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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 45, 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) (the Act), have been made in respect of the affairs of the KwaZulu-Natal Provincial Department of Transport in its administrative Cost Centres at Durban (Merebank), Port Shepstone and Stanger (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 after consultation with or at the request of the Premier of the KwaZulu-Natal 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 2002 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 Second day of December 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 awarding of contracts for the supply of goods and/or services to the Department at its Durban (Merebank), Port Shepstone and Stanger Cost Centres ("hereinafter collectively referred to as "departmental Cost Centres") by employees of the Department –
 - (a) contrary to statutory provisions or departmental policy, prescripts and/or procedures;
 - (b) as a result of procurement processes that were manipulated by the aforementioned employees; and/or
 - (c) under circumstances where such employees have an undisclosed conflict of interest.
2. The failure of the departmental Cost Centres to maintain proper stock control systems.
3. The excessive or otherwise unnecessary -
 - (a) ordering of stock for the departmental Cost Centres; and/or
 - (b) outsourcing of services by the departmental Cost Centres.
4. Losses, theft and/or unauthorised use of stock at the departmental Cost Centres.
5. The performance of remunerative work by employees of the departmental Cost Centres outside the scope of their employment with the Department, contrary to statutory provisions, departmental policy and/or departmental prescripts.
6. Damage to or loss of public property at the departmental Cost Centres as a result of the wilful or negligent acts or omissions of responsible employees of the Department.