

PROCLAMATION NO. R. 30 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 KwaZulu-Natal Provincial Treasury (hereinafter referred to as "the Treasury");

AND WHEREAS the State or the Treasury 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 Treasury, 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 Treasury;
- (b) improper or unlawful conduct by employees or officials of the Treasury;
- (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 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 Treasury; 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 2008 and the date of publication of this Proclamation or which took place prior to 1 January 2008 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 State or the Treasury, 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 Twenty-fourth day of August Two thousand and seventeen.

J G Zuma
President

By Order of the President-in-Cabinet:

T M Masutha
Minister of the Cabinet

SCHEDULE

1. The appointment by the Treasury of service providers to render consultancy services to the Internal Audit Unit and Infrastructure and Economic Development Unit of the Treasury 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, circulars or instructions issued by the National Treasury or the Treasury; or
 - (iii) manuals, codes, policies, procedures, prescripts, instructions or practices of or applicable to the Treasury;
- (c) conducted by or facilitated through the improper or unlawful conduct of—
 - (i) employees or officials of the Treasury; or
 - (ii) any other person or entity,
to corruptly or unduly benefit themselves or others; or
- (d) fraudulent.

2. Any unauthorised, irregular or fruitless and wasteful expenditure incurred by the Treasury or the State in respect of the appointment of the service providers referred to in paragraph 1 of this Schedule to render consultancy services to the Internal Audit Unit and Infrastructure and Economic Development Unit of the Treasury.

3. Fraud, corruption, irregularities, malpractices or maladministration regarding the affairs of the Treasury in relation to the—

- (a) appointment of the service providers referred to in paragraph 1 of this Schedule;
- (b) selective investigation of matters reported to the Internal Audit Unit of the Treasury; or
- (c) administration of the Municipal Finance Support Programme,
including the causes of such fraud, corruption, irregularities, malpractices or maladministration and any losses, damage or actual or potential prejudice suffered by the Treasury or the State.

4. Any improper or unlawful conduct by the employees or officials of the Treasury, the service providers referred to in paragraph 1 of this Schedule or any other person or entity, in relation to the allegations set out in paragraphs 1 to 3 of this Schedule.

PROKLAMASIE NO. R. 30 VAN 2017

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996
(WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA
BESTAANDE SPESIALE ONDERSOEKEENHEID**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Speciale Ondersoekeenhede en Speciale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die KwaZulu-Natal Provinsiale Tesourie (hierna na verwys as "die Tesourie");

EN AANGESIEN die Staat of die Tesourie 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 Tesourie, vir ondersoek na die Speciale Ondersoekeenhede ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Speciale Ondersoekeenhede is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Tesourie;
- (b) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die Tesourie;
- (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) misdryf 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), en welke misdrywe gepleeg is in verband met die sake van die Tesourie; 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 Januarie 2008 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2008 of na die datum van publikasie van hierdie Proklamasie, 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 Ondersoekkeenheid 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 Staat of die Tesourie gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Vier-en-twintigste dag van Augustus Twee duisend-en-sewentien.

J G Zuma
President

Op las van die President-in-Kabinet:

T M Masutha
Minister van die Kabinet

BYLAE

1. Die aanstelling deur die Tesourie van diensverskaffers om konsultasiedienste aan die Interne Ouditeenheid en Infrastruktuur-en Ekonomiese Ontwikkelingseenheid van die Tesourie te verskaf 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, omsendskrywes of instruksies wat deur die Nasionale Tesourie of die Tesourie uitgevaardig is; of
 - (iii) handleidings, kodes, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Tesourie van toepassing is;
 - (c) wat gedoen of gefasiliteer was deur die onbehoorlike of onwettige optrede van—
 - (i) werknemers of beamptes van die Tesourie; of
 - (ii) enige ander persoon of entiteit, om hulself of ander op 'n korrupte of onbehoorlike wyse te bevoordeel; of
 - (d) bedrieglik was.
2. Enige ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes wat deur die Tesourie aangegaan is ten opsigte van die aanstelling van die diensverskaffers waarna in paragraaf 1 van hierdie Bylae verwys word om konsultasiedienste aan die Interne Ouditeenheid en Infrastruktuur-en Ekonomiese Ontwikkelingseenheid van die Tesourie te verskaf.
3. Bedrog, korrupsie, onreëlmatighede, wanpraktyke of wanadministrasie in die aangeleenthede van die Tesourie ten opsigte van die—
 - (a) aanstelling van die diensverskaffers waarna in paragraaf 1 van hierdie Bylae verwys word;
 - (b) selektiewe ondersoek van aangeleenthede wat aan die Interne Ouditeenheid van die Tesourie gerapporteer was; en
 - (c) administrasie van die Munisipale Finansiële Ondersteuningsprogram, insluitend die oorsake van sodanige bedrog, korrupsie, onreëlmatighede, wanpraktyke of wanadministrasie en enige verliese, skade of werklike of potensiele nadeel wat die Tesourie of die Staat gely het.
4. Enige onbehoorlike of onwettige gedrag deur die werknemers of beamptes van die Tesourie, die diensverskaffers vermeld in paragraaf 1 van hierdie Bylae of enige ander persoon of entiteit, ten opsigte van die bewerings uiteengesit in paragrawe 1 tot 3 van hierdie Bylae.