
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 206 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: SOUTH AFRICAN BROADCASTING CORPORATION SOC LIMITED, ESKOM HOLDINGS SOC LIMITED, THE PETROLEUM OIL AND GAS CORPORATION OF SOUTH AFRICA SOC LIMITED, TRANSNET SOC LIMITED AND THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS (FORMERLY KNOWN AS THE NATIONAL DEPARTMENT OF HUMAN SETTLEMENTS, WATER AND SANITATION)

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 South African Broadcasting Corporation SOC Limited ("SABC"), ESKOM Holdings SOC Limited ("ESKOM"), the Petroleum Oil and Gas Corporation of South Africa SOC Limited ("PETROSA"), TRANSNET SOC Limited ("TRANSNET") and the National Department of Human Settlements (formerly known as the National Department of Human Settlements, Water and Sanitation) ("the Department"), (hereinafter collectively referred to as "the State Institutions");

AND WHEREAS the State Institutions may have suffered losses that may be recovered;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the State Institutions, 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 State Institutions;
- (b) improper or unlawful conduct by employees of the State Institutions;
- (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 the State Institutions; 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 January 2011 and the date of publication of this Proclamation or which took place prior to 1 January 2011 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 State Institutions 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 Cape Town this 10th day of September Two thousand and twenty four.

MC Ramaphosa

President

By Order of the President-in-Cabinet:

T Simelane

Minister of the Cabinet

SCHEDULE

1. Serious maladministration in connection with the affairs of the SABC in respect of the conclusion of an agreement with TNA Media (Pty) Ltd styled as “The New Age Breakfast Briefings brought to you by the SABC hosted by TNA” as well as serious maladministration in connection with affairs of Eskom, Transnet, PetroSA, SAA and the Department of Human Settlements in respect of the expenditure of public money on “The New Age Breakfast Briefing brought to you by the SABC hosted by the TNA” in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective;
 - (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 State Institutions;and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the State Institutions or losses suffered by the State Institutions or the State.

2. Any irregular, improper or unlawful conduct by—
 - (a) employees or officials of the State Institutions;
 - (b) TNA media (Pty) Ltd; or
 - (b) any other person or entity,relating to the allegations referred to in paragraph 1 of this Schedule.

PROKLAMASIE 206 VAN 2023

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: SUID-AFRIKAANSE UITSAAIKORPORASIE SOE BEPERK, ESKOM HOLDINGS SOE BEPERK ("ESKOM"), DIE PETROLEUMOLIE- EN GASKORPORASIE VAN SUID-AFRIKA SOE BEPERK, TRANSNET SOE BEPERK, SUID-AFRIKAANSE LUGWEE SOE BEPERK EN DIE NASIONALE DEPARTEMENT VAN MENSLIKE NEDERSETTINGS

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 Suid-Afrikaanse Uitsaaikorporasie SOE Beperk ("SAUK"), ESKOM Holdings SOE Beperk ("Eskom"), die Petroleumolie- en Gaskorporasie van Suid-Afrika SOE Beperk ("Petrosa"), TRANSNET SOE Beperk ("Transnet"), Suid-Afrikaanse Lugwee SOE Beperk ("SAA") en die Nasionale Departement van Menslike Nedersettings (voorheen bekend as die Nasionale Departement van Menslike Nedersettings, Water en Sanitasie) ("die Departement") (hierna gesamentlik na verwys as "die Staatsinstellings")

EN AANGESIEN die Staatsinstellings 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 Staatsinstellings, 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 Ondersoekteenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Staatsinstellings;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Staatsinstellings;
- (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 Staatsinstellings; 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 Januarie 2011 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2011 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 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, insluitend die verhaal van enige verliese wat deur die Staatsinstellings of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die 10 dag van September Twee duisend-vier-en-twintig.

MC Ramaphosa

President

Op las van die President-in-Kabinet

T Simelane

Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in verband met die sake van die SAUK ten opsigte van 'n ooreenkoms met TNA Media (Edms) Beperk vir uitsendings genaamd "The New Age Breakfast Briefings brought to you by the SABC hosted by TNA", asook ernstige wanadministrasie in verband met die sake van Eskom, Transnet, Petrosa, SAA en die Departement ten opsigte van die besteding van openbare geld op "The New Age Breakfast Briefings brought to you by the SABC hosted by TNA", 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 Staatinstellings van toepassing is,en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Staatinstellings aangegaan is of verliese deur die Staatinstellings of die Staat gely.
2. Enige onwettige of onbehoorlike optrede deur—
 - (a) beamptes of werknemers van die Staatinstellings;
 - (b) TNA Media (Edms) Beperk; of
 - (c) enige ander persoon of entiteit,met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.