

PROCLAMATION NO. 14 OF 2018

**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 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 KwaZulu-Natal Department of Transport (hereinafter referred to as "the Department");

AND WHEREAS the State or 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;

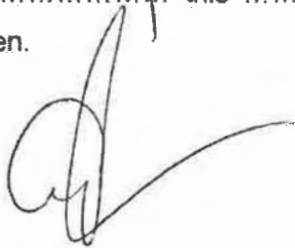
NOW, THEREFORE, I hereby, under section 2(1) of the Act, and after consultation with the Premier of the KwaZulu-Natal Province, refer the matters mentioned in the Schedule in respect of the Department, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 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 alleged—

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by employees or officials 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 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 took place between 1 February 2005 and the date of publication of this Proclamation or which took place prior to 1 February 2005 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 Department, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg this 13 day of May Two thousand and eighteen.



President

By Order of the President-in-Cabinet:



Minister of the Cabinet

SCHEDULE

1. The consolidation and disposal of—
 - (a) Portion 56 of 36 of Erf 348 Verulam and Portion 1 of Erf 347 Verulam (consolidated into Erf 10626 Verulam);
 - (b) Portion 1 of Erf 6673 Pinetown, Erf 6672 Pinetown, Portion 1 of Erf 6671 Pinetown, Portion 1 of Erf 6670 Pinetown (Portion 1 of Erf 6669 Pinetown), Portion 0 of Erf 6671 Pinetown, Portion 1 of 6668 Pinetown and Portion 1 of 6255 (Extension 59) Pinetown (consolidated into Erf 30660 Pinetown);
 - (c) Portion 79 of Farm No 937 of the Farm Zeekoegat; and
 - (d) Portion 246 of Farm No 1570 Lot 44, Ethekeeni,
by the Department, which properties belonged to or were under the control of the State or the Department, in a manner that was—
 - (i) not fair, equitable, transparent, competitive or cost-effective;
 - (ii) contrary to applicable—
 - (aa) legislation;
 - (bb) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury or the relevant Provincial Treasury; or
 - (cc) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department;
 - (iii) conducted by or facilitated through the improper or unlawful conduct of employees or officials of the Department to corruptly or unduly benefit themselves or others; or
 - (iv) fraudulent,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.
2. The failure by the Department to collect rent in terms of a lease agreement which was concluded between the Department and a third party in respect of the leasing of Erf 10626 Verulam.
3. Corruption, irregularities, malpractices or maladministration in the affairs of the Department relating to the matters referred to in paragraphs 1 and 2 of this Schedule, including the causes of such corruption, irregularities, malpractices or maladministration and any losses, damages or actual or potential prejudice which the Department or the State may have suffered.

PROKLAMASIE NO. 14 VAN 2018
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 EN SPESIALE TRIBUNAAL

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekkeenheide en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die KwaZulu-Natal se Departement van Vervoer (hierna na verwys as "die Departement");

EN AANGESIEN die Staat of die Departement moontlike 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;

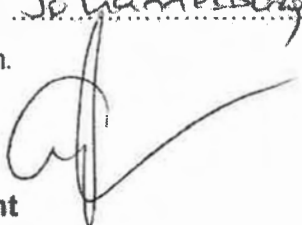
DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, na oorleg met die Premier van die KwaZulu-Natal Provinsie, die aangeleenthede in die Bylae vermeld ten opsigte van die Departement, vir ondersoek na die Spesiale Ondersoekkeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, dit die opdrag van die Spesiale Ondersoekkeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

(a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement;

- (b) onbehoorlike of onregmatige optrede deur werknemers of beamptes 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) 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 in verband met die sake van die Departement gepleeg is; 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 Februarie 2005 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Februarie 2005 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 Staat of die Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Johannesburg op hede die Johannesburg dag van May Twee duisend-en-agtien.



President

Op las van die President-in-Kabinet:



Minister van die Kabinet

BYLAE

1. Die konsolidasie en verkoop van—
 - (a) Gedeelte 56 van 36 van Erf 348 Verulam en Gedeelte 1 van Erf 347 Verulam (gekonsolideer in Erf 10626 Verulam);
 - (b) Gedeelte 1 van Erf 6673 Pinetown, Erf 6672 Pinetown, Gedeelte 1 van Erf 6671 Pinetown, Gedeelte 1 van Erf 6670 Pinetown (Gedeelte 1 van Erf 6669 Pinetown), Gedeelte 0 van Erf 6671 Pinetown, Gedeelte 1 van 6668 Pinetown en Gedeelte 1 van 6255 (Uitbreiding 59) Pinetown (gekonsolideer in Erf 30660 Pinetown);
 - (c) Gedeelte 79 van Plaas No 937 van die Plaas Zeekoegat; en
 - (d) Gedeelte 246 van Plaas No 1570 Perseel 44, Ethekeeni,
deur die Departement, welke eiendomme behoort het aan of onder beheer was van die Staat of die Departement, op 'n wyse wat—
 - (i) nie regverdig, billik, deursigtig, mededingend of koste-effektief was nie;
 - (ii) strydig was met toepaslike—
 - (aa) wetgewing;
 - (bb) handleidings, riglyne, omsendbriewe, praktyknotas of instruksies wat deur die Nasionale Tesourie of toepaslike Provinsiale Tesourie uitgevaardig is; of
 - (cc) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is;
 - (iii) uitgevoer is of gefasiliteer is deur die onbehoorlike optrede van werknemers of beamptes of van die Departement om hulself of andere op 'n korrupte of onbehoorlike wyse te bevoordeel; of
 - (iv) bedrieglik was,
 - en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes wat deur die Departement opgeloop is.
2. Die versuim van die Departement om huurgeld in te vorder ingevolge 'n huurooreenkoms wat aangegaan is tussen die Departement en 'n derde party vir die verhuring van Erf 10626 Verulam.
 3. Korruptsie, onreëlmatighede, wanpraktyke of wanadministrasie in verband met die aangeleenthede van die Departement verbandhoudend met die aangeleenthede waarna verwys word in paragrawe 1 en 2 van hierdie Bylae, insluitende die oorsake van sodanige korruptsie, onreëlmatighede, wanpraktyke of wanadministrasie en

enige verlies, skade of werklike of potensiele nadeel wat die Departement of die Staat mag gely het.