
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION 164 OF 2024

**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: DEPARTMENT OF WATER AND SANITATION

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 Water and Sanitation (“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 1 January 2015 and the date of publication of this Proclamation or which took place prior to 1 January 2015 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, 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 8th day of March Two thousand and twenty four.

MC Ramaphosa

President

By Order of the President-in-Cabinet:

RO Lamola

Minister of the Cabinet

SCHEDULE

1. Serious maladministration in connection with the affairs of the Department, including the causes of such maladministration, arising from the procurement of, or contracting for goods, works or services in relation to—

- (a) the “Drop the Block” Project and the contract entered into in respect thereof between the Department and Sedibeng Water dated 21 April 2016;
- (b) the “Almost Empty Outdoor” Campaign and the appointment of Sedibeng Water as the implementing agent in an allegedly irregular manner for the provision of generic services in 2016; and
- (c) the “War on Leaks” Programme and the alleged irregular appointments of and payments to Rand Water and the Energy and Water Sector Education and Training Authority for the period 2015 to 2018/2019,

by or on behalf of the Department and payments made in respect thereof in a manner that was—

- (i) not fair, competitive, transparent, equitable or cost-effective; or
- (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Department,

and any related losses or unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department or the State as a result thereof.

2. 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.

PROKLAMASIE KENNISGEWING 164 VAN 2024**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: DEPARTEMENT VAN WATER
EN SANITASIE**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede 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 Water en Sanitasie ("die Departement");

EN AANGESIEN die Departement verliese gely het wat verhaal 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 Ondersoekeenheid 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 Ondersoekeenheid 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 werknemers van die Departement;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige 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 1 Januarie 2015 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2015 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleentheid 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 aangeleentheid in die Bylae, insluitend die verhaal van enige verliese wat deur die Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die agtste dag van Maart Twee duisend-vier-en-twintig.

MC Ramaphosa
President

Op las van die President-in-Kabinet:

RO Lamola
Minister van die Kabinet

BYLAE

1. Ernstige wanadministrasie in verband met die aangeleenthede van die Departement, insluitend die oorsake van sodanige wanadministrasie, voortspruitend uit die verkryging van, of kontraktering vir, goedere, werke of dienste in verband met—

- (a) die “Drop the Block” Projek en die kontrak aangegaan ingevolge daarvan tussen die Departement en Sedibeng Water gedateer 21 April 2016;
- (b) die “Almost Empty Outdoor” Promosie en die aanstelling van Sedibeng Water as die implementeringsagent op ‘n beweerde onreëlmatige wyse vir die verskaffing van generiese dienste in 2016; en
- (c) die “War on Leaks” Program en die beweerde onreëlmatige aanstellings van en betalings aan Rand Water en die Energie en Water Sektor Opvoeding en Opleidingsowerheid vir die tydperk 2015 tot 2018/2019,

deur of namens die Departement en betalings wat ten opsigte daarvan gemaak is op ‘n wyse wat—

- (i) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie;
- (ii) strydig was met toepaslike—
 - (aa) wetgewing;
 - (bb) handleidings, riglyne, praktyknotas, omsendskrywes of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of
 - (cc) handleidings, kodes, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is,

en enige verbandhoudende verliese of ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes wat deur die Departement of Staat as gevolg daarvan aangegaan is.

2. Enige onreëlmatige, onwettige of onbehoorlike optrede deur—

- (a) beamptes of werknemers van die Departement;
- (b) enige ander persoon of entiteit,

met betrekking tot die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.