

PROCLAMATION
by the
President of the Republic of South Africa

No. R. 36, 2008

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) (the Act), have been made in respect of the affairs of the Department of Health: Eastern Cape Province (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 justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the said Act, and at the request of the Premier of the Eastern Cape 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 said Act, any -

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by officers and/or 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) 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 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 have taken place between 1 January 2003 and the date of publication 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Department.

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

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The payments made by the Department -
 - (a) to officers, employees and former employees of the Department in respect of salaries, benefits, commission or allowances not due to them;
 - (b) in respect of salaries to fictitious employees; and
 - (c) in respect of overtime remuneration to employees contrary to applicable prescripts and legislation.
2. The procurement by employees of the Department of services, including the performance of the Department's internal audit function, contrary to applicable prescripts and legislation.
3. Non-compliance, by employees of the Department, with applicable prescripts and legislation governing the procurement of goods and services for the Department by -
 - (a) extending and modifying the terms of existing contracts with suppliers and service providers; and
 - (b) dividing procurement lots into segments, in order to follow less stringent procurement processes, or to bring it within the scope of the procurement authorisation of employees involved in procurement.
4. The procurement of goods for the Department by its employees at the Kgotsong Santa Hospital from entities in which the relatives, friends or associates of the employees held an interest.
5. The manipulation of the Department's procurement system at the Kgotsong Santa Hospital by entities in which the relatives, friends or associates of the employees held an interest, by the submission of contrived quotations for the supply of goods and services to the Department, in order to promote the acceptance of other quotations.
6. Losses suffered by the Department as a result of -
 - (a) the payment of amounts in excess of what was due in terms of contracts with suppliers and service providers;
 - (b) payments made to service providers for work not completed or not done

- according to the required standard;
 - (c) the payment by the Department of invoices not addressed to the Department and of amounts incorrectly calculated in invoices; and
 - (d) unnecessary and extravagant expenditure in respect of goods, services, accommodation and travel.
7. Losses suffered by the Department due to the forfeiture of indemnification for accident damages as a result of the failure by its employees to timeously report accidents and submit insurance claims.
8. The unauthorised upgrading and subsequent irregular filling of a post at the Kgotsong Santa Hospital.
9. Irregular conduct relating to the performance assessment of an employee at the Kgotsong Santa Hospital.