiding verwante dienste;
 - (vii) die verskaffing en installering van elektriese bekabeling by die Atteridgeville Kampus ingevolge Tender TSC2008/9/02;
 - (viii) gebeurtenis-bestuursdienste vir die 2014 Lentedag vieringe;
 - (ix) die verlenging van 'n kontrak van 'n diensverskaffer om ouditering dienste aan die Kollege te lewer; en
 - (x) die aanstelling van twee diensverskaffers om ongespesifieerde dienste aan die Kollege te verskaf.
2. Enige onwettige of onbehoorlike optrede deur—
- (a) werknelmers van die kollege;
 - (b) kontrakteurs, verskaffers of diensverskaffers van die Kollege; of
 - (c) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.

PROCLAMATION NO. R. 6 OF 2018

**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) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Raymond Mhlaba Local Municipality (hereinafter referred to as "the Local Municipality"), which is situated in the Eastern Cape Province;

AND WHEREAS the Local Municipality 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 Local Municipality, 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 Local Municipality;
- (b) improper or unlawful conduct by councillors, officials or employees of the Local Municipality;
- (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 Local Municipality; 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 1 January 2014 and the date of publication of this Proclamation or which took place prior to 1 January 2014 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 Local Municipality in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Fourteenth day of December Two thousand and seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for motor vehicles by or on behalf of the Local Municipality in terms of a hire purchase agreement dated 7 February 2014 and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective; or
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Local Municipality,
 - and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Local Municipality.
 2. Any improper or unlawful conduct by—
 - (a) the councillors, officials or employees of the Local Municipality; or
 - (b) the service provider or the directors, employees or agents of the service provider,
- in relation to the allegations set out in paragraph 1 of this Schedule.

PROKLAMASIE NO. R. 6 VAN 2018

**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) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Raymond Mhlaba Plaaslike Munisipaliteit (hierna na verwys as "die Plaaslike Munisipaliteit");

EN AANGESIEN die Plaaslike Munisipaliteit verliese gely het wat verhaal kan word;

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

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Plaaslike Munisipaliteit, 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 aangeleenthede, 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 aangeleenthede van die Plaaslike Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur raadslede, beampies of werknemers van die Plaaslike Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmätige 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 Bedrywigheude, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Plaaslike Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belang van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2014 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2014 of na die datum van publikasie van hierdie Proklamasie, 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 Ondersoekenheid 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 Plaaslike Munisipaliteit gely is. Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Twee duisend-en-sewentien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. Die aanskaffing van, of kontraktering vir motorvoertuie deur of namens die Plaaslike Munisipaliteit ingevolge 'n huurkoopooreenkoms gedateer 7 Februarie 2014 en betalings wat in verband daarmee gemaak is op 'n wyse wat—
 - (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
 - (b) strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of relevante Plaaslike Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, procedures, voorskrifte, instruksies of praktyke van, of wat op die Plaaslike Munisipaliteit van toepassing is,
 - en enige verwante ongemagtigde, onreëlmataige of vrugtelose en verspilde uitgawes wat deur die Plaaslike Munisipaliteit aangegaan is.
2. Enige onbehoorlike of onwettige optrede deur—
 - (a) die raadslede, beampies of werknekmers van die Plaaslike Munisipaliteit; of
 - (b) die diensverskaffers of die direkteure, werknekmers of agente van die diensverskaffer,ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.

PROCLAMATION NO. R. 7 OF 2018

*by the
President of the Republic of South Africa*

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): AMENDMENT OF PROCLAMATION NO. R. 59 OF 2016

Under section 2(4) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), I hereby amend Proclamation No. R. 59 of 2016, by—

- (a) the substitution for paragraph 2 of the Schedule to the Proclamation of the following paragraph:

“2. The procurement of and contracting for goods, works or services by or on behalf of the Elias Motsoaledi Local Municipality and payments made in respect thereof in a manner that was—

- (a) not fair, competitive, transparent, equitable or cost-effective; or
(b) contrary to applicable—
(i) legislation;
(ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the relevant Provincial Treasury; or
(iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Elias Motsoaledi Local Municipality,

and any related irregular or fruitless and wasteful expenditure incurred by the Elias Motsoaledi Local Municipality or the State.”; and

- (b) the addition of the following paragraphs after paragraph 3 of the Schedule to the Proclamation:

“4. Any undisclosed or unauthorized interests that councillors, officials or employees of the Elias Motsoaledi Local Municipality may have had with regard to—

- (a) contractors, suppliers or service providers who bid for work or did business with the Elias Motsoaledi Local Municipality; or
(b) contracts awarded by or on behalf of the Elias Motsoaledi Local Municipality.

