

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 34, 2011

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 former Department of Roads and Transport of the Eastern Cape Province (hereinafter referred to as the "Department");

AND WHEREAS the Department or the State may have 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 Act, and at the request of the Premier of the Eastern Cape Province, 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 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 10 May 2001 and 28 March 2010, 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 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 Twelfth day of May Two thousand and eleven.

J G ZUMA
President

By Order of the President-in-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

The procurement of goods, works or services by or on behalf of the Department and payments made in relation thereto, in a manner that was -

- (a) not fair, equitable, transparent, competitive or cost-effective;
- (b) contrary to applicable -
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasury; or
 - (iii) manuals, codes, policies, procedures, instructions or practices of or applicable to the Department;
- (c) conducted or facilitated by or through the intervention of officials, personnel or employees of the Department (hereinafter collectively referred to as "the Department's personnel") with undeclared or unauthorised conflicts of interest;
- (d) fraudulent; or
- (e) conducted or facilitated by the manipulation of the Department's supply chain management or procurement processes -
 - (i) by contractors, suppliers or service providers of the Department; or
 - (ii) by, in collusion with or through the intervention of the Department's personnel, to corruptly or unduly benefit themselves or others.