PROCLAMATION NO. R. 7 OF 2018

by the
President of the Republic of South Africa

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): AMENDMENT OF PROCLAMATION NO. R. 59 OF 2016

Under section 2(4) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), I hereby amend Proclamation No. R. 59 of 2016, by—

(a) the substitution for paragraph 2 of the Schedule to the Proclamation of the following paragraph:

"2. The procurement of and contracting for goods, works or services by or on behalf of the Elias Motsoaledi Local Municipality 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 Elias Motsoaledi Local Municipality,

and any related irregular or fruitless and wasteful expenditure incurred by the Elias Motsoaledi Local Municipality or the State."; and

(b) the addition of the following paragraphs after paragraph 3 of the Schedule to the Proclamation:

"4. Any undisclosed or unauthorized interests that councillors, officials or employees of the Elias Motsoaledi Local Municipality may have had with regard to—

(a) contractors, suppliers or service providers who bid for work or did business with the Elias Motsoaledi Local Municipality; or

(b) contracts awarded by or on behalf of the Elias Motsoaledi Local Municipality.

5. Maladministration in the affairs of the Elias Motsoaledi Local Municipality in relation to—

(a) the mismanagement of the finances;

(b) the mismanagement of contracts;

(c) the failure to comply with the provisions of section 74(1) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); and

(d) the appointment and promotion of, councillors, officials or employees, and the payment of salaries, allowances, increases, bonuses and other forms of remuneration that were not due, owing or payable,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Elias Motsoaledi Local Municipality, including—

(i) the causes of such maladministration; and

(ii) losses or prejudice suffered by the Elias Motsoaledi Local Municipality or the State as a result of such maladministration.

6. Any improper or unlawful conduct by—

(a) councillors, officials or employees of the Elias Motsoaledi Local Municipality;

(b) contractors, suppliers or service providers of the Elias Motsoaledi Local Municipality; or

(c) any other person or entity,

relating to the allegations referred to in paragraphs 2 and 3, in so far as the allegations are applicable to the Elias Motsoaledi Local Municipality, and paragraphs 4 and 5, of this Schedule.".

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Fourteenth day of December Two Thousand and Seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

PROKLAMASIE NO. R. 7 VAN 2018

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): WYSIGING VAN PROKLAMASIE NO. R. 59 VAN 2016

Kragtens artikel 2(4) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996), wysig ek hierby Proklamasie No. R. 59 van 2016, deur—

(*a*) die vervanging van paragraaf 2 van die Bylae tot die Proklamasie deur die volgende paragraaf:

"2. Die aanskaffing van, of kontraktering vir goedere, werke of dienste deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit en betalings wat in verband daarmee gemaak is op 'n wyse wat—

(*a*) nie mededingend, regverdig, deursigtig, billik of koste-effektief was nie; of

(*b*) strydig was met toepaslike —

(i) wetgewing;

(ii) handleidings, riglyne, omsendskrywes, praktyknotas of instruksies wat deur die Nasionale Tesourie of die relevante Provinsiale Tesourie uitgevaardig is; of

(iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Elias Motsoaledi Plaaslike Munisipaliteit van toepassing is,

en enige verwante onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Elias Motsoaledi Plaaslike Munisipaliteit of die Staat opgedoen was."; en

(*b*) die byvoeging van die volgende paragrawe na paragraaf 3 van die Bylae tot die Proklamasie:

"4. Enige ongeopenbaarde of ongemagtigde belange wat raadslede, beamptes of werknemers van die Elias Motsoaledi Plaaslike Munisipaliteit mag gehad het met betrekking tot—

(*a*) kontrakteurs, verskaffers of diensverskaffers wat vir werk gebie het of besigheid met die Elias Motsoaledi Plaaslike Munisipaliteit gedoen het; of

(*b*) kontrakte wat toegeken was deur of namens die Elias Motsoaledi Plaaslike Munisipaliteit.

5. Wanadministrasie in die aangeleenthede van die Elias Motsoaledi Plaaslike Munisipaliteit ten opsigte van—

(*a*) die wanbestuur van finansies;

(*b*) die wanbestuur van kontrakte;

(*c*) die versuim om te voldoen aan die bepalings van artikel 74(1) van die Wet op Plaaslike Regerings: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003); en

(*d*) die aanstelling en bevordering van, raadslede, beamptes of werknemers en die betaling van salarisse, toelaes, verhogings, bonusse en ander vorme van vergoeding wat nie verskuldig, opeisbaar of betaalbaar was nie,

en enige ander verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Elias Motsoaledi Plaaslike Munisipaliteit opgedoen was, insluitende—

(i) die oorsake van sodanige wanadministrasie; en

(ii) verliese of nadeel wat die Elias Motsoaledi Plaaslike Munisipaliteit of die Staat gely het as gevolg van sodanige wanadministrasie.

6. Enige onbehoorlike of onwettige optrede deur—

(*a*) raadslede, beamptes of werknemers van die Elias Motsoaledi Plaaslike Munisipaliteit;

(b) kontrakteurs, verskaffers of diensverskaffers van die Elias Motsoaledi Plaaslike Munisipaliteit; of

(c) enige ander persoon of entiteit,

verbandhoudend met die bewerings verwys na in paragrawe 2 en 3, vir sovêr die bewerings van toepassing is op die Elias Motsoaledi Plaaslike Munisipaliteit, en paragrawe 4 en 5 van hierdie Bylae.”.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Veertiende dag van Desember Tweeduisend-en-sewentien.

J G ZUMA
President

Op las van die President-in-Kabinet:

T M MASUTHA
Minister van die Kabinet