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**PROCLAMATIONS • PROKLAMASIES**

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**PROCLAMATION NO. R. 2 OF 2020**

**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 South African Airways SOC Limited (hereinafter referred to as “the SAA”);

AND WHEREAS the SAA 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 SAA, 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 SAA;
- (b) improper or unlawful conduct by the officials or employees of the SAA;
- (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 SAA; 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 2002 and the date of publication of this Proclamation or which took place prior to 1 January 2002 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 SAA 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 20 day of December Two thousand and nineteen.

**CM Ramaphosa**

**President**

By Order of the President-in-Cabinet:

**R Lamola**

**Minister of the Cabinet**

## SCHEDULE

1. The procurement of, or contracting for—
  - (a) Airbus aircraft;
  - (b) maintenance, repair and operations services;
  - (c) legal services in terms of Bid number: RFQ-GSM073/19 and Bid number: RFQ-GSM117/14 (Panel); and
  - (d) service providers to support and expedite the implementation of the SAA Turn Around Plan in terms of Bid number: RFQ-GSM015/18 and Bid number: RFQ-GSM094/18,

by or on behalf of the SAA, 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
  - (cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the SAA,

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

2. Maladministration in the affairs of the SAA in relation to—
  - (a) travel rebate benefits for qualifying beneficiaries;
  - (b) payments that the SAA made to vendors; and
  - (c) the implementation of the SAA's procurement policy provides for the procurement of 30% of goods and services for small, medium and micro enterprises, in respect of the supply and delivery of jet fuel.

3. Any irregular, improper or unlawful conduct by—
  - (a) officials or employees of the SAA; or
  - (b) any other person or entity,

in relation to the allegations set out in paragraphs 1 or 2 of this Schedule.

**PROKLAMASIE NO. R. 2 VAN 2020**  
**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 aangeleentede van die Suid-Afrikaanse Lugdiens MIS Beperk (hierna na verwys as “die SAL”);

EN AANGESIEN die SAL 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 aangeleentede in die Bylae vermeld ten opsigte van die SAL, 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 aangeleentede, 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 aangeleentede van die SAL;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die SAL;
- (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 SAL; 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 2002 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2002 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 SAL of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die 20 dag van Desember Twee duisend-en-negentien.

**CM Ramaphosa**

**President**

Op las van die President-in-Kabinet:

**R Lamola**

**Minister van die Kabinet**

**BYLAE**

1. Die verkryging van, of kontraktering vir—
  - (a) Airbus vliegtuie;
  - (b) onderhoud, herstel en operasionele dienste;
  - (c) regsdienste ingevolge Bod Nommer: RFQ-GSM073/19 en Bod Nommer: RFQ-GSM117/14 (Panel); en
  - (d) diensverskaffers om die implementering van die "SAA Turn Around Plan" ingevolge Bod Nommer: RFQ-GSM015/18 en Bod Nommer: RFQ-GSM094/18 te ondersteun en bespoedig,

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

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

en enige verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die SAL of Staat aangegaan is as gevolg daarvan.

2. Wanadministrasie in die sake van die SAL ten opsigte van—
  - (a) reis-afslag voordele vir kwalifiserende begunstigdes;
  - (b) betalings wat die SAL aan verkopers gemaak het; en
  - (c) die implementering van die SAL se verkrygingsbeleid wat voorsiening maak vir die verkryging van 30% van goedere en dienste wat klein, medium en mikro ondernemings, ten opsigte van die verskaffing en lewering van vliegtuigbrandstof.

3. Enige onreëlmatige, onbehoorlike of onwettige gedrag deur—
  - (a) beamptes of werknemers van die SAL; of
  - (b) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragrawe 1 of 2 van hierdie Bylae.