

South Africa

Special Investigating Units and Special Tribunals Act, 1996

## Referral of Matters to Existing Special Investigating Unit:

Legislation as at 2020-07-23.

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**South Africa****Special Investigating Units and Special Tribunals Act, 1996****Referral of Matters to Existing Special Investigating Unit:****Proclamation R23 of 2020**

Published in [Government Gazette no. 43546](#) on 23 July 2020

**Assented to on 23 July 2020**

**Commenced on 23 July 2020**

*[Up to date as at 23 July 2020]*

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 all State institutions as defined in section 1 of the Act (hereinafter referred to as "the State institutions");

AND WHEREAS the State 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 alleged—

- (a) serious maladministration in connection with the affairs of the State institutions;
- (b) improper or unlawful conduct by the officials or employees of the State 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 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 State 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 took place between 1 January 2020 and the date of publication of this Proclamation or which took place prior to 1 January 2020 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 or the State 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 23rd day of July Two thousand and twenty.

CM Ramaphosa

President

By Order of the President-in-Cabinet:

RO Lamola

Minister of the Cabinet

### Schedule

1. The procurement of, or contracting for, goods, works and services, including the construction, refurbishment, leasing, occupation and use of immovable property, during, or in respect of the national state of disaster, as declared by Government Notice No. 313 of 15 March 2020, by or on behalf of the State institutions, and payments made in respect thereof in a manner that was—
  - (a) not fair, competitive, transparent, equitable or cost-effective;
  - (b) contrary to applicable—
    - (i) legislation;
    - (ii) manuals, guidelines, practice notes, circulars 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 State institutions;
  - (c) conducted by or facilitated through the improper or unlawful conduct of—
    - (i) employees or officials of the State institutions; or
    - (ii) any other person or entity,to corruptly or unduly benefit themselves or any other person; or
  - (d) fraudulent,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the State institutions or the State.
2. Any improper or unlawful conduct by the officials or employees of the State institutions or any other person or entity, in relation to the allegations set out in paragraph 1 of this Schedule, including the causes of such improper or unlawful conduct and any loss, damage or actual or potential prejudice suffered by the State institutions or the State.