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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 8, 2011

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 National Department of Rural Development and Land Reform (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, 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 2006 and the date of publication of this Proclamation or which took place prior to 1 January 2006, but are connected with or incidental to the