

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 44

10 December 2021



PROCLAMATION
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 Road Accident Fund (hereinafter referred to as "the RAF");

AND WHEREAS the RAF 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 RAF, 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—

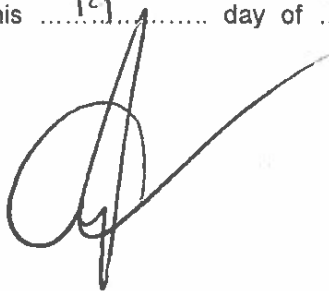
- (a) serious maladministration in connection with the affairs of the RAF;
- (b) improper or unlawful conduct by the officials or employees of the RAF;
- (c) unlawful appropriation or expenditure of public money or property;

- (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 RAF; 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 2018 and the date of publication of this Proclamation or which took place prior to 1 April 2018 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 RAF or the State, in relation to the said matters in the Schedule.

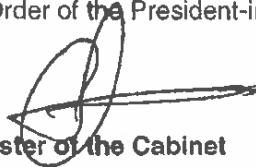
Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 19 day of November Two thousand and twenty one.

President



By Order of the President-in-Cabinet:

Minister of the Cabinet



SCHEDULE

1. Serious maladministration in the affairs of the RAF in respect of—
 - (a) compensation payments made by the RAF to claimants or claimants' agents;
and
 - (b) payments made by the RAF to service providers,
in a manner that was—
 - (i) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the RAF; or
 - (ii) in a fraudulent or corrupt manner,and any related losses or irregular or fruitless and wasteful expenditure incurred by the RAF or the State as a result thereof.

2. Any irregular, improper or unlawful conduct by—
 - (a) officials or employees of the RAF; or
 - (b) any other person or entity,in relation to the allegations set out in paragraphs 1 of this Schedule.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 44

10 Desember 2021



PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID AFRIKA

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996:
VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE
ONDERSOEKEENHEID: DIE PADONGELUKKEFONDS**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die Padongelukkefonds (hierna na verwys as "die POF");

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

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviële 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 POF, 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—

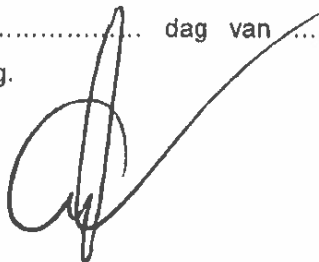
- (a) ernstige wanadministrasie in verband met die aangeleenthede van die POF;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die POF;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;

- (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 POF; 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 April 2018 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 April 2018 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 POF of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 19^{de} dag van November Twee duisend-en- een-en-twintig.

President



Op las van die President-in-Kabinet

Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in die aangeleenthede van die POF met betrekking tot—

(a) vergoedingsbetalings deur die POF aan eisers of eisers se agente gemaak;
en

(b) betalings deur die POF aan diensverskaffers gemaak,
op 'n wyse wat—

(i) strydig was met toepaslike —

(aa) wetgewing;

(bb) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of

(cc) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die POF van toepassing is; of

(ii) bedrieglik of korrup was.

en enige verbandhoudende verliese of onreëlmatige of vrugtelose en verspilte uitgawes wat deur die POF of Staat as gevolg daarvan aangegaan is.

2. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—

(a) beamptes of werknemers van die POF; of

(b) enige ander persoon of entiteit,

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