

PROCLAMATION 207 OF 2024**PROCLAMATION****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: MAKANA LOCAL MUNICIPALITY**

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 Makana Local Municipality, situated in the Eastern Cape Province (hereinafter referred to as "the Municipality");

AND WHEREAS the Municipality 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 Municipality, 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 Municipality;
- (b) improper or unlawful conduct by employees of the Municipality;
- (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 Municipality; 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 2019 and the date of publication of this Proclamation or which took place prior to 1 January 2019 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 Municipality 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 Cape Town this 10th day of September Two thousand and twenty four.

MC Ramaphosa

President

By Order of the President-in-Cabinet:

T Simelane

Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for goods, works or services by or on behalf of the 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, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury;
 - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Municipality;and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality in relation to –
 - (aa) Tender number MLM/20-21/INFRA/010 (014) – Makana Bulk Sewer Upgrade Phase 1; and
 - (bb) Goods and/or services procured by the Municipality with a transaction value above R200 000, without the Municipality inviting competitive bids as identified by the Auditor-General of South Africa (hereinafter referred to as “the AGSA”) in the AGSA Management Report dated 30 June 2019 in respect of the following projects:
 - (i) Professional Engineering services for ground water development project;
 - (ii) Implementing Agents for water conservation and demand management;
 - (iii) Re-appointment of MBB Consulting for water conservation and demand management;
 - (iv) Electrification of the greater Makana and surrounding areas 11KV Line Project;
 - (v) Host municipal emails and provide internet services; and
 - (vi) Operate and manage Makana burning landfill site for a period of six months.
2. Any undisclosed or unauthorised interests which the officials or employees of the Municipality may have had in suppliers or service providers bidding for work or doing business with the Municipality or to whom contracts were awarded by the Municipality, as identified by the AGSA in the AGSA Management Report dated 30 June 2019.

3. Any undisclosed or unauthorised interest which employees in the service of the State may have had in suppliers or service providers bidding for work or doing business with the Municipality or to whom contracts were awarded by the Municipality, as identified by the AGSA in the AGSA Management Report dated 30 June 2020.
4. Serious maladministration in the affairs of the Municipality in relation to the payment of stand-by allowances and overtime benefits to employees contrary to applicable manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the Municipality, as identified by the AGSA in the AGSA Management Report dated 30 June 2020.
5. Any improper or unlawful conduct by–
 - (a) the applicable service providers of the Municipality; or
 - (b) any other person or entity,relating to the allegations referred to in paragraph 1 of this Schedule.