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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 44, 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 Department of Correctional Services (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 Act, 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 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 2000 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 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 November 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 procurement of goods and services by or on behalf of the Department without compliance with the Department's -
 - (a) policies, procedures, prescripts, directives, guidelines or standing instructions (hereinafter collectively referred to as the "prescripts"); and
 - (b) procurement and provisioning systems or supply chain management systems prescribed by applicable legislation,
 in a manner that was not fair, competitive, transparent, equitable and/or cost-effective and payments made in respect thereof.
2. ~~The failure by officials and employees of the Department to disclose that they had a direct or indirect interest in the suppliers and service providers used by the Department, which represented a conflict of interest.~~
3. The failure by the officials and employees of the Department to disclose to the Department that they were engaged in unauthorised business activities for remuneration outside the scope of their employment under the Public Service Act, 1994 (Proclamation No. 103 of 1994) or the Correctional Services Act, 1998 (Act No. 111 of 1998).
4. The conduct of -
 - (a) suppliers and service providers to the Department; and
 - (b) officials and employees of the Department,
 which has resulted or may result in a loss of, damage to or a lack of control over public money, public property or other resources of the Department and any conduct directed at or promoting the aforementioned.
5. False or inflated claims by, or on behalf of officials and employees of the Department from certain medical aid schemes.
6. The theft or misuse of property and resources of the Department by officials and employees of the Department.
7. Illegal or irregular practices in terms of which officials and employees of the Department received or solicited benefits from other officials and employees of the Department or from members of the public in connection with the execution of their duties or the failure to execute their duties.
8. The conduct of officials and employees of the Department which was aimed at

influencing or hampering any investigation or the destruction of evidence.

9. The intimidation of officials and employees of the Department or members of the public by officials or employees of the Department with the aim to conceal corrupt or other unlawful practices within the Department.
10. Acts of undue influence and extortion committed by officials and employees of the Department with regard to members of the public and other officials or employees of the Department.
11. Fraud committed by officials and employees of the Department to the detriment of the Department.