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**PROCLAMATION NOTICES • PROKLAMASIE KENNISGEWINGS**

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**PROCLAMATION 82 OF 2022****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 Lepelle Northern Water Board and Amatola Water Board (hereinafter referred to as "the Water Boards");

AND WHEREAS the State or the Water Boards 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 Water Boards, 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 Water Boards;
- (b) improper or unlawful conduct by—
  - (i) Board members, officials or employees of the Water Boards; and

- (ii) officials or employees of the Ministry of Human Settlements, Water and Sanitation;
- (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 Water Boards; 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 August 2019 and the date of publication of this Proclamation or which took place prior to 1 August 2019 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 State or the Water Boards, 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 .....<sup>11<sup>TH</sup></sup>..... day of .....JULY.....Two thousand and twenty-two.

**President**



By Order of the President-in-Cabinet:

**Minister of the Cabinet**



## SCHEDULE

1. The procurement of, or contracting for, drought relief services and technologies by or on behalf of the Water Boards 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 the relevant Provincial Treasury; or
    - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Water Boards;
  - (c) facilitated through the unlawful, irregular or improper conduct of—
    - (i) Board members, employees or officials of the Water Boards; or
    - (ii) officials or employees of the Ministry of Human Settlements, Water and Sanitation;
  - (d) conducted or facilitated through the manipulation of the Water Boards' supply chain management processes by suppliers, service providers or any other person in collusion with, or through the intervention of—
    - (i) Board members, employees or officials of the Water Boards; or
    - (ii) officials or employees of the Ministry of Human Settlements, Water and Sanitation,to corruptly or unduly benefit themselves or others; or
  - (e) fraudulent,
- and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Water Boards or the State as result thereof.

2. Any unlawful or improper conduct by—

- (a) the suppliers or service providers in question or their employees;
- (b) Board members, employees or officials of the Water Boards;
- (c) officials or employees of the Ministry of Human Settlements, Water and Sanitation; or
- (d) any other person,

in relation to the allegations set out in paragraph 1 of this Schedule.

**PROKLAMASIE KENNISGEWING 82 VAN 2022**  
**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 Lepelle Noordelike Waterraad en Amatola Waterraad (hierna na verwys as "die Waterrade");

EN AANGESIEN die Staat of die Waterrade 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 Waterrade, 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—

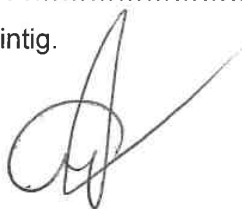
- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Waterrade;
- (b) onbehoorlike of onregmatige optrede deur—
  - (i) Raadslede, beamptes of werknemers van die Waterrade; en

- (ii) beamptes of werknemers van die Ministerie van Menslike Nedersettings, Water en Sanitasie;
- (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 gepleeg is in verband met die sake van die Waterrade; 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 1 Augustus 2019 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Augustus 2019 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 Staat of die Waterrade gely is.

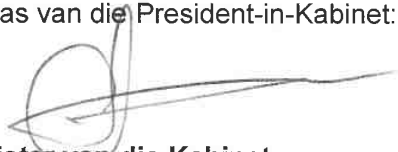
Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te JOHANNESBURG  
op hede die 11<sup>e</sup> dag van JULIE Twee  
duisend-twee-en-twintig.

**President**



Op las van die President-in-Kabinet:

**Minister van die Kabinet**



**BYLAE**

1. Die verkryging van, of kontraktering vir, droogtehelpmaatreël dienste en tegnologie deur of namens die Waterrade en betalings wat ten opsigte daarvan gemaak 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, omsendbriewe of instruksies wat deur die Nasionale Tesourie of die betrokke Provinsiale Tesourie uitgevaardig is; of
    - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Waterrade van toepassing;
  - (c) gefasiliteer was deur die onregmatige, onreëlmatige of onbehoorlike optrede van—
    - (i) Raadslede, beamptes of werknemers van die Waterrade; of
    - (ii) beamptes of werknemers van die Ministerie van Menslike Nedersettings, Water en Sanitasie;
  - (d) uitgevoer of gefasiliteer was deur die manipulering van die Waterrade se voorsieningskanaal-bestuurprosesse deur verskaffers, diensverskaffers of enige ander persoon in samespanning met, of deur die inmenging van—
    - (i) Raadslede, beamptes of werknemers van die Waterrade; of
    - (ii) beamptes of werknemers van die Ministerie van Menslike Nedersettings, Water en Sanitasie,om hulself of ander op korrupte wyse of onbehoorlik te bevoordeel; of
  - (e) bedrieglik was,
- en enige ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur die Waterrade of die Staat aangegaan is as gevolg daarvan.

2. Enige onwettige of onbehoorlike optrede deur—

- (a) die betrokke verskaffers, diensverskaffers of hul werknemers;
  - (b) Raadslede, beamptes of werknemers van die Waterrade;
  - (c) beamptes of werknemers van die Ministerie van Menslike Nedersettings, Water en Sanitasie; of
  - (d) enige ander persoon,
- ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.