

REPUBLIC OF SOUTH AFRICA

PUBLIC PROCUREMENT AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill
and prior notice of its introduction published in Government Gazette*

No. of 2026)

(The English text is the official text of the Bill)

(Mr. AD Beesley, MP)

GENERAL EXPLANATORY NOTE:

[] Words in bold type and in square brackets indicate omissions from existing enactments.

_____ Words, underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Public Procurement Act, 2024, so as to insert certain definitions; to further clarify the nature of an intervention by the Public Procurement Office where a procuring institution fails or unreasonably delays initiating debarment proceedings; to compel procuring institutions to consider, and where appropriate, initiate debarment proceedings in specified circumstances and to provide written reasons where such proceedings are not initiated; to provide for time periods in debarment proceedings; to provide that Special Investigating Units may action debarment proceedings; to provide a time period for the Public Procurement Office to place a person on the debarment register and to provide that the debarment register must be kept up to date; to provide for annual reporting by procuring institutions to the Public Procurement Office on misconduct and debarment-related decisions; to amend the Special Investigating Units and Special Tribunals Act, 1996, so as to provide for debarment proceedings in relation to the Public Procurement Act, 2024; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 28 of 2024

1. Section 1 of the Public Procurement Act, 2024 (Act No. 28 of 2024) (hereinafter referred to as the "principal Act"), is hereby amended by the insertion after the definition of "small enterprise" of the following definitions:

"**Special Investigating Unit**" means the Special Investigating Unit established under section 2 of the Special Investigating Units and Special Tribunals Act;
'Special Investigating Units and Special Tribunals Act' means the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996);".

Amendment of section 5 of Act 28 of 2024

2. Section 5 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (h) of the following paragraph:

"(h) intervene by taking the appropriate prescribed steps to address a material breach of this Act by a procuring institution [**as may be prescribed**], and must, where a procuring institution fails or unreasonably delays issuing a notice of intention to debar in terms of this Act, issue a notice of intention to debar and a subsequent debarment order on behalf of the procuring institution, where a procuring institution fails or unreasonably delays initiating debarment proceedings in terms of this Act;".

Amendment of section 8 of Act 28 of 2024

3. Section 8 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the word "and" at the end of paragraph (d);

- (b) by the deletion in subsection (1) of the full stop at the end of paragraph (e) and the insertion of a semi-colon; and
- (c) by the addition to subsection (1) of the following paragraph:

“(f) initiate debarment proceedings in terms of section 15 in all instances where there is evidence of any conduct contemplated in section 15(3); and

(g) where, after a notice of the intention to debar contemplated in section 15(1) was issued, and the affected person has submitted reasons in terms of section 15(2)(b), a decision is taken by the procuring institution, not to issue a debarment order, provide written reasons for not doing so to the Public Procurement Office within 30 days of receipt of those reasons.”.

Amendment of section 15 of Act 28 of 2024

4. Section 15 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) Before issuing a debarment order in terms of this section, a procuring institution or, as the case may be, a Special Investigating Unit, must provide the bidder, supplier or any of the directors, members, trustees or partners of that bidder or supplier (herein called “the affected person”) with a notice of the intention to debar, within 30 days of becoming aware of the conduct contemplated in subsection (3).”

- (b) by the substitution for subsection (2) of the following subsection:

“(2) The notice must—

(a) indicate the reason for the intended issuing of a debarment order; and

(b) invite the affected person to provide written reasons, within 10 days, why the debarment order should not be issued.”;

(c) by the substitution for subsection (4) of the following subsection:

“(4)(a) **[The]** A procuring institution, or as the case may be, a Special Investigating Unit, must **[consider the]** decide on whether to issue a debarment order within 30 days of receipt of the written reasons submitted in terms of subsection (2)(b) **[and decide whether to issue a debarment order]**.

(b) **[The]** A procuring institution or a Special Investigating Unit, must, within five days from the date of a decision to issue a debarment order, notify—

- (i) the affected person;
- (ii) the Public Procurement Office in order to place the affected person on the debarment register; and
- (iii) the relevant provincial treasury, if applicable**[,within five days from the date of the decision].”;**

(d) by the insertion after subsection (4) of the following subsection:

“(4A) Where a Special Investigation Unit has been established in terms of section 2 of the Special Investigating Units and Special Tribunals Act, to investigate any alleged conduct by a bidder or supplier as contemplated in subsection (3), and the respective report from the Special Investigating Unit recommends the debarment of a bidder or supplier, the Special Investigating Unit may provide the concerned bidder or supplier with a notice of intention to debar in terms of subsection (1) and must decide on whether to issue a debarment order in terms of subsection (4).”;

(d) by the substitution for subsection (6) of the following subsection:

“(6) The Public Procurement Office must—

- (a) establish and maintain a debarment register of persons debarred in terms of this section;**[and]**
- (b) within 10 days of receipt of a notification from a procuring institution in terms of subsection (4)(b)(ii), place the affected person, as indicated in the notice, on the debarment register;
- (c) ensure that the debarment register is updated regularly; and
- (d) make the register publicly available.”; and
- (e) by the addition of the following subsection:
 - “(12) A procuring institution must submit annual reports to the Public Procurement Office on—
 - (a) all instances where there is evidence of any conduct contemplated in subsection (3);
 - (b) decisions taken regarding debarment; and
 - (c) reasons for not initiating debarment proceedings.”.

Amendment of laws

5. The Special Investigating Units and Special Tribunals Act is hereby amended to the extent set out in the fourth column of the Schedule.

Short title and commencement

6. This Act is called the Public Procurement Amendment Act, 2026, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE

AMENDMENT OF LAWS: SECTION 5

Act no.	Year	Title	Extent of amendment or repeal
74	1996	Special Investigating Units and Special Tribunals Act	1. The amendment of section 1— (a) by the insertion before the definition of “public money” of the following definitions: “‘bidder’ means a bidder as defined in section 1 of the Public Procurement Act; ‘Public Procurement Act’ means the Public Procurement Act, 2024 (Act No 28 of 2024);”; and (b) by the insertion after the definition of “State institution” of the following definition: “‘supplier’ means a supplier as defined in section 1 of the Public Procurement Act. 2. The amendment of section 2(2) by the addition of the following paragraph: “(h) conduct by a bidder or supplier as contemplated in section 15(3) of the Public Procurement Act.”. 3. The amendment of section 4(1) by the insertion after paragraph (d) of the following paragraph: “(3) Should a Special Investigating Unit in its report to the President recommend debarment of any individual in terms of section 15 of the Public Procurement Act, the Special Investigating Unit must action such debarment in terms of the prescripts of Public Procurement Act immediately. 4. The amendment of section 8 by the substitution in subsection (2) for paragraph (b) of the following

Act no.	Year	Title	Extent of amendment or repeal
			paragraph: “(b) make any order which it deems appropriate so as to give effect to any ruling or decision given or made by it, <u>including a debarment order in terms of the Public Procurement Act; and</u>”

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MEMORANDUM ON THE OBJECTS OF THE PUBLIC PROCUREMENT AMENDMENT BILL, 2026

1. INTRODUCTION

- 1.1 South Africa's public procurement system suffers from a systemic enforcement failure in relation to supplier debarment. Despite frequent findings of corruption and serious maladministration by the Special Investigating Unit, most implicated suppliers remain eligible to receive government contracts and payments.
- 1.2 In September 2025, the Select Committee on Public Accounts received a briefing from the Presidency confirming that of 467 suppliers and individuals recommended for debarment by the Special Investigating Unit, only one had been placed on the Debarment Register.
- 1.3 The Public Procurement Act, 2024 (Act No. 28 of 2024) ("the principal Act"), provides a framework for public procurement that gives effect to section 217 of the Constitution of the Republic of South Africa, 1996, and establishes measures to promote procurement integrity, including procedures relating to the debarment of suppliers.
- 1.4 Although the principal Act establishes debarment procedures, findings of supplier misconduct are rarely followed by prompt initiation and completion of debarment proceedings. Strengthened oversight and reporting mechanisms are therefore needed to ensure procuring institutions apply debarment measures consistently, and to provide a fast-track process for debarment cases recommended by the Special Investigating Unit.

2. OBJECT OF THE BILL

- 2.1 The purpose of the Public Procurement Amendment Bill, 2026 (the "Bill"), is to strengthen procurement integrity by enhancing the debarment framework in the principal Act, including providing for oversight intervention, specified time periods for key procedural steps, improved transparency through mandating the Public Procurement Office to update the debarment register within a specific time period and creating additional reporting obligations.
- 2.2 The Bill also seeks to ensure that recommendations and orders made under the Special Investigating Units and Special Tribunals Act, 1996, are appropriately accommodated

within the debarment measures of the principal Act.

3. CONTENTS OF THE BILL

- 3.1 Clause 1 amends section 1 of the principal Act by inserting new definitions.
- 3.2 Clause 2 amends section 5 of the principal Act to expressly provide that the Public Procurement Office may, as part of an intervention, issue a notice of intention to debar and a subsequent debarment order on behalf of that procuring institution where it fails or unreasonably delays initiating debarment proceedings.
- 3.3 Clause 3 amends section 8 of the principal Act to require procuring institutions to consider, and where appropriate initiate, debarment proceedings in all instances where there is evidence of conduct contemplated in section 15(3) of the principal Act, and to provide written reasons to the Public Procurement Office where, a notice of intention to debar has been issued, written reasons have been received from the affected person, and a debarment order was not issued by the procuring institution.
- 3.4 Clause 4 substitutes section 15 of the principal Act to provide for time periods within which a notice of intention to debar must be issued and a decision on debarment must be taken. Clause 4 further refines notification requirements to the Public Procurement Office for purposes of inclusion on the debarment register and provides for the maintenance and updating of the debarment register by the Public Procurement Office. Clause 4 also provides for debarment recommendations and orders associated with the Special Investigating Unit.
- 3.5 Clause 5 amends the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), as set out in Schedule 1, in order to provide for definitions and create a process for Special Investigating Units to proceed with debarment should its reports recommend same. The clause further provides for the President to establish a Special Investigating Unit on the grounds of conduct by a bidder or supplier as set out in section 15(3) of the Act.
- 3.6 Clause 6 provides for the short title and commencement of the Bill.

4. FINANCIAL IMPLICATIONS FOR THE STATE

The Bill should not result in additional costs to the State with regards to debarment as the Public Procurement Office has been established by the principal Act.

5. DEPARTMENTS, BODIES OR PERSONS CONSULTED

The following stakeholders were consulted—

The Presidency

The Special Investigations Unit

National Treasury

The Public Protector of South Africa

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution, since it contains provisions to which the procedure set out in section 76(4)(b) of the Constitution applies.
- 6.2 The Member proposes that the Bill must not be referred to the National House of Traditional and Khoi-San Leaders in terms of 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), as it does not contain provisions directly affecting traditional or Khoi-San communities or may contain provisions pertaining to customary law or customs of traditional or Khoi-San communities.