

PROCLAMATION NO. R. 9 OF 2017

**by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA**

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT

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—

- (a) KwaZulu-Natal Provincial Department of Agriculture and Rural Development (formerly known as the Department of Agriculture and Environmental Affairs) (hereinafter referred to as "the Department"); and
 - (b) Mjindi Farming (Pty) Ltd (hereinafter referred to as "Mjindi"), which is a Provincial Government Business Enterprise of the KwaZulu-Natal Provincial Government in terms of Schedule 3, Part D of the Public Finance Management Act, 1999 (Act No. 1 of 1999),
- (hereinafter referred to collectively as "the Institutions").

AND WHEREAS the Institutions or the State 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, and after consultation with or at the request of the Premier of the KwaZulu-Natal Province, refer the matters mentioned in the Schedule, in respect of the Institutions, 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 Institutions;
- (b) improper or unlawful conduct by employees or officials of the Institutions;
- (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 Parts 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 Institutions; 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 February 2011 and the date of publication of this Proclamation or which took place prior to 1 February 2011 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 Institutions or the State, 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 Ninth day of December Two thousand and sixteen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

1. The procurement of, and contracting for—
 - (a) fertiliser, seeds or seed potatoes; or
 - (b) goods, works or services relating to events or event management, by or on behalf of the Department, and payments made in respect thereto, in a manner that was—
 - (i) not fair, equitable, transparent, competitive or cost-effective;
 - (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasury; or
 - (cc) manuals, codes, policies, procedures, instructions or practices of, or applicable to the Department,and any related irregular or fruitless and wasteful expenditure incurred by the Department.
2. The procurement of, and contracting for agricultural equipment by or on behalf of the Institutions, and payments made in respect thereto, in a manner that was—
 - (a) not fair, equitable, transparent, competitive or cost-effective; or
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasury; or

(iii) manuals, codes, policies, procedures, instructions or practices of or applicable to the Institutions,
and any related irregular or fruitless and wasteful expenditure incurred by the Institutions.

3. Any undisclosed or unauthorised interests the board members, directors, officials or employees of the Institutions or any of their family members may have had—

(a) with contractors, suppliers or service providers that—

- (i) were registered on the Vendor Databases of the Institutions;
- (ii) did business with the Institutions; or

(iii) were in a position to influence purchases made by or on behalf of the Institutions; or

(b) in contracts awarded by or on behalf of the Institutions, with regard to fertiliser, seeds, seed potatoes, agricultural equipment, agricultural inputs, chemicals, food production packs, events or event management services.

4. Fraud, corruption, irregularities, malpractices or maladministration in the affairs of the Institutions relating to the matters contemplated in paragraphs 1, 2 and 3 of this Schedule, including the causes of such fraud, corruption, irregularities, malpractices or maladministration and any losses, damages or actual or potential prejudice which the Institutions or the State may have suffered.