

No. R. 22, 2007**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), have been made in respect of the affairs of the Mpumalanga Economic Empowerment Corporation Limited (hereinafter referred to as the “MEEC”) established by section 2 of the Mpumalanga Economic Empowerment Corporation Act, 1999 (Act No. 7 of 1999) (the “MEEC Act”);

AND WHEREAS the MEEC suffered losses that may be recovered by its successor-in-title, the Mpumalanga Economic Growth Agency (hereinafter referred to as the “MEGA”) established by section 2 of the Mpumalanga Economic Growth Agency Act, 2005 (Act No. 4 of 2005);

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, and at the request of the Premier of the Mpumalanga Province, refer the matters mentioned in the Schedule 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 MEEC;
- (b) improper or unlawful conduct by officers and/or employees of the MEEC;
- (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 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, and which offences were committed in connection with the affairs of the MEEC; 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 have taken place between 1 July 2000 and 1 April 2006 and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the MEEC and/or its successor-in-title, the MEGA.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twenty-sixth day of August Two thousand and seven.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The failure by the MEEC to -
 - (a) establish and maintain effective, efficient and transparent systems of financial and risk management and internal control and/or to adhere strictly to the provisions of any such systems;
 - (b) properly account for money received and spent by it;
 - (c) establish and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective and/or to adhere strictly to the provisions of any such system;
 - (d) ensure the effective, efficient, economical and transparent use of its resources;
 - (e) take effective and appropriate steps to -
 - (i) collect all money due to it; and
 - (ii) recover losses resulting from criminal conduct; and
 - (f) take effective and appropriate disciplinary steps against any staff or board member in its service, who committed an act that undermined the financial management and internal control system of the MEEC.

2. The -
 - (a) approval and/or payment of loans; and/or
 - (b) leasing of property,by the MEEC to entities or persons who do not or did not qualify for such loans or the leasing of property, in contravention of the MEEC Act and/or policies, procedures, prescripts, directives, guidelines or standing instructions of the MEEC (hereinafter collectively referred to as the "prescripts").

3. Payments made and/or benefits extended by the MEEC to its staff and former board members, in contravention of the provisions of the MEEC Act and/or the prescripts and/or without proper source documents.

4. The failure by the MEEC to ensure the repayment of advanced tuition fees in instances where staff and board members of MEEC failed study courses.

5. The payments made by the MEEC for goods and/or services not received.

6. Irregular payments made by the MEEC on behalf of the Reconstruction and Energy Development Corporation.
7. The failure by staff and board members of the MEEC to disclose their interests in business ventures when completing the financial disclosure forms for the MEEC and any resulting conflicts of interest that may have occurred.
8. The failure by the MEEC to adequately secure, monitor and/or enforce lease agreements in respect of properties it leased to tenants.