
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 147 OF 2024

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: EASTERN CAPE RURAL DEVELOPMENT AGENCY

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 Eastern Cape Rural Development Agency (hereinafter referred to as “the ECRDA”);

AND WHEREAS the ECRDA 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 ECRDA, 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 ECRDA;
- (b) improper or unlawful conduct by employees of the ECRDA;
- (c) unlawful appropriation or expenditure of public money;
- (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 ECRDA; 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 February 2020 and the date of publication of this Proclamation or which took place prior to 1 February 2020 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 ECRDA, 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 11th day of December Two thousand and twenty three.

MC Ramaphosa

President

By Order of the President-in-Cabinet:

RO Lamola

Minister of the Cabinet

SCHEDULE

1. Serious maladministration in connection with the affairs of the ECRDA, including the causes of such maladministration, arising from the procurement of, or contracting for goods, works or services in relation to tender number SCMU01-2020/21 for the planning and design of the Marine Tilapia Industry Incubator Project within the Mphashe Local Municipality, by or on behalf of the ECRDA and payments made in respect thereof in a manner that was—

(a) not fair, competitive, transparent, equitable or cost-effective; or

(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 ECRDA,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the ECRDA.

2. Any irregular, improper or unlawful conduct by—

(a) employees or officials of the ECRDA; or

(b) any other person or entity,

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

PROKLAMASIE 147 VAN 2024**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: OOS-KAAP LANDELIKE ONTWIKKELINGSAGENTSAP**

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 die Oos-Kaap Landelike Ontwikkelingsagentskap (hierna na verwys as "die OKLO");

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

EN AANGESIEN die Staat of die Departement 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 OKLO, 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 OKLO;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die OKLO;
- (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 OKLO; 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 Februarie 2020 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Februarie 2020 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 volmagt verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekendeheid 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 OKLO gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die elfde dag van Desember Twee duisend-en-drie-en-twintig.

MC Ramaphosa

President

Op las van die President-in-Kabinet:

RO Lamola

Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in verband met die aangeleenthede van die OKLO, insluitend die oorsake van sodanige wanadministrasie, voortspruitend uit die verkryging van, of kontraktering vir, goedere, werke of dienste in verband met tender nommer SCMU01-2020/21 vir die beplanning en ontwerp van die "Marine Tilapia Industry Incubator" Projek in die Mbashe Plaaslike Munisipaliteit, deur of namens die OKLO en betalings in verband daarmee gemaak op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie; of
- (b) strydig was met toepaslike—
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie of betrokke Provinsiale Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die OKLO van toepassing is,

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes wat deur die OKLO aangegaan is.

2. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—

- (a) beamptes of werknemers van die OKLO; of
- (b) enige ander persoon of entiteit,

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