5. Maladministration in the affairs of the Elias Motsoaledi Local Municipality in relation to—

- (a) the mismanagement of the finances;
(b) the mismanagement of contracts;
(c) the failure to comply with the provisions of section 74(1) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); and

- (d) the appointment and promotion of, councillors, officials or employees, and the payment of salaries, allowances, increases, bonuses and other forms of remuneration that were not due, owing or payable, and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Elias Motsoaledi Local Municipality, including—
(i) the causes of such maladministration; and
(ii) losses or prejudice suffered by the Elias Motsoaledi Local Municipality or the State as a result of such maladministration.
6. Any improper or unlawful conduct by—
(a) councillors, officials or employees of the Elias Motsoaledi Local Municipality;
(b) contractors, suppliers or service providers of the Elias Motsoaledi Local Municipality; or
(c) any other person or entity,
relating to the allegations referred to in paragraphs 2 and 3, in so far as the allegations are applicable to the Elias Motsoaledi Local Municipality, and paragraphs 4 and 5, of this Schedule.”.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Fourteenth day of December Two Thousand and Seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

PROKLAMASIE NO. R. 7 VAN 2018

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996
(WET NO. 74 VAN 1996): WYSIGING VAN PROKLAMASIE NO. R. 59 VAN 2016**

Kragtens artikel 2(4) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996), wysig ek hierby Proklamasie No. R. 59 van 2016, deur—

- (a) die vervanging van paragraaf 2 van die Bylae tot die Proklamasie deur die volgende paragraaf:
- “2. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit en betalings wat in verband daarmee gemaak is op ‘n wyse wat—
- (a) nie mededingend, regverdig, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike —
- (i) wetgewing;
- (ii) handleidings, riglyne, omsendskrywes, praktyknotas of instruksies wat deur die Nasionale Tesourie of die relevante Proviniale Tesourie uitgevaardig is; of
- (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Elias Motsoaledi Plaaslike Munisipaliteit van toepassing is,
- en enige verwante onreëlmataige of vrugtelose en verspilde uitgawes wat deur die Elias Motsoaledi Plaaslike Munisipaliteit of die Staat opgedoen was.”; en
- (b) die byvoeging van die volgende paragrawe na paragraaf 3 van die Bylae tot die Proklamasie:
- “4. Enige ongeopenbaarde of ongemagtigde belang wat raadslede, beampies of werknekmers van die Elias Motsoaledi Plaaslike Munisipaliteit mag gehad het met betrekking tot—
- (a) kontrakteurs, verskaffers of diensverskaffers wat vir werk gebie het of besigheid met die Elias Motsoaledi Plaaslike Munisipaliteit gedoen het; of
- (b) kontrakte wat toegeken was deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit.

5. Wanadministrasie in die aangeleenthede van die Elias Motsoaledi Plaaslike Munisipaliteit ten opsigte van—
(a) die wanbestuur van finansies;
(b) die wanbestuur van kontrakte;
(c) die versuim om te voldoen aan die bepalings van artikel 74(1) van die Wet op Plaaslike Regerings: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003); en
(d) die aanstelling en bevordering van, raadslede, beampes of werknemers en die betaling van salarisse, toelaes, verhogings, bonusse en ander vorme van vergoeding wat nie verskuldig, opeisbaar of betaalbaar was nie,
en enige ander verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Elias Motsoaledi Plaaslike Munisipaliteit opgedoen was, insluitende—
(i) die oorsake van sodanige wanadministrasie; en
(ii) verliese of nadeel wat die Elias Motsoaledi Plaaslike Munisipaliteit of die Staat gely het as gevolg van sodanige wanadministrasie.
6. Enige onbehoorlike of onwettige optrede deur—
(a) raadslede, beampes of werknemers van die Elias Motsoaledi Plaaslike Munisipaliteit;
(b) kontrakteurs, verskaffers of diensverskaffers van die Elias Motsoaledi Plaaslike Munisipaliteit; of
(c) enige ander persoon of entiteit,
verbandhoudend met die bewerings verwys na in paragrawe 2 en 3, vir sovôr die bewerings van toepassing is op die Elias Motsoaledi Plaaslike Munisipaliteit, en paragrawe 4 en 5 van hierdie Bylae.”.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Tweeduiseend-en-sewentien.

J G ZUMA
President

Op las van die President-in-Kabinet:

T M MASUTHA
Minister van die Kabinet