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PROCLAMATION

by the

PRESIDENT of the REPUBLIC of SOUTH AFRICA

No. R. 7, 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) (hereinafter referred to as "the Act"), have been made in respect of the development and delivery of low cost housing in South Africa through the National Department of Housing, the Provincial Departments of Housing, the former Housing Development Boards and Corporations and Local Authorities and their appointed agents (hereinafter referred to as the "Institutions");

AND WHEREAS the Institutions 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 Institutions;
- (b) improper or unlawful conduct by officers and/or employees of the Institutions;
- (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 Institutions; 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 1994 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 Institutions.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eleventh day of April Two thousand and seven.

P. MLAMBO-NGCUKA

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. Loss of State funds that were allocated to low cost housing schemes as a result of-
 - (a) financial mismanagement;
 - (b) misappropriation;
 - (c) fraudulent applications for housing benefits;
 - (d) payment of fraudulent claims in respect of work done, services rendered and materials supplied for the development of low cost housing;
 - (e) intentional and/or negligent settlement of claims for services not rendered and/or incomplete and/or sub-standard services;
 - (f) utilization of defective materials in the construction of houses; and
 - (g) professional services not rendered, and/or for materials not supplied.

2. Mismanagement and misuse of the State's low cost housing scheme in that -
 - (a) sites and/or constructed houses were allocated to non-qualifying persons;
 - (b) sites and/or constructed houses were appropriated for non-qualifying persons;
 - (c) officials and municipal councillors profited from development contracts awarded;
 - (d) officials and municipal councillors exacted undue consideration from beneficiaries and/or aspirant beneficiaries for participation and/or prospective participation in the scheme;
 - (e) development contracts were awarded contrary to prescribed tender processes and in a manner which was not fair, equitable, transparent, competitive or cost effective;
 - (f) the planning of low cost housing programmes was inadequate;
 - (g) there was insufficient supervision of low cost housing development projects;
 - (h) the National Housing Manual, National Housing Code and applicable laws governing the State's low cost housing scheme were not complied with;
 - (i) subsidies were approved in respect of -
 - (i) non qualifying applicants with salaries in excess of the subsidy threshold;
 - (ii) applications after some applicants' deaths;
 - (iii) applicants under the age of 21 years;
 - (iv) applicants with invalid ID numbers;

- (v) duplicate applications for a specific property; or
 - (vi) individuals that received pensions from the Government Employees Pension Fund above the subsidy threshold; and
 - (j) more than one subsidy was approved in respect of a specific applicant or his or her spouse.
- 3. The conduct of officials, employees and municipal councillors of the Institutions and their appointed agents responsible for or involved in the administration of the State's low cost housing schemes and in the payment of subsidies under such schemes, which has resulted in losses of or lack of control over property or money allocated for such schemes.