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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 72, 2009

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTER 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 Municipalities of the North West Province mentioned in Column A of the Schedule (hereinafter collectively referred to as the "Municipalities");

AND WHEREAS the Municipalities 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 said Act refer the matters mentioned in Column B of the Schedule in respect of the Municipalities listed in Column A of the Schedule, 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 said Act, any alleged -

(a) serious maladministration in connection with the affairs of the Municipalities;

(b) improper or unlawful conduct by councillors, officers and/or employees of the Municipalities;

(c) unlawful appropriation or expenditure of public money or property;

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(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 Municipalities; 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 01 January 2005 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Municipalities.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eight day of November Two thousand and nine.

J. G. ZUMA
President
By Order of the President-in-Cabinet:

J. T. RADEBE
Minister of the Cabinet

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SCHEDULE

COLUMN A (MUNICIPALITIES)	COLUMN B (ALLEGATIONS)
1. Madibeng Local Municipality 2. Greater Taung Local Municipality 3. Mafikeng Local Municipality 4. Ventersdorp Local Municipality 5. Dr Kenneth Kaunda District Municipality 6. Matlosana Local Municipality 7. Maquassi Hills Local Municipality 8. Tlokwe Local Municipality 9. Ngaka Modiri Molema District Municipality 10. Ditsobotla Local Municipality 11. Tswaing Local Municipality 12. Ramotshere Moiloa Local Municipality 13. Ratlou Local Municipality 14. Moses Kotane Local Municipality 15. Ketlengrivier Local Municipality 16. Dr Ruth Mompati District Municipality 17. Rustenburg Local Municipality 18. Naledi Local Municipality 19. Kagisano Local Municipality 20. Molopo Local Municipality 21. Mamusa Local Municipality 22. Lekwa-Teemane Local Municipality 23. Bojanala Platinum District Municipality 24. Moretele Local Municipality	1. The appointment, extension of appointment, and promotion of municipal staff contrary to the prescripts of applicable laws, municipal policies and procedures. 2. The external manipulation of and undue preference in the appointment and promotion of municipal staff. 3. The disproportionate appointment and excessive remuneration of municipal staff. 4. The appointment and disproportionate remuneration of under qualified and unsuitable candidates in municipal staff establishments. 5. The remuneration of non-performing and under performing municipal staff without taking appropriate disciplinary steps against such staff. 6. Losses of municipal funds due to theft, fraud and misallocation. 7. Disproportionate, wasteful and irregular expenditure of municipal funds. 8. Mismanagement of expenditure of municipal funds and resources, and the accumulation of municipal debt. 9. Losses to municipalities caused by inadequate management of, and control over municipal contracts and resources. 10. The procurement and alienation of goods and services contrary to the provisions of the Local Government:

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	Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and other applicable laws, as well as municipal policy and procedures, including - (a) the failure to procure and alienate according to a system that is fair, competitive, equitable, transparent and cost-effective; (b) the external influence over, and manipulation of procurement and alienation processes; (c) undue preference to and favouring of certain parties in the awarding of contracts; (d) the impairment of the independence and integrity of bid structures and processes; and (e) the unnecessary procurement of services of external service providers to perform municipal services. 11. The alienation of municipal land contrary to the provisions of section 14 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and not by way of a fair, competitive, equitable, transparent and cost effective process. 12. Interference by councillors in the administration of municipal affairs in contravention of the applicable provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Local Government: Municipal Finance

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	Management Act, 2003 (Act No. 56 of 2003). 13. The misuse and misappropriation of funds deriving from the Municipal Infrastructure Grant. 14. The misuse of municipal resources for private benefit.

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PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 72, 2009

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEID 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 Munisipaliteite van die Noord-Wes Provinsie gemeld in Kolom A van die Bylae (hierna gesamentelik verwys na as die "Munisipaliteite");

EN AANGESIEN die Munisipaliteite 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 genoem in Kolom B van die Bylae ten opsigte van die Munisipaliteite gelys in Kolom A van die Bylae, 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

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daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in die Wet, ondersoek te doen na enige beweerde -

(a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteite;

(b) onbehoorlike of onregmatige optrede deur raadslede, beamptes of werknemers van die Munisipaliteite;

(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, in verband met die sake van die Munisipaliteite; of

(g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie van die publiek veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2005 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenheid 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 Munisipaliteite gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Agtste dag van November Tweeduisend-en-nege.

J. G. ZUMA
President

Op las van die President-in-Kabinet:

J. T. RADEBE
Minister van die Kabinet

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BYLAE

KOLOM A (MUNISIPALITEITE)	KOLOM B (BEWERINGS)
1. Madibeng Plaaslike Munisipaliteit 2. Greater Taung Plaaslike Munisipaliteit 3. Mafikeng Plaaslike Munisipaliteit 4. Ventersdorp Plaaslike Munisipaliteit 5. Dr Kenneth Kaunda Distriksmunisipaliteit 6. Matlosana Plaaslike Munisipaliteit 7. Maquassi Hills Plaaslike Munisipaliteit 8. Tlokwe Plaaslike Munisipaliteit 9. Ngaka Modiri Molema Distriksmunisipaliteit 10. Ditsobotla Plaaslike Munisipaliteit 11. Tswaing Plaaslike Munisipaliteit 12. Ramotshere Moiloa Plaaslike Munisipaliteit 13. Ratlou Plaaslike Munisipaliteit 14. Moses Kotane Plaaslike Munisipaliteit 15. Ketlengrivier Plaaslike Munisipaliteit 16. Dr Ruth Mompati Distriksmunisipaliteit 17. Rustenburg Plaaslike Munisipaliteit 18. Naledi Plaaslike Munisipaliteit 19. Kagisano Plaaslike Munisipaliteit 20. Molopo Plaaslike Munisipaliteit 21. Mamusa Plaaslike Munisipaliteit 22. Lekwa-Teemane Plaaslike Munisipaliteit 23. Bojanala Platinum Distriksmunisipaliteit 24. Moretele Plaaslike Munisipaliteit	1. Die aanstelling, verlenging van aanstelling en bevordering van munisipale personeel strydig met die voorskrifte van toepaslike wetgewing, munisipale beleid en voorskrifte. 2. Die eksterne manipulasie van en ongeregverdigde bevoordeling in die aanstelling en bevordering van munisipale personeel. 3. Die disproporsionele aanstelling en buitensporige vergoeding van munisipale personeel. 4. Die aanstelling en disproporsionele vergoeding van ondergekwalifiseerde en ongepaste kandidate in munisipale personeel instellings. 5. Die vergoeding van munisipale personeel wat nie presteer nie of onderpresteer sonder om gepaste disiplinêre stappe teen sodanige personeel te neem. 6. Verliese van munisipale fondse as gevolg van diefstal, bedrog en wantoewysing. 7. Disproporsionele, verkwiste en onreëlmatige besteding van munisipale fondse. 8. Wanbestuur van besteding van

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	munisipale fondse en hulpbronne, en die oploop van munisipale skuld. 9. Verliese vir munisipaliteite wat veroorsaak is deur onvoldoende bestuur van, en kontrole oor munisipale kontrakte en hulpbronne. 10. Die aanskaffing en vervreemding van goedere en dienste strydig met die bepalings van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003), en ander toepaslike wetgewing sowel as munispale beleid en prosedures, met inbegrip van - (a) die versuim om ooreenkomstig 'n stelsel wat regverdig, mededingend, billik, deursigtig en koste effektief is, aan te skaf of te vervreem; (b) die eksterne beïnvloeding van, en manupilasie van die aanskaffings- en vervreemdings prosesse; (c) onbehoorlike bevoordeling en begunstiging van sekere partye by die toekenning van kontrakte; (d) die aantasting van die onafhanklikheid en integriteit van bodstrukture en prosesse; en (e) die onnodige aanskaffing van dienste van eksterne diensverskaffers om munisipale dienste te lewer.

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	11. Die vervreemding van munisipale grond strydig met die bepalings van artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003), en deur 'n proses wat nie regverdig, mededingend, billik, deursigtig en koste effektief is nie. 12. Die inmenging deur raadslede in die administrasie van munisipale aangeleenthede, strydig met die toepaslike bepalings van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), en die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003). 13. Die misbruik en wanbesteding van fondse wat spruit uit die Munisipale Infrastruktuur Subsidie. 14. Die misbruik van munisipale hulpbronne vir private voordeel.

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