

PROCLAMATION
by the
President of the Republic of South Africa

No. R. 72, 2009

**SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996):
REFERRAL OF MATTER TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (the Act), have been made in respect of the affairs of Municipalities of the North West Province mentioned in Column A of the Schedule (hereinafter collectively referred to as the "Municipalities");

AND WHEREAS the Municipalities suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the said Act refer the matters mentioned in Column B of the Schedule in respect of the Municipalities listed in Column A of the Schedule, 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 said Act, any alleged -

- (a) serious maladministration in connection with the affairs of the Municipalities;
- (b) improper or unlawful conduct by councillors, officers and/or employees of the Municipalities;
- (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 Part 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, and which offences were committed in connection with the affairs of the Municipalities; 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 have taken place between 01 January 2005 and the date of publication 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Municipalities.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eight day of November Two thousand and nine.

J. G. ZUMA
President

By Order of the President-in-Cabinet:

J. T. RADEBE
Minister of the Cabinet

SCHEDULE

COLUMN A (MUNICIPALITIES)	COLUMN B (ALLEGATIONS)

<ol style="list-style-type: none"> 1. Madibeng Local Municipality 2. Greater Taung Local Municipality 3. Mafikeng Local Municipality 4. Ventersdorp Local Municipality 5. Dr Kenneth Kaunda District Municipality 6. Matlosana Local Municipality 7. Maquassi Hills Local Municipality 8. Tlokwe Local Municipality 9. Ngaka Modiri Molema District Municipality 10. Ditsobotla Local Municipality 11. Tswaing Local Municipality 12. Ramotshere Moiloa Local Municipality 13. Ratlou Local Municipality 14. Moses Kotane Local Municipality 15. Ketlerigrivier Local Municipality 16. Dr Ruth Mompoti District Municipality 17. Rustenburg Local Municipality 18. Naledi Local Municipality 19. Kagisano Local Municipality 20. Molopo Local Municipality 21. Mamusa Local Municipality 22. Lekwa-Teemane Local Municipality 23. Bojanala Platinum District Municipality 24. Moretele Local Municipality 	<ol style="list-style-type: none"> 1. The appointment, extension of appointment, and promotion of municipal staff contrary to the prescripts of applicable laws, municipal policies and procedures. 2. The external manipulation of and undue preference in the appointment and promotion of municipal staff. 3. The disproportionate appointment and excessive remuneration of municipal staff. 4. The appointment and disproportionate remuneration of under qualified and unsuitable candidates in municipal staff establishments. 5. The remuneration of non-performing and under performing municipal staff without taking appropriate disciplinary steps against such staff. 6. Losses of municipal funds due to theft, fraud and misallocation. 7. Disproportionate, wasteful and irregular expenditure of municipal funds. 8. Mismanagement of expenditure of municipal funds and resources, and the accumulation of municipal debt. 9. Losses to municipalities caused by inadequate management of, and control over municipal contracts and resources. 10. The procurement and alienation of goods and services contrary to the provisions of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and other applicable laws, as well as municipal policy and procedures, including - <ol style="list-style-type: none"> (a) the failure to procure and alienate according to a system that is fair, competitive, equitable, transparent and cost-effective; (b) the external influence over, and manipulation of procurement and alienation processes; (c) undue preference to and favouring of certain parties in the awarding of contracts; (d) the impairment of the independence and integrity of bid structures and processes; and (e) the unnecessary procurement of services of external service providers to perform municipal services. 11. The alienation of municipal land contrary to the provisions of section 14 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and not by way of a fair, competitive, equitable, transparent and cost effective process. 12. Interference by councillors in the administration of municipal affairs in contravention of the applicable provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003). 13. The misuse and misappropriation of
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	<p>funds deriving from the Municipal Infrastructure Grant.</p> <p>14. The misuse of municipal resources for private benefit.</p>
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