

PROCLAMATION NO. 15 OF 2018

by the
President of the Republic of South Africa

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): AMENDMENT OF PROCLAMATION NO. R. 8 OF 2017

Under section 2(4) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), I hereby amend Proclamation No. R. 8 of 2017, by—

- (a) the further extension of the period referred to in the fourth paragraph of the Proclamation to the date of publication of this Proclamation;
- (b) the substitution for paragraph 1 of the Schedule to the Proclamation of the following paragraph:

“1. The procurement of, or contracting for goods, works or services by or on behalf of the District Municipality and payments made in respect thereof 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;
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the District Municipality; or
- (c) conducted by or facilitated through the improper conduct of—
 - (i) councillors, officials or employees of the District Municipality (hereinafter collectively referred to as “the personnel of the

District Municipality"); or

- (ii) contractors, suppliers or service providers of the District Municipality or any other person or entity,

to corruptly or unduly benefit themselves or any other person or entity, and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the District Municipality, the local municipalities that fall within the area of the District Municipality or the State in relation to—

- (aa) the supply, construction or commissioning of Ventilated Improved Pit toilets (hereinafter referred to as "VIP toilets"), which goods, works or services were procured in terms of the Greater Giyani Municipality - MDM 2014-004 Tender and the Greater Tzaneen Municipality or the greater area of the Tzaneen Municipality - MDM 2014-005 Tender (hereinafter referred to as "the Tenders") ; or
- (bb) the construction, installation, repair, refurbishment, maintenance or removal of boreholes within the area of the District Municipality and relevant local municipalities that fall within the area of the District Municipality by Twin Corner Constructions And Protects (Pty) Ltd, Tsireledzo Trading Enterprise CC, Rembua Trading (Pty) Ltd, Piesons Investment CC and Amadwala Trading 373 (Pty) Ltd.; and
- (c) the substitution for paragraph 2 of the Schedule to the Proclamation of the following paragraph:

"2. Maladministration in the affairs of the District Municipality and any losses or prejudice suffered by the District Municipality, the local municipalities that fall within the area of the District Municipality or the State as a result of such maladministration in relation to—

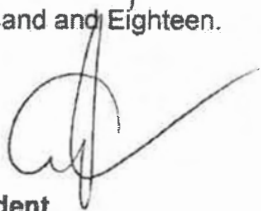
 - (a) the supply, construction or commissioning of VIP toilets, which goods, works or services were procured in terms of the Tenders;
 - (b) the failure or refusal by the District Municipality to refund erroneous or premature payments amounting to R304 101 000, which were received by the District Municipality from the National Treasury or the national transferring officer (Department of Cooperative Governance and Traditional Affairs);
 - (c) the establishment or regular maintenance of a vendor database or masterfile;
 - (d) approximately R210.4 million that the District Municipality was required

to return to National Treasury, when the District Municipality did not spend the money during the 2012/2013 financial year in respect of the Municipal Infrastructure Grant and Water Services Operating Grant;

- (e) the failure or refusal by the District Municipality to address issues raised by, or implement recommendations of the Auditor-General of South Africa as set out in the Annual Audit Report relating to the District Municipality for the 2013/2014 financial year; and
- (f) the construction, installation, repair, refurbishment, maintenance or removal of boreholes within the area of the District Municipality and relevant local municipalities that fall within the area of the District Municipality, by Twin Corner Constructions And Protects (Pty) Ltd, Tsireledzo Trading Enterprise CC, Rembua Trading (Pty) Ltd, Piesons Investment CC and Amadwala Trading 373 (Pty) Ltd,

including the causes of such maladministration and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the District Municipality, the local municipalities that fall within the area of the District Municipality or the State.”.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this 13 day of May Two Thousand and Eighteen.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

PROKLAMASIE NO. 15 VAN 2018
van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996
(WET NO. 74 VAN 1996): WYSIGING VAN PROKLAMASIE NO. R. 8 VAN 2017

Kragtens artikel 2(4) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996), wysig ek hierby Proklamasie No. R. 8 van 2017, deur—

- (a) die verdere verlenging van die tydperk vermeld in die vierde paragraaf van die Proklamasie tot die datum van publikasie van hierdie Proklamasie; en
- (b) die vervanging van paragraaf 2 van die Bylae tot die Proklamasie deur die volgende paragraaf:
 - “1. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Distriksmunisipaliteit en betalings wat in verband daarmee gemaak is 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 relevante Plaaslike Tesourie uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Distriksmunisipaliteit van toepassing is; of
 - (c) gedoen of gefasiliteer was deur die onbehoorlike optrede van—
 - (i) raadslede, beamptes of werknemers van die Distriksmunisipaliteit (hierna na gesamentlik na verwys as “die personeel van die Distriksmunisipaliteit”); of
 - (ii) kontrakteurs, verskaffers of diensverskaffers van die Distriksmunisipaliteit of enige ander persoon of entiteit, om hulself of enige ander persoon of entiteit op 'n korrupte of onbehoorlike wyse te bevoordeel,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Distriksmunisipaliteit, die plaaslike munisipaliteite wat binne die area van die Distriksmunisipaliteit geleë is of die Staat in verband met die—

- (aa) verskaffing, oprigting of ingebruikneming van Ventilering Verbeterde Puttoilette (hierna na verwys as "VVP toilette"), aangegaan was, welke goedere, werke of dienste aangeskaf was ingevolge die "Greater Giyani Municipality - MDM 2014-004" Tender en die "Greater Tzaneen Municipality or the greater area of the Tzaneen Municipality - MDM 2014-005" Tender (hierna na verwys as "die Tenders"); of
- (bb) die konstruksie, installering, herstel, opknapping, instandhouding of verwydering van boorgate binne die gebied van die Distriksmunisipaliteit en relevante plaaslike munisipaliteite wat binne die gebied van die Distriksmunisipaliteit val deur Twin Corner Constructions And Protects (Edms) Bpk, Tsiredzo Trading Enterprise BK, Rembua Trading (Edms) Bpk, Piesons Investment BK en Amadwala Trading 373 (Edms) Bpk.; en
- (c) die vervanging van paragraaf 2 van die Bylae tot die Proklamasie deur die volgende paragraaf:

"2. Wanadministrasie in die aangeleenthede van die Distriksmunisipaliteit en enige verliese of nadeel wat deur die Distriksmunisipaliteit, die plaaslike munisipaliteite wat binne die area van die Distriksmunisipaliteit geleë is of die Staat gely is as gevolg van sodanige wanadministrasie ten opsigte van—

 - (a) die verskaffing, oprigting of ingebruikneming van die VVP toilette, welke goedere, werke of dienste aangeskaf ingevolge die Tenders;
 - (b) die versuim of weiering deur die Distriksmunisipaliteit om foutiewe of voortydige betalings ten bedrae van R304 101 000, wat deur die Distriksmunisipaliteit vanaf die Nasionale Tesourie of die "national transferring officer" (Departement van Koöperatiewe Regering en Tradisionele Sake) ontvang is, terug te betaal;
 - (c) die totstandbringende of gereelde hersiening van 'n verkopersdatabasis of meesterlêer;
 - (d) ongeveer R210.4 miljoen wat die Distriksmunisipaliteit aan die Nasionale Tesourie moes terughandig, toe die Distriksmunisipaliteit nie die geld gedurende die 2012/2013 finansiële jaar ten opsigte van die "Municipal Infrastructure Grant and Water Services Operating Grant" bestee het nie;

- (e) die versuim of weiering deur die Distriksmunisipaliteit om aangeleenthede wat geopper was, of om aanbevelings van die Ouditeur-Generaal van Suid-Afrika soos uiteengesit in die Jaarlikse Ouditeursverslag ten opsigte van die Distriksmunisipaliteit vir die 2013/2014 finansiële jaar, aan te spreek of te implementeer; en
- (f) die konstruksie, installering, herstel, opknapping, instandhouding of verwydering van boorgate binne die gebied van die Distriksmunisipaliteit en relevante plaaslike munisipaliteite wat binne die gebied van die Distriksmunisipaliteit val, deur Twin Corner Constructions And Protects (Edms) Bpk, Tsireledzo Trading Enterprise BK, Rembua Trading (Edms) Bpk, Piesons Investment BK en Amadwala Trading 373 (Edms) Bpk,

insluitende die oorsake van die wanadministrasie en verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Distriksmunisipaliteit, die plaaslike munisipaliteite wat binne die area van die Distriksmunisipaliteit geleë is of die Staat aangegaan is.”

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg, op hede die 13 dag van Mei

Tweeënduisend-en-agtien.



President

Op las van die President-in-Kabinet:



Minister van die Kabinet