

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 33, 2011

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 "Act"), have been made in respect of the affairs of the Midvaal Local Municipality that falls within the Gauteng Province (hereinafter referred to as the "Municipality");

AND WHEREAS the Municipality 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 Act, refer the matters mentioned in the Schedule, in respect of the Municipality, 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 Municipality;
- (b) improper or unlawful conduct by councillors, officials, employees and/or agents of the Municipality;
- (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 Municipality; 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 has taken place between 1 January 2002 and the date of publication of this Proclamation, or which took place prior to 1 January 2002 or after the date of publication of this Proclamation, and which is relevant, incidental or ancillary to, or connected with, the matters mentioned in the Schedule or which 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 Municipality, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Seventeenth day of May Two thousand and eleven.

J G ZUMA
President

By Order of the President-in-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

1. Maladministration of the affairs of the Municipality by its councillors, officials, employees and/or agents in respect of the following:
 - (a) The improper, negligent or erroneous disposal of the Municipality's operating assets as being redundant assets;
 - (b) the failure to properly implement the Municipality's Indigent Policy;
 - (c) the erroneous issuing of town planning certificates;
 - (d) the failure to obtain money belonging to the Municipality from the trust account of the Municipality's attorneys and the failure to utilise such money for Municipal purposes;
 - (e) the failure to properly control the debt owned by the Municipality's debtors;
 - (f) the failure to record the Municipality's assets in its asset registers; and
 - (g) the appointment of staff of the Municipality at incorrect post levels.
2. The procurement of legal services by or on behalf of the Municipality and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective; and
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality,and related irregular or fruitless and wasteful expenditure by the Municipality.