

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 76, 1997

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), have been made in respect of the affairs of the Butterworth Transitional Local Council (hereinafter referred to as "the Transitional Local Council");

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, and after consultation with the Premier of the Province of the Eastern Cape, refer the matters mentioned in the Schedule for investigation to the Special Investigating Unit and for adjudication of any justiciable civil dispute emanating from such investigation to the Special Tribunal established by Proclamation No. R. 24 of 14 March 1997 and determine for the purposes of the investigation of those matters, that the terms of reference of the Special Investigating Unit are to investigate, as contemplated in the said Act, any-

- (a) serious maladministration in connection with the affairs of the Transitional Local Council;
- (b) improper or unlawful conduct by employees of the Transitional Local Council;
- (c) unlawful appropriation or expenditure of public money or property of the Transitional Local Council;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property of the Transitional Local Council;
- (e) intentional or negligent loss of public money or damage to public

property of the Transitional Local Council;

- (f) corruption in connection with the affairs of the Transitional Local Council; or
- (g) unlawful or improper conduct in connection with the affairs of the Transitional Local Council by any person which has caused or may cause serious harm to the interests of the public or any category thereof, which has taken place between 2 February 1994 and the date of publication of this Proclamation.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this Eighteenth day of November, One thousand Nine hundred and Ninety-seven.

N. R. MANDELA
President

By order of the President-in-Cabinet:

A. M. OMAR
Minister of the Cabinet

SCHEDULE

1. The misappropriation of funds by councillors and/or employees of the Transitional Local Council, to wit-
 - (a) the use of public money awarded to the Transitional Local Council or which belonged to or vested in the Transitional Local Council, for purposes for which it was not intended;
 - (b) the payment of public money awarded to the Transitional Local Council into unauthorised banking accounts and the use of such public money for unauthorised purposes; and
 - (c) the payment of public money awarded to the Transitional Local Council or which belonged to or vested in the Transitional Local Council to councillors and/or employees of the Transitional Local Council and/or third parties, under circumstances which were unlawful, unauthorised or irregular.
2. The non-compliance with financial directives by councillors and/or employees of the Transitional Local Council, to wit-
 - (a) the failure to follow the prescribed procedures; and

(b) the failure to exercise or perform the required control.

3. The conclusion of contracts contrary to the public interest by councillors and/or employees of the Transitional Local Council which involved public money awarded or belonging to or vesting in the Transitional Local Council in favour of specific councillors and/or employees of the Transitional Local Council and/or third parties.

4. The failure by councillors and/or employees of the Transitional Local Council to pay and/or collect rates and taxes or to take the necessary steps to ensure the payment and/or the collection of rates and taxes.

5. The payment of allowances to councillors of the Transitional Local Council contrary to applicable legislation and/or directives and/or without the necessary authorisation.

6. The irregular appointments and promotions of employees of the Transitional Local Council by councillors and/or employees of the Transitional Local Council.

7. The participation of employees of the Transitional Local Council in an unauthorised car scheme and the failure by councillors and/or employees of the Transitional Local Council to recover losses in this respect.