PROCLAMATION

by the

President of the Republic of South Africa

No. R. 57, 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 Transport (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 alleged–

(*a*) serious maladministration in connection with the affairs of the Department;
(*b*) improper or unlawful conduct by employees or officials 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 Part 1 to 4, or sections 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 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 took place between 10 October 2005 and the date of publication of this Proclamation or which took place prior to 10 October 2005 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 Department, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Twenty-first day of July Two thousand and fourteen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

Schedule

1. The extensions by the Department of the Driving Licence Card Contract RT (G) 6969 SA, and the National Traffic Information System Contract RT1194KA, in a manner which 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 Department; or
   (*c*) conducted or facilitated by or through the improper intervention of employees of the Department,
   and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.

2. Any unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department in respect of payments which were made in terms of Change Note 47, dated 11 October 2010.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 57, 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 nasionale Departement van Vervoer (hierna na verwys as "die Departement");

EN AANGESIEN die Departement moontlike 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 die aangeleenthede, dit 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 Departement;
(*b*) onbehoorlike of onregmatige optrede deur werknemers of beamptes 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 (Wet No. 12 van 2004), en welke misdrywe in verband met die sake van die Departement gepleeg is; 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 10 Oktober 2005 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 10 Oktober 2005 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 Kaapstad op hede die Een-en-twintigste dag van Julie Twee duisend-en-veertien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. Die verlenging deur die Departement van die Driving Licence Card Contract RT (G) 6969 SA, en die National Traffic Information System Contract RT1194KA, op 'n wyse wat—
   (*a*) nie billik, mededingend, deursigtig, regverdig 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
      (ii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is; of
   (*c*) georganiseer of gefasiliteer is deur of deur die onbehoorlike inmenging van werknemers of beamptes van die Departement,

   en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Departement aangegaan is.

2. Enige ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes aangegaan deur die Departement ten opsigte van betalings wat gemaak is kragtens Change Note 47, gedateer 11 Oktober 2010.

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