PROCLAMATION

by the

President of the Republic of South Africa

No. R. 6, 2014

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) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the National Department of Co-Operative Governance and Traditional Affairs (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 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 Department, 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 -

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

(b) improper or unlawful conduct by officials 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) offences 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, 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 26 November 2010 and the date of publication of this Proclamation or which took place prior to 26 November 2010 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 recovery of any losses suffered by the Department, 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 Twenty-first day of January Two thousand and fourteen.

J G Zuma

President

By Order of the President-in-Cabinet:

J T Radebe

Minister of the Cabinet

SCHEDULE

1. The appointment of the South African National Apex Tertiary Co-operative Limited by the Department to manage and to provide technical support and administration services in respect of the Ward Based Co-operatives Programme of the Department.

2. Payments which were made by the Department in respect of the Ward Based Co-operatives Programme of the Department in a manner that was –

   (a) not fair, competitive , transparent, equitable or cost-effective;

   (b) contrary to applicable –

      (i) legislation;

      (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury; or

      (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department; or

   (c) conducted or facilitated by or through the improper intervention of officials or employees of the Department,

   and related unauthorised, irregular, fruitless and wasteful expenditure or loss of the Department's funds.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 6, 2014

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) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Departement van Koöperatiewe Regering en Tradisionele Sake (hierna na verwys 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 siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Departement, 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 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;

(e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;

(f) misdrywe 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 26 November 2010 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 26 November 2010 of na die datum van publikasie van hierdie Proklamasie, 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 die Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Een-en-twintigste dag van Januarie Twee duisend-en-veertien.

J G Zuma

President

Op las van die President-in-Kabinet:

J T Radebe

Minister van die Kabinet

BYLAE

1. Die aanstelling van die "South African National Apex Tertiary Co-operative Limited" deur die Departement om die Departement se "Ward Based Co-operatives Programme" te bestuur en om tegniese bystand en administratiewe dienste in verband daarmee te lewer.

2. Betalings wat deur die Departement gemaak is ten opsigte van die "Ward Based Co-operatives Programme" op 'n wyse wat -
   (a) nie regverdig, mededingend, deursigtig, billik of koste-effektief was nie;
   (b) strydig was met toepaslike -
      (i) wetgewing;
      (ii) handleidings, riglyne, praktyknotas of instruksies deur die Nasionale Tesourie uitgevaardig; of
      (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Departement van toepassing is; of
   (c) gedoen of gefasiliteer was deur die onbehoorlike tussenkoms van beamptes of werknemers van die Departement,

   en verwante ongemagtigde, onreëlmatige, vrugtelose en verkwiste uitgawes of verlies van die Departement se fondse.

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