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PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. R. 51 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) (hereinafter referred to as "the Act"), have been made in respect of the affairs of the Passenger Rail Agency of South Africa SOC Limited (hereinafter referred to as "PRASA");

AND WHEREAS PRASA 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 PRASA, 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 PRASA;
- (b) improper or unlawful conduct by employees or officials of the PRASA;
- (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 PRASA; 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 2010 and the date of publication of this Proclamation or which took place prior to 1 January 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 PRASA 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 13th day of August Two thousand and nineteen.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

R Lamola

Minister of the Cabinet **SCHEDULE**

1. The procurement of or contracting for—
 - (a) security services;
 - (b) general overhaul and upgrade services;
 - (c) works or services in respect of systems overhauling, repair of rails and infrastructure, or maintenance through the implementation of the Supplier Development Programme;
 - (d) an advanced early detection cable theft solution in the Bonteheuwel-Phillipi Corridor in the Western Cape;
 - (e) travel management services;
 - (f) supply of mobile transporters; and
 - (g) forensic services,by or on behalf of PRASA and payments which were made in respect thereof in a manner that was—
 - (i) not fair, equitable, transparent, competitive or cost-effective; or
 - (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or
 - (cc) manuals, codes, guidelines, policies, procedures, prescripts, instructions or practices of, or applicable to, PRASA,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by PRASA or the State.
2. Any unlawful or improper conduct by the employees or officials of PRASA or the applicable service providers, or any other person or entity in relation to the allegations set out in paragraph 1 of this Schedule.