
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 153 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 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) (hereinafter referred to as the "SIU Act"), have been made in respect of the affairs of the Passenger Rail Agency of South Africa (SOC) Limited (hereinafter referred to as "PRASA");

AND WHEREAS PRASA 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 PRASA, 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 PRASA;
- (b) improper or unlawful conduct by employees of PRASA;
- (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 PRASA; 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 01 January 2010 and the date of publication of this Proclamation or which took place prior to 01 January 2010 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 PRASA 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 Johannesburg this thirty first day of January Two thousand and twenty four.

President

By Order of the President-in-Cabinet:

Minister of the Cabinet

Schedule

1. Offences 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 PRASA in relation to:
 - 1.1. the award of a tender for the supply of various train locomotives to Swifambo Rail Leasing (Pty) Limited; and
 - 1.2. the award of a tender for the supply and maintenance of an integrated security access management system at various train stations to Siyangena Technologies (Pty) Limited;
2. Serious maladministration in connection with the affairs of PRASA relating to:
 - 2.1. Fraudulent liability claims processed and paid by PRASA's Group Insurance Department, including such claims paid as one time vendor payments; and
 - 2.2. The employment of "ghost" employees identified by PRASA's Project Zivese in August 2021;
3. Any irregular, unlawful or improper conduct by officials or employees of PRASA, the applicable suppliers or service providers, or any other person or entity, in relation to the allegations as set out in paragraphs 1 and 2 of this Schedule.

PROKLAMASIE KENNISGEWING 153 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**

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 werksaamhede van die "Passenger Rail Agency of South Africa (SOC) Limited" (hierna na verwys as "PRASA");

EN AANGESIEN PRASA verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele verrigtinge voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentehede in die Bylae vermeld, ten opsigte van PRASA, 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 aangeleentehede, 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 werksaamhede van PRASA;
- (b) onbehoorlike of onregmatige optrede deur werknemers van PRASA;
- (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 voorvermelde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywigheede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van PRASA; 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 01 Januarie 2010 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 01 Januarie 2010 of na die datum van publikasie van hierdie Proklamasie, maar 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 Ondersoekteenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae tot hierdie Proklamasie, met inbegrip van die verhaal van enige verliese wat deur PRASA of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die een-en-dertigste dag van Januarie Twee-duisend vier en twintig.

President

Op las van die President-in-Kabinet:

Minister van die Kabinet

Bylae

1. Misdrywe bedoel in Deel 1 tot 4, of artikel 17, 20 of 21 (vir soverre dit op voormelde misdrywe betrekking het) of Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, en welke misdrywe gepleeg is in verband met die werksaamhede van PRASA met betrekking tot:
 - 1.1. die toekenning van 'n bod vir die verskaffing van verskeie lokomotiewe aan "Swifambo Rail Leasing (Pty) Limited"; en
 - 1.2. die toekenning van 'n bod vir die verskaffing en onderhoud van 'n geïntegreerde sekuriteits toegang bestuur stelsel by verskeie trein stasies aan "Siyangena Technologies (Pty) Limited";
2. Ernstige wanadministrasie in verband met die werksaamhede van PRASA met betrekking tot:
 - 2.1. Bedrieglike aanspreeklikheids eise geprosseseer en betaal deur PRASA se Groep Versekerings Departement, met inbegrip van sodanige eise as "one time vendor" betalings gemaak; en
 - 2.2. Die indiensneming van "spook" werknemers wat deur PRASA se "Project Zivese" in Augustus 2021 geïdentifiseer is;
3. Enige onreëlmatige, wederregtelike of onbehoorlike gedrag deur beamptes of werknemers van PRASA, die toepaslike verskaffers of diensverskaffers, of enige ander persoon of entiteit, met betrekking tot die beweringe in paragrawe 1 en 2 van hierdie Bylae uiteengesit.