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PROCLAMATION

by the

President of the Republic of South Africa

No. 2, 2009

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS 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 the Department of Education: Mpumalanga Province (hereinafter referred to as "the Department");

AND WHEREAS the Department 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, and at the request of the Premier of the Mpumalanga Province, refer the matters mentioned in 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 -

(a) serious maladministration in connection with the affairs of the

Department;

(b) improper or unlawful conduct by officers and/or employees of the Department;

(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 Department; 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 1 April 2001 and 31 December 2007, 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 Department.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twentieth day of December Two thousand and eight.

K. P. MOTLANTHE

President

By Order of the President-in-Cabinet:

M. E. SURTY

Minister of the Cabinet

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SCHEDULE

1. The failure by the Department to comply with procurement and tender procedures in the procurement of services for the provision of transport for scholars.

2. Losses suffered by the Department as a result of the –

   (a) extension of existing contracts for; and

   (b) irregular procurement of,

   services for the provision of transport for scholars.

3. Irregular payments made by the Department to service providers in connection with the provision of services for the transport of scholars.

4. Any act or omission by an official of the Department which resulted in, or contributed to, the losses suffered by the Department in connection with the provision of services for the transport of scholars.

5. Corruption committed by officials of the Department in so far as it relates to the procurement of services for the provision of transport for scholars.

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PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 2, 2009

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (die Wet), gemaak is in verband met die aangeleenthede van die Departement van Onderwys: Mpumalanga Provinsie (hierna verwys na as die "Departement");

EN AANGESIEN die Departement verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, en op versoek van die Premier van die Mpumalanga Provinsie, die aangeleenthede in die Bylae 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 daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige -

(a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement;

(b) onbehoorlike of onregmatige optrede deur beamptes en/of werknemers van die Departement;

(c) onregmatige bewilliging of besteding van publieke geld of eiendom;

(d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;

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(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, in verband met die sake van die Departement; 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 April 2001 en 31 Desember 2007, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenheid toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die Departement gely is.

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

K. P. MOTLANTHE
President

Op las van die President-in-Kabinet:

M. E. SURTY
Minister van die Kabinet

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paper friendly. user friendly.

BYLAE

1. Die versuim deur die Departement om te voldoen aan aanskaffing- en tenderprosedures by die aanskaffing van dienste vir die voorsiening van vervoer aan skoliere.

2. Verliese wat deur die Departement gely is as gevolg van die–
   (a) verlenging van bestaande kontrakte vir; en
   (b) onreëlmatige aanskaffing van,
   dienste vir die voorsiening van vervoer aan skoliere.

3. Onreëlmatige betalings wat deur die Departement gemaak is aan diensverskaffers in verband met die voorsiening van dienste vir die vervoer van skoliere.

4. Enige handeling of late deur 'n beampte van die Departement wat aanleiding gegee het tot, of bygedra het tot, verliese wat die Departement gely het in verband met die voorsiening van dienste vir die vervoer van skoliere.

5. Korrupsie gepleeg deur beamptes van die Departement in soverre dit verband hou met die aanskaffing van dienste vir die voorsiening van vervoer aan skoliere.

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