

PROCLAMATION NO. R. 21 OF 2016

**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 Msunduzi Local Municipality (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 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 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 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 7 December 2008 and the date of publication of this Proclamation or which took place prior to 7 December 2008 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 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-fourth day of March Two thousand and sixteen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

1. The procurement of, and contracting for security equipment and security services, as envisaged in the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), by or on behalf of the Municipality in terms of contract number 23 of 2009 and contract number 23 of 2013, from a service provider and payments which were 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
 - (iii) manuals, codes, policies, procedures, instructions or practices of, or applicable to, the Municipality;
- (c) fraudulent; or
- (d) conducted or facilitated by the manipulation of the supply chain management or procurement processes of the Municipality—
 - (i) by the service provider; or
 - (ii) in collusion with or through the intervention of councillors, officials or employees of the Municipality in order to unduly benefit themselves or others,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality.

2. Any non-compliance by the service provider with its obligations in terms of contract number 23 of 2009 and contract number 23 of 2013.

3. Any unlawful or irregular conduct by the—

- (a) Municipality, the councillors, officials or employees of the Municipality; or
 - (b) service provider, its directors, employees or agents,
- relating to any of the allegations set out in paragraphs 1 or 2 of this Schedule.