



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

*Regulation Gazette*

**No. 9302**

*Regulasiekoerant*

**Vol. 540**

Pretoria, 8 June  
Junie 2010

**No. 33279**

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**CONTENTS**

**INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
<b>PROCLAMATION</b>			<b>PROKLAMASIE</b>		
R. 27			R. 27		
Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing Special Investigating Unit and Special Tribunal .....	3	33279	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande Spesiale Ondersoekeenhede en Spesiale Tribunaal .....	5	33279

# PROCLAMATION

*by the*

*President of the Republic of South Africa*

**No. R. 27, 2010**

**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL**

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, both in its national agency and in its provincial agencies (hereinafter collectively referred to as the "SASSA");

AND WHEREAS the SASSA suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes 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 -

- (a) serious maladministration in connection with the affairs of the SASSA;
- (b) improper or unlawful conduct by officials and/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 Part 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, 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 have taken place between 15 November 2004 and the date of publication 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, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Second day of June Two thousand and ten.

**K P Motlanthe**  
**President**

By Order of the President-in-Cabinet:

**J T Radebe**  
**Minister of the Cabinet**

### SCHEDULE

1. The unlawful and illegal payment and/or receipt of social grants or benefits in respect of deceased and/or fictitious persons and/or persons who do not qualify for the receipt of such grants or benefits or any portion thereof and any conduct directed at, promoting, or facilitating payment and/or receipt thereof.
2. The conduct of officials and employees of the SASSA, government officials and/or agents responsible for the administration and/or payment of social grants or benefits, which has or may in the future result in losses of, lack of control over, or delays in payment of monies allocated for the payment of social grants or benefits and any conduct directed at, promoting, or facilitating the aforementioned.
3. The procurement and contracting with suppliers and/or service providers for goods and services on behalf of the SASSA and payments made to such suppliers and/or service providers in relation thereto in a manner that was -
  - (a) not fair, equitable, transparent, competitive and/or cost-effective; and/or
  - (b) contrary to applicable -
    - (i) legislation; and/or
    - (ii) manuals, guidelines, practice notes and/or instructions issued by the National Treasury and/or the applicable Provincial Treasury, as amended; and/or
    - (iii) manuals, policies, procedures, prescripts, directives, guidelines, instructions and/or practices of or applicable to, the SASSA.
4. The failure by officials and/or employees of the SASSA to -
  - (a) disclose the fact that they had a direct or indirect interest in the suppliers and/or service providers used by the SASSA, which presented a conflict of interest; and/or
  - (b) disclose to the SASSA, that they engaged in business activities for remuneration outside of their employment.

**PROKLAMASIE***van die**President van die Republiek van Suid-Afrika***No. R. 27, 2010****WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL**

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 aangeleenthede van die Suid Afrikaanse Agentskap vir Maatskaplike Sekerheid, in beide die nasionale agentskap en in die provinsiale agentskap (hierna gesamentelik na verwys as die "SAAMS");

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

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare 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 vir ondersoek na die Spesiale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die SAAMS;
- (b) onbehoorlike of onregmatige optrede deur beamptes en/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 Bedrywighe, 2004, in verband met die sake van die SAAMS; 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 15 November 2004 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenhede toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die SAAMS gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die Tweede dag van Junie Tweeduisend-en-tien.

**K P Motlanthe**  
**President**

Op las van die President-in-Kabinet:

**J T Radebe**  
**Minister van die Kabinet**

**BYLAE**

1. Die onregmatige en onwettige betalings en/of ontvangs van maatskaplike toelae of voordele ten opsigte van oorlede en/of fiktiewe persone en/of persone wat nie kwalifiseer vir die ontvangs van sodanige toelae of voordele of enige gedeelte daarvan nie en enige optrede wat gerig is op, die bevordering van, of die fasilitering van betaling en/of ontvangs daarvan.
  2. Die optrede van amptenare en werknemers van die SAAMS, staatsamptenare en/of agente verantwoordelik vir die administrasie en/of betaling van maatskaplike toelae of voordele, wat in die toekoms tot die verlies van, gebrek aan beheer oor, of die vertraging van die betaling van gelde wat toegewys is vir maatskaplike toelaes of voordele aanleiding gee of mag gee en enige optrede wat gerig op die bevordering of die fasilitering van die voorafgaande.
  3. Die aanskaffing van en kontraktering met verskaffers en/of diensverskaffers vir goedere of dienste namens die SAAMS en betalings wat gemaak is aan sodanige verskaffers en/of diensverskaffers ten opsigte daarvan op 'n wyse wat -
    - (a) nie billik, regverdig, deursigtig, mededingend en/of koste-effektief is nie; en/of
    - (b) strydig is met toepaslike -
      - (i) wetgewing; en/of
      - (ii) handleidings, riglyne, praktyknotas en/of instruksies deur die Nasionale en/of toepaslike Provinsiale Tesourie, soos gewysig, uitgevaardig; en/of
      - (iii) handleidings, beleid, prosedures, voorskrifte, direktiewe, riglyne, instruksies en/of praktyke op die SAAMS van toepassing.
  4. Die versuim van amptenare en/of werknemers van die SAAMS om -
    - (a) die feit te openbaar dat hulle 'n direkte of indirekte belang het in die verskaffers en/of diensverskaffers wat deur SAAMS gebruik is, wat 'n konflik van belange daarstel; en/of
    - (b) aan die SAAMS te openbaar dat hulle buite diensverband betrokke was by besigheidsaktiwiteite teen vergoeding.
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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001  
Publications: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504  
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737  
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001  
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510  
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504  
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737  
Kaapstad-tak: Tel: (021) 465-7531