PROCLAMATION

by the

President of the Republic of South Africa

No. R. 54, 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 Public Works (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—

(a) serious maladministration in connection with the affairs of the Department;
(b) improper or unlawful conduct by 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) offences referred to in Parts 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 has taken place between 28 November 2007 and the date of publication of this Proclamation, or which took place prior to 28 November 2007 or after the date of publication of this Proclamation, but which is relevant to, connected with, incidental to or ancillary to the matters mentioned in the Schedule or which 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 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:

J T Radebe
Minister of the Cabinet

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SCHEDULE

The procurement of goods and services on behalf of the Department by the Department's Prestige Directorate, 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 Department,

and any related unauthorised, irregular or fruitless and wasteful expenditure, incurred by the Department in relation to the following projects:

NO.	WCS NO.	PROJECT NAME
1.	WCS039328	Rondebosch: Groote Schuur La Maisonette, Erf 4615 Rondebosch
2.	WCS039326	Rondebosch: Groote Schuur Estate Avenue No. 4
3.	WCS042438	Rondebosch: 61 Klipper Road
4.	WCS045147	Mowbray: De Meule
5.	WCS045148	Oranjezicht: Gydo
6.	WCS047399	Rockyvale
7.	WCS048362	Rondebosch: Groote Schuur Estate
8.	WCS047653	Kenilworth: 18 Oak Road
9.	WCS039327	Rondebosch: Groote Schuur Estate
10.	WCS039327	Rondebosch: Groote Schuur Estate
11.	WCS041711/0002	Cape Town: Parliamentary Complex, Heritage - Tuynhuys
12.	WCS041711/0002	Cape Town: Parliamentary Complex, Heritage - Tuynhuys
13.	WCS045146	Cape Town: Acacia Park
14.	WCS045653	Cape Town: Parliamentary complex,120 Plein street
15.	WCS048888	Cape Town
16.	WCS045661	Cape Town: Parliamentary Villages
17.	WCS049522	Cape Town: Parliamentary Complex, Heritage

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 54, 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

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van Openbare Werke (hierna na verwys as die "Departement");

EN AANGESIEN die Departement of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele verrigtinge 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 daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige—

(a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement;
(b) onbehoorlike of onregmatige optrede deur die werknemers 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), in verband met die sake van die Departement; 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 28 November 2007 en die datum van publikasie van hierdie Proklamasie, of wat plaasgevind het voor 28 November 2007 of na die datum van publikasie van hierdie Proklamasie, maar 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 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:

J T Radebe
Minister van die Kabinet

BYLAE

Die aanskaffing van goedere en dienste namens die Departement deur die Departement se "Prestige Directorate" op 'n wyse wat—

(a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
(b) strydig was met toepaslike—
    (i) wetgewing;
    (ii) handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale

Tesourie uitgevaardig is; of

(iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes deur die Departement opgeloop ten opsigte van die volgende projekte:

NO.	WCS NO.	PROJECT NAME
1.	WCS039328	Rondebosch: Groote Schuur La Maisonette, Erf 4615 Rondebosch
2.	WCS039326	Rondebosch: Groote Schuur Estate Avenue No. 4
3.	WCS042438	Rondebosch: 61 Klipper Road
4.	WCS045147	Mowbray: De Meule
5.	WCS045148	Oranjezicht: Gydo
6.	WCS047399	Rockyvale
7.	WCS048362	Rondebosch: Groote Schuur Estate
8.	WCS047653	Kenilworth: 18 Oak Road
9.	WCS039327	Rondebosch: Groote Schuur Estate
10.	WCS039327	Rondebosch: Groote Schuur Estate
11.	WCS041711/0002	Cape Town: Parliamentary Complex, Heritage - Tuynhuys
12.	WCS041711/0002	Cape Town: Parliamentary Complex, Heritage - Tuynhuys
13.	WCS045146	Cape Town: Acacia Park
14.	WCS045653	Cape Town: Parliamentary complex,120 Plein street
15.	WCS048888	Cape Town
16.	WCS045661	Cape Town: Parliamentary Villages
17.	WCS049522	Cape Town: Parliamentary Complex, Heritage

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;

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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.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 55, 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 Departement van Arbeid (hierna na verwys as "die Departement") en die Vergoedingsfonds wat ingevolge artikel 15 van die Wet op Vergoeding vir Beroepbeserings en-Siektes, 1993 (Wet No. 130 van 1993) ingestel is (hierna na verwys as "die Fonds");

EN AANGESIEN die Departement en/of die Fonds 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 en die Fonds, 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 daardie aangeleenthede, 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 en/of die Fonds;
(*b*) onbehoorlike of onregmatige optrede deur werknemers van die Departement en/of die Fonds;
(*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), welke misdrywe gepleeg is in verband met die sake van die Departement en/of die Fonds; 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 1 November 2002 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 November 2002 of na die datum van publikasie van hierdie Proklamasie, maar 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 en/of die Fonds 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 Twee duisend-en-veertien.

J G Zuma
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

BYLAE

1. Vergoedingeisbetalings wat deur die Fonds gemaak is op ‘n wyse wat—
   (*a*) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
   (*b*) strydig was met toepaslike—
      (i) wetgewing;
      (ii) handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of
      (iii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke

van, of wat op die Fonds van toepassing is; of

(*c*) gedoen of gefasiliteer was deur die onbehoorlike tussenkoms van beamptes of werknemers van die Departement en/of die Fonds,

en enige verwante ongemagtigde, onreëlmatige, vrugtelose en verspilde uitgawes deur die Departement en/of die Fonds opgedoen.

2. Die sluiting deur die Departement en/of die Fonds, van—

(*a*) 'n Openbare-privaat-ooreenkoms gesluit met Siemens Business Services (Edms) Beperk, op of ongeveer 1 November 2002;

(*b*) 'n Beëindigings-ondersteuningsooreenkoms gesluit met EOH Managed Services Public Sector (Edms) Beperk, op of ongeveer 27 November 2012; en

(*c*) 'n ooreenkoms met Medical Services Organisation South Africa vir eis bereddering en mediese dienste voorsiening verwerking dienste, op of ongeveer 27 November 2012, alternatiewelik 14 Desember 2012,

op 'n wyse wat—

(i) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie; of

(ii) strydig was met toepaslike—

(*aa*) wetgewing;

(*bb*) handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of

(*cc*) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement en/of die Fonds van toepassing is,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes of verlies deur die die Departement en/of die Fonds opgedoen.

3. Die geldigheid van die ooreenkoms gesluit tussen die Departement en/of die Fonds, en Siemens Business Services (Edms) Beperk waarkragtens die Departement en/of die Fonds toegestem het tot die sessie deur Siemens Business Services (Edms) Beperk van die kontrak vermeld in paragraaf 2(*a*) daarvan aan Siemens IT Solutions and Services South Africa (Edms) Bpk.

4. Die aanskaffing van goedere, werke of dienste deur die Departement en/of die Fonds en betalings wat in verband daarmee gemaak is ten opsigte van—

(*a*) die "Requests for Proposals for a Turnaround Strategy" projek; en

(*b*) die "Request for Proposal for a Forensic Audit" projek,

op 'n wyse wat—

(i) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie; of

(ii) strydig was met toepaslike—

(*aa*) wetgewing;

(*bb*) handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of

(*cc*) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement en/of die Fonds van toepassing is,

en enige verwante ongemagtigde, onreëlmatige, vrugtelose en verspilde uitgawes deur die Departement en/of die Fonds opgedoen.

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