

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 55, 2012

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) (hereinafter referred to as "the Act"), have been made in respect of the affairs of the Guardians Fund components of the KwaZulu-Natal and Gauteng offices of the Master of the High Court of the Department of Justice and Constitutional Development (hereinafter referred to as "the Department");

AND WHEREAS the Department or the State may have 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, in respect of the Department 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 officials 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 (Act No. 12 of 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 took place between 1 January 2001 and the date of publication of this Proclamation or which took place prior to 1 January 2001 or after the date of publication of this Proclamation and which is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involves 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 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 Pretoria this Eight day of September Two thousand and twelve.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. Maladministration of the Guardians Fund by the KwaZulu-Natal and the Gauteng offices of the Master of the High Court.
2. Applications by beneficiaries for and payment by the KwaZulu-Natal and Gauteng offices of the Master of the High Court of funds to beneficiaries from the Guardians Fund, in a manner that was—
 - (a) contrary to applicable
 - (i) legislation; or
 - (ii) manuals, policies, procedures, instructions, prescripts and practices of or applicable to the KwaZulu-Natal or Gauteng offices of the Master of the High Court or the Department of Justice and Constitutional Development; or
 - (b) fraudulent.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika***No. R. 55, 2012****WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as "die Wet"), gemaak is in verband met die aangeleenthede van die Voogdyfonds komponente van die KwaZulu-Natal en Gauteng kantore van die Meester van die Hoë Hof van die Departement van Justisie en Staatkundige Ontwikkeling (hierna na verwys as "die Departement");

EN AANGESIEN die Departement of die Staat moontlik verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat die gemelde bewerings ondersoek en beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Departement, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in die Wet, ondersoek te doen na enige -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement;
- (b) onbehoorlike of onregmatige optrede deur beamptes en/of werknemers van die Departement;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op die voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die

- Departement; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2001 en die datum van publikasie van hierdie Proklamasie, of wat plaasgevind het voor 1 Januarie 2001 of na die datum van publikasie van hierdie Proklamasie, en wat relevant is tot, verband hou met, of insidenteel of bykomstig is tot die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekteenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Departement of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Agste dag van September Twee duisend-en-twaalf.

J G Zuma
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

BYLAE

1. Wanadministrasie van die Voogdyfonds deur die KwaZulu-Natal en die Gauteng kantore van die Meester van die Hoë Hof.
2. Aansoeke deur bevoorreedes vir en betaling deur die KwaZulu-Natal en Gauteng kantore van die Meester van die Hoë Hof van fondse aan bevoorreedes uit die Voogdyfonds, op 'n wyse wat—
 - (a) strydig was met toepaslike
 - (i) wetgewing; of
 - (ii) handleidings, beleid, prosedures, instruksies, voorskrifte en praktyke van of wat van toepassing was op die KwaZulu-Natal of Gauteng kantore van die Meester van die Hoë Hof of die Departement van Justisie en Staatkundige Ontwikkeling; of
 - (b) bedrieglik was.