
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. 13 OF 2018

**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 Provincial Planning and Treasury of the Eastern Cape, Eastern Cape Development Corporation, Eastern Cape Department of Safety and Liaison, Eastern Cape Parks and Tourism Agency, Buffalo City Metropolitan Municipality, King Sabata Dalindyebo Local Municipality, OR Tambo District Municipality and Nelson Mandela Metropolitan Municipality (hereinafter collectively referred to as "the Institutions");

AND WHEREAS the Institutions or the State may have suffered losses that may be recovered;

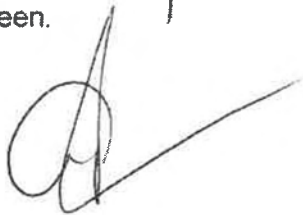
AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the State Institutions, 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 Institutions;
- (b) improper or unlawful conduct by employees of the Institutions;
- (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 Part 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 Institutions; 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 have taken place between 5 December 2013 and the date of publication of this Proclamation or which took place prior to 5 December 2013 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 recovery of any losses suffered by the Institutions 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 13 day of May Two thousand and eighteen.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

Schedule

1. Maladministration in the affairs of the Department of Provincial Planning and Treasury of the Eastern Cape and the Eastern Cape Development Corporation in relation to the allocation of funds to be used for the funeral of former President Mandela and any related unauthorised, irregular and fruitless and wasteful expenditure incurred by any of the Institutions or the State.

2. The procurement of, or contracting for goods, works or services by the Institutions in relation to the funeral of former President Nelson Mandela and payments made in respect thereof in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective; or
 - (b) contrary to applicable-
 - (i) legislation,
 - (ii) manuals, guidelines, circulars, 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 respective organs of state; or
 - (c) conducted or facilitated by or through the unlawful, irregular or improper intervention of officials or employees of the Institutions,and related unauthorised, irregular and fruitless and wasteful expenditure incurred by any of the Institutions or the State.

PROKLAMASIE NO. 13 VAN 2018**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 aangeleenthede van die Departement van Provinsiale Beplanning en Tesourie van die Oos-Kaap, Oos-Kaapse Ontwikkelings Korporasie, Oos-Kaapse Departement van Veiligheid en Kommunikasie, Oos-Kaapse Parke en Toerisme Agentskap, Buffalo City Metropolitaanse Munisipaliteit, King Sabata Dalindyebo Plaaslike Munisipaliteit, OR Tambo Distriks Munisipaliteit en Nelson Mandela Metropolitaanse Munisipaliteit (hierna na gesamentlik verwys as "die Instellings");

EN AANGESIEN die Instellings of die Staat 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 aangeleenthede in die Bylae vermeld, ten opsigte van die Instellings, 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 aangeleenthede, 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 aangeleenthede van die Instellings;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die Instellings;
- (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 Instellings; 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 5 Desember 2013 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 5 Desember 2013 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 verhaaf van enige verliese wat deur die Instellings of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg
op hede die13.....dag vanMei..... Twee
duisend-en-agtien.

President 

Op las van die President-in-Kabinet:


Minister van die Kabinet

BYLAE

1. Wanadministrasie in die aangeleenthede van die Departement van Provinsiale Beplanning en Tesourie van die Oos-Kaap en die Oos-Kaapse Ontwikkelings-korporasie ten opsigte van die toekenning van fondse vir die gebruik vir die begrafnis van voormalige President Nelson Mandela en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur enige van die Instansies of die Staat opgedoen was.

2. Die aanskaffing van, of kontraktering van goedere, werke of dienste deur die Instellings in verband met die begrafnis van voormalige President Nelson Mandela en betalings wat gemaak is op 'n wyse wat—
 - (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie;
 - (b) teenstrydig was met toepaslike –
 - (i) wetgewing;
 - (ii) handleidings, riglyne, omsendskrywes, praktyknotas 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 betrokke Instellings van toepassing is;
 - (c) gedoen of gefasiliteer is deur die onregmatige, onreëlmatige of onbehoorlike ingryping van beamptes of werknemers van die Instellings, en verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur die Instansies of die Staat opgedoen is.