

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 54, 2012

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 Department of Water Affairs (formerly the Department of Water Affairs and Forestry) (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, 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 (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 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 involves the same persons, entities or contracts investigated under the 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 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 Eight day of September Two thousand and twelve.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The procurement of and contracting for 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; or
 - (b) contrary to the applicable —
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasuries; or
 - (iii) manuals, codes, policies, procedures, prescripts, guidelines, instructions or practices of, or applicable to, the Department.
2. Maladministration in respect of the affairs of the Department and any losses or prejudice suffered by the Department as a result of such maladministration by its officials or employees (hereinafter collectively referred to as “the Department’s personnel”) or its agents in relation to —
 - (a) variation orders being granted that exceeded the allowable percentage of the original contract price in respect of —
 - (i) the Forest Fire Association (WP9191);
 - (ii) Syringa Bioscience (Pty) Ltd (WP9341);
 - (iii) Buca Management and Projects; and
 - (iv) Brainwave CC projects;
 - (b) the appointment of 86 contract labourers (which followed the dismissal of the originally appointed 104 contract labourers) in respect of the Expanded Public Works Programme, which included the construction of infrastructure in the Province of Mpumalanga;
 - (c) the involvement of the Department in —
 - (i) the Sundays River Municipality Regional Bulk Water Scheme; and
 - (ii) the Patterson Bulk Water Supply Project;
 - (d) the lease by the Department of the Continental Building in Pretoria;
 - (e) payments made to TWM Projects (Pty) Ltd; and
 - (f) conflicting interests of the Department’s personnel or agents in entities contracting with the Department,including the causes of such maladministration.
3. Any undisclosed or unauthorised interests the Department’s personnel may have had with regard to —
 - (a) contractors, suppliers or service providers who bid for work or did business with the Department; or
 - (b) contracts awarded by or on behalf of the Department.