

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;

- (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

SCHEDULE

COLUMN A (MUNICIPALITIES)	COLUMN B (ALLEGATIONS)
1. Madibeng 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. Greater Taung Local Municipality	2. The external manipulation of and undue preference in the appointment and promotion of municipal staff.
3. Mafikeng Local Municipality	3. The disproportionate appointment and excessive remuneration of municipal staff.
4. Ventersdorp Local Municipality	4. The appointment and disproportionate remuneration of under qualified and unsuitable candidates in municipal staff establishments.
5. Dr Kenneth Kaunda District Municipality	5. The remuneration of non-performing and under performing municipal staff without taking appropriate disciplinary steps against such staff.
6. Matlosana Local Municipality	6. Losses of municipal funds due to theft, fraud and misallocation.
7. Maquassi Hills Local Municipality	7. Disproportionate, wasteful and irregular expenditure of municipal funds.
8. Tlokwe Local Municipality	8. Mismanagement of expenditure of municipal funds and resources, and the accumulation of municipal debt.
9. Ngaka Modiri Molema District Municipality	9. Losses to municipalities caused by inadequate management of, and control over municipal contracts and resources.
10. Ditsobotla Local Municipality	10. The procurement and alienation of goods and services contrary to the provisions of the Local Government:
11. Tswaing Local Municipality	
12. Ramotshere Moiloa Local Municipality	
13. Ratlou Local Municipality	
14. Moses Kotane Local Municipality	
15. Kettlegrivier 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	

	<p>Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and other applicable laws, as well as municipal policy and procedures, including -</p> <ul style="list-style-type: none">(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. <p>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.</p> <p>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</p>
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	<p>Management Act, 2003 (Act No. 56 of 2003).</p> <p>13. The misuse and misappropriation of funds deriving from the Municipal Infrastructure Grant.</p> <p>14. The misuse of municipal resources for private benefit.</p>
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