PROCLAMATION NO. R. 21 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

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 Justice and Constitutional Development in so far as it relates to the office of the State Attorney and all branches thereof, established in terms of section 1 of the State Attorney Act, 1957 (Act No. 56 of 1957) (hereinafter referred to as "the office of the State Attorney");

AND WHEREAS the office of the State Attorney or the State 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 office of the State Attorney, 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 office of the State Attorney;
(*b*) improper or unlawful conduct by employees or officials of the office of the State Attorney;
(*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 office of the State Attorney; 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 2013 and the date of publication of this Proclamation or which took place prior to 1 January 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 conduct 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 office of the State Attorney 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 10th day of July Two thousand and eighteen.

CM Ramaphosa
President

By Order of the President-in-Cabinet:

TM Masutha
Minister of the Cabinet

SCHEDULE

1. Maladministration in connection with the affairs of the office of the State Attorney in relation to work that was performed on behalf of the State in a manner that caused serious harm to the interests of the public or the State.

2. Any unlawful or irregular conduct by—
(*a*) employees or officials of the office of the State Attorney; or
(*b*) any other person or entity,

relating to the allegations referred to in paragraph 1 of this Schedule.

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PROKLAMASIE NO. R. 21 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 Staatsprokureurskantoor en alle takke daarvan, ingestel kragtens artikel 1 van die Wet op die Staatsprokureur, 1957 (Wet No. 56 van 1956) (hierna na verwys as “die Staatsprokureurskantoor”);

EN AANGESIEN die Staatsprokureurskantoor en die Staat verliese gely het wat moontlik verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele verrigtinge 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 Staatsprokureurskantoor, 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, dit 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 Staatsprokureurskantoor;
(*b*) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die Staatsprokureurskantoor;
(*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 in verband met die sake van die Instellings gepleeg is; 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 2013 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2013 of na die datum van publikasie van hierdie Proklamasie, maar 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 Staatsprokureurskantoor of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 10de dag van Julie Twee duisend-en-agtien.

CM RAMAPHOSA
President
Op las van die President-in-Kabinet:
TM Masutha
Minister van die Kabinet

BYLAE

1. Wanadministrasie in verband met die aangeleenthede van die Staatsprokureurskantoor ten opsigte van werk wat verrig is namens die Staat op ’n wyse wat ernstige benadeling vir die belange van die publiek of die Staat veroorsaak het.

2. Enige onwettige of onbehoorlike optrede deur—
(a) werknemers of beamptes van die Staatsprokureurskantoor; of
(b) enige ander persoon of entiteit,
wat verband hou met die bewerings waarna verwys word in paragraaf 1 van hierdie Bylae.