

PROCLAMATION NOTICE 228 OF 2024

**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: AIRPORTS COMPANY OF SOUTH AFRICA SOC LIMITED

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 Airports Company of South Africa SOC Limited (hereinafter referred to as "ACSA")

AND WHEREAS ACSA or the State 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 ACSA, 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 ACSA;
- (b) improper or unlawful conduct by the employees or officials of the ACSA;
- (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 ACSA; 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 2008 and the date of publication of this Proclamation or which took place prior to 1 January 2008 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 ACSA 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 Pretoria this 14th day of October Two thousand and twenty four.

CM Ramaphosa

President

By Order of the President-in-Cabinet:

T Simelane

Minister of the Cabinet

SCHEDULE

1. Maladministration in connection with the affairs of ACSA relating to interest rate swap agreements concluded between ACSA, on the one hand, and various banks, on the other, as referred to in the Report of the Judicial Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector including Organs of State, and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by ACSA in relation thereto.

2. Offences referred to in—

(a) Part 1 to 4; and

(b) sections 17, 20 and 21,

of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), in so far as they relate to the offences referred to in section 2(2)(a) to (e) of

the Act, and which were committed in connection with the affairs of ACSA in relation to the allegations set out in paragraph 1 of this Schedule.

3. Any irregular, unlawful or improper conduct by officials or employees of ACSA, board members of ACSA, applicable service providers, or any other person or entity, in relation to the allegations set out in paragraphs 1 and 2 of this Schedule.

PROKLAMASIE KENNISGEWING 228 VAN 2024**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: "AIRPORTS COMPANY OF SOUTH AFRICA
SOC LIMITED"**

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 Airports Company of South Africa SOC Limited" (hierna na verwys as "ACSA");

EN AANGESIEN ACSA 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 ACSA, 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 ACSA;
- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van ACSA;
- (c) onregmatige bewilliging of besteding van publieke geld;
- (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 ACSA; 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 2008 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2008 of na die datum van publikasie van hierdie Proklamasie, maar 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 ACSA of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 14 dag van Oktober Twee duisend-en-vier-en-twintig.

CM Ramaphosa

President

Op las van die President-in-Kabinet:

T Simelane

Minister van die Kabinet

BYLAE

1. Wanadministrasie met betrekking tot die aangeleenthede van ACSA in verband met rentekoers ruil ooreenkomste wat gesluit is tussen ACSA, aan die een kant, en verskeie banke, aan die ander kant, soos verwys na in die Verslag van die Geregtelike Kommissie van Ondersoek na Staatskaping, Korrupsie en Bedrog in die Openbare Sektor, met inbegrip van Staatsorgane, en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat aangegaan is deur ACSA met betrekking daartoe.

2. Misdrywe bedoel in—

(a) Deel 1 tot 4; en

(b) artikels 17, 20 en 21,

van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), vir soverre hulle betrekking het op die misdrywe bedoel in artikel 2(2)(a) tot (e) van die Wet, en wat gepleeg was in verband met die aangeleentheid van ACSA in verband met die beweringe in paragraaf 1 van hierdie Bylae uiteengesit.

3. Enige onbehoorlike of onregmatige gedrag van die beamptes of werknemers van ACSA, Raadslede van ACSA, betrokke diensverskaffers, of enige ander persoon of entiteit, met betrekking tot die beweringe in paragraawe 1 en 2 in hierdie Bylae uiteengesit.