

# PROCLAMATION

*by the*

*President of the Republic of South Africa*

**No. R. 58, 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: KOPANONG LOCAL MUNICIPALITY**

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 Kopanong Local Municipality that falls within the Free State 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—

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by councillors, officials and/or employees 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 took place between 1 July 2006 and 31 March 2009 or which took place prior to 1 July 2006 or after 31 March 2009, but which is relevant to, connected with, incidental or ancillary to, the matters mentioned in the Schedule or which involves 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 Twenty-ninth day of September Two thousand and eleven.

**J G ZUMA**  
President

By Order of the President-in-Cabinet:

**J T RADEBE**  
Minister of the Cabinet

**SCHEDULE**

1. The procurement of and contracting for consulting or related services by or on behalf of the Municipality and payments made in respect thereof in a manner that was -
    - (a) not fair, equitable, transparent, competitive or cost-effective;
    - (b) contrary to applicable -
      - (i) legislation;
      - (ii) manuals, guidelines, practice notes 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 Municipality; or
    - (c) conducted or facilitated by the manipulation of the Municipality's supply chain management or procurement processes,and related unauthorised, irregular, fruitless and wasteful expenditure or loss of the Municipality's funds.
  2. Losses or prejudice suffered by the Municipality as a result of -
    - (a) the unnecessary or wasteful engagement of and payment for consultancy or related service providers;
    - (b) payments made to the Municipality's consultancy or related service providers despite their non-performance, incomplete performance or defective performance; or
    - (c) the settlement of claims by consultancy or related service providers for payments not lawfully due to them.
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