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**PROCLAMATIONS • PROKLAMASIES**

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**PROCLAMATION NO. R. 26 OF 2019****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 Department of Justice and Constitutional Development (hereinafter referred to as "the Department") and the Independent Development Trust (hereinafter referred to as "the IDT");

AND WHEREAS the Department or the State 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 IDT, 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 these 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 or the IDT;
- (b) improper or unlawful conduct by the employees or officials of the Department or the IDT;
- (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 the IDT; 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 22 October 2007 and the date of publication of this Proclamation or which took place prior to 22 October 2007 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 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 Johannesburg this 7<sup>th</sup> day of June Two thousand and nineteen.

**CM Ramaphosa**

**President**

By Order of the President-in-Cabinet:

**TM Masutha**

**Minister of the Cabinet**

## SCHEDULE

1. Maladministration and/or irregular, improper or unlawful conduct in connection with the affairs of the Department or the IDT in relation to—

- (a) the construction of the Limpopo High Court, Mpumalanga High Court, the Plettenberg Bay Magistrate's Court, the Booysens Magistrate's Court, the Richards Bay Magistrate's Court, the Goodwood Magistrate's Court, the Simunye Magistrate's Court and the Tsineng Periodical Court;
- (b) the acquisition of land for the Mpumalanga High Court;
- (c) the number of court rooms which were built during the construction of the Plettenberg Bay Magistrate's Court;
- (d) the procurement and provision of—
  - (i) court room furniture; or
  - (ii) goods or services; or
- (e) contract and performance management, including any failure to act or to act timeously against professional consultants, agents, contractors, suppliers or service providers for any non-performance, poor performance, defective performance or late performance in respect of goods, works or services delivered, performed or rendered in terms of paragraph (a), (b) or (c),

in terms of the "Construction of New Courts Programme" of the Department and any related unauthorised, irregular or fruitless and wasteful expenditure which the Department or the State incurred or may incur as a result thereof, including the causes of such —

- (i) maladministration and/or irregular, improper or unlawful conduct; and
- (ii) unauthorised, irregular or fruitless and wasteful expenditure.

2. Any non-performance, poor performance, defective performance or late performance by the IDT, or professional consultants, agents, contractors, suppliers or service providers appointed by the IDT, in respect of goods, works or services delivered, performed or rendered in terms of paragraph 1(a), (b), (c) or (d) of this Schedule and any losses or damages which the Department or the State suffered or may suffer as result thereof.

3. The acquisition of land for the Mpumalanga High Court in a manner that was—

- (a) not fair, equitable, transparent, competitive or cost-effective;

- (b) contrary to applicable—
  - (i) legislation;
  - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury; or
- (c) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department or the IDT,  
and any related unauthorised, irregular or fruitless and wasteful expenditure which the Department or the State incurred as a result thereof.

4. Any unlawful, improper or irregular conduct by—

- (a) the Department, the IDT, their officials, employees or agents or any other person relating to the allegations set out in paragraphs 1 to 3 of this Schedule;  
or
- (b) the contractors, suppliers or service providers, their directors, employees, contractors, sub-contractors or agents appointed by the IDT relating to the allegations set out in paragraph 2 of this Schedule.