
PROCLAMATION

by the

President of the Republic of South Africa

No. R. 55, 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 Department of Labour (hereinafter referred to as "the Department" and the Compensation Fund established in terms of section 15 of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), (hereinafter referred to as "the Fund");

AND WHEREAS the Department and/or the Fund 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 and the Fund, 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 and/or the Fund;
- (b) improper or unlawful conduct by employees of the Department and/or the Fund;
- (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 Department and/or the Fund; 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 November 2002 and the date of publication of this Proclamation or which took place prior to 1 November 2002 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 and/or the Fund, 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:

J T Radebe
Minister of the Cabinet

Schedule

1. Compensation claim payments which were made by the Fund in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective;
 - (b) contrary to applicable—
 - (i) legislation;
 - (ii) 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 Fund; or
 - (c) conducted or facilitated by or through the improper intervention of officials or employees of the Department and/or the Fund, and related unauthorised, irregular, fruitless and wasteful expenditure incurred by the Department and/or the Fund.
2. The conclusion by the Department and/or the Fund of—
 - (a) a Public Private Partnership Agreement concluded with Siemens Business Services (Pty) Limited, on or about 1 November 2002;

- (b) a Termination Support Agreement concluded with EOH Managed Services Public Sector (Pty) Limited, on or about 27 November 2012; and
- (c) an agreement with the Medical Services Organisation South Africa for claims adjudication and medical service provider processing services, on or about 27 November 2012, alternatively 14 December 2012,

in a manner which was—

- (i) not fair, competitive, transparent, equitable or cost-effective; or
- (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department and/or the Fund,

and related unauthorised, irregular, fruitless and wasteful expenditure incurred by the Department and/or the Fund.

3. The validity of the agreement concluded between the Department and/or the Fund and Siemens Business Services (Pty) Limited in terms of which the Department and/or the Fund agreed to the cession by Siemens Business Services (Pty) Limited's of the contract mentioned in paragraph 2(a) thereof to Siemens IT Solutions and Services South Africa (Pty) Limited.

4. The procurement of goods, works or services by the Department and/or the Fund and payments made in respect thereof, in relation to—

- (a) the Request for Proposals for a Turnaround Strategy; and
- (b) the Request for Proposals for a Forensic Audit,

in a manner which was—

- (i) not fair, competitive, transparent, equitable or cost-effective; or
- (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department and/or the Fund,

and related unauthorised, irregular, fruitless and wasteful expenditure incurred by the Department and/or the Fund.