PROCLAMATION

by the

President of the Republic of South Africa

No. R. 5, 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 South African Post Office (SOC) Limited (hereinafter referred to as "the SAPO");

AND WHEREAS the SAPO 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 SAPO, 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 the SAPO;

(b) improper or unlawful conduct by employees or officials of the SAPO;

(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 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 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the SAPO; 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 2004 and the date of publication of this Proclamation or which took place prior to 1 January 2004 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 the SAPO, 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 Second day of February 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 procurement of goods, works or services by or on behalf of the SAPO and payments made in respect thereof in a manner that was—
   (a) not fair, competitive, transparent, equitable or cost-effective;
   (b) contrary to—
      (i) applicable legislation;
      (ii) applicable 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 SAPO,

   and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SAPO.

2. Irregularities, malpractices or maladministration in the affairs of the SAPO in relation to—
   (a) the management of immovable property;
   (b) the implementation of the WebRipost system;
   (c) loans granted to Courier and Freight Group (Pty) Limited; and
   (d) the failure by officials or employees of the SAPO to take the necessary steps to prevent the SAPO from suffering financial losses or damages as a result of industrial action.

3. Irregularities relating to the recruitment, selection and appointment of officials or employees to the SAPO.

4. Payments which were made by the SAPO to fictitious officials or employees.

5. Any undisclosed or unauthorised interests the officials or employees of the SAPO may have had with regard to—
   (a) vendors, contractors, suppliers or service providers who bid for work or did business with the SAPO; or
   (b) contracts awarded by or on behalf of the SAPO.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 5, 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 Suid-Afrikaanse Poskantoor (MIS) Bpk (hierna na verwys as "die SAPK");

EN AANGESIEN die SAPK 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 SAPK, 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 beweerde -

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

(b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die SAPK;

(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 SAPK; 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 2004 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2004 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 SAPK gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Tweede dag van Februarie 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 aanskaffing van goedere, arbeid en dienste deur of namens die SAPK en betalings wat in verband daarmee gemaak is op 'n wyse wat—

(a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;

(b) strydig was met—

(i) toepaslike wetgewing;

(ii) toepaslike handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of

(iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die SAPK van toepassing is,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes deur die SAPK opgedoen.

2. Onreëlmatighede, wanpraktyke of wanadministrasie van die aangeleenthede van die SAPK met betrekking tot —

(a) die bestuur van onroerende eiendom;

(b) die implementering van die WebRipost stelsel;

(c) lenings wat toegestaan was aan "Courier and Freight (Pty) Limited" ; en

(d) die versuim van beamptes of werknemers van die SAPK om die nodige stappe te neem om te voorkom dat die SAPK finansiële verliese of skade ly as gevolg van arbeidsoptrede.

3. Onreëlmatighede in verband met die werwing, keuring en aanstelling van beamptes of werknemers by die SAPK.

4. Betalings wat deur die SAPK aan fiktiewe beamptes of werknemers gemaak is.

5. Enige ongeopenbaarde of ongemagtigde belange wat die beamptes of werknemers van die SAPK mag gehad het met betrekking tot —

(a) verkopers, kontrakteurs, verskaffers of diensverskaffers wat aanbiedinge vir werk gemaak het of besigheid met die SAPK gedoen het; of

(b) kontrakte wat toegeken is deur of namens die SAPK.

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