
PROCLAMATIONS • PROKLAMASIES

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**NO. R. 83****5 August 2022**

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

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 Department of Public Works and Infrastructure (hereinafter referred to as "the Department");

AND WHEREAS the Department may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

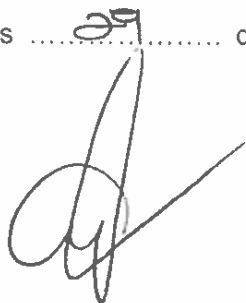
NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Department, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the 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 Department;
- (b) improper or unlawful conduct by employees of the Department;
- (c) unlawful appropriation or expenditure of public money;
- (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 Department; 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,

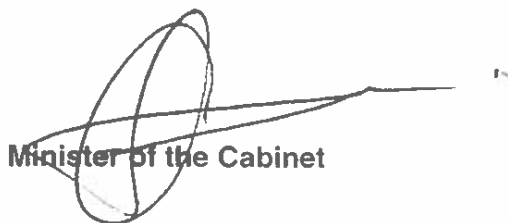
which took place between 22 May 2009 and the date of publication of this Proclamation or which took place prior to 22 May 2009 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same 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 Department 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 Johannesburg this 29 day of June Two thousand and twenty two.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

SCHEDULE

1. The procurement of goods, works and services by or on behalf of the Department 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 or instructions issued by the National Treasury; or
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department,and any related unauthorised, irregular or fruitless and wasteful expenditure, incurred by the Department in relation to the following projects:
 - (aa) Official Accommodation (WCS 046547);
 - (bb) Residential Accommodation (WCS 046548);
 - (cc) Residences of Sessional Officials Refurbishment (WCS —45661);
 - (dd) Marks Building External Renovations (WCS 050720); and
 - (ee) 90 Plein Street, Cape Town, 6th Floor, total refurbishments.
2. Any non-performance, poor performance, defective performance or late performance by contractors, suppliers or service providers of goods, works or services delivered, performed or rendered in respect of the projects listed above and any losses or damages suffered by the Department or the State as a result thereof.
3. Any irregular, improper or unlawful conduct by-
 - (a) employees or officials of the Department; or
 - (b) any other person or entity,in relation to the allegations set out in paragraph 1 of this Schedule.

JUSTISIE EN STAATKUNDIGE ONTWIKKELING, DEPARTEMENT VAN

NO. R. 83

5 Augustus 2022



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**

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 aangeleentheid van die Departement van Openbare Werke en Infrastruktuur (hierna na verwys as "die Departement");

EN AANGESIEN die Staat of die Departement verliese gely het wat verhaaf 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 aangeleentheid in die Bylae vermeld ten opsigte van die Departement, vir ondersoek na die Spesiale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleentheid, die opdrag van die Spesiale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleentheid van die Departement;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die

Departement;

- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëmatige 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 Departement; 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 22 Mei 2009 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 22 Mei 2009 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 Ondersoekeenheid 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 Staat of die Departement gely is.

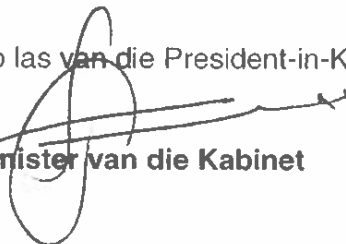
Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg
op hede die 29.....dag van Junie..... Twee
duisend-en-twee-en-twintig.

President



Op las van die President-in-Kabinet:

Minister van die Kabinet



BYLAE

1. Die verkryging van goedere, werke en dienste deur of namens die Departement 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 uitgevaardig is; of
 - (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is,

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Departement aangegaan is in verband met die volgende projekte:

 - (aa) Amptelike Akkommodasie (WCS 046547);
 - (bb) Residensiële Akkommodasie (WCS 046548);
 - (cc) Wonings van Sessionele Beamptes Opknapping (WCS 45661);
 - (dd) Marks Gebou Eksterne Opknappings (WCS 050720); en
 - (ee) Plein Straat 90, Kaapstad, 6^{de} Vloer, algehele opknappings.
2. Enige wan-prestasie, swak prestasie, foutiewe prestasie of laat prestasie deur kontrakteurs, verskaffers of diensverskaffers van goedere, werke of dienste gelewer, verrig of verskaf ten opsigte van die projekte hierbo gelys en enige verliese of skade deur die Departement of die Staat gely as gevolg daarvan.
3. Enige onreëlmatige, onbehoorlike of onwettige optrede deur—
 - (a) beamptes of werknemers van die Departement; of
 - (b) enige ander persoon of entiteit,ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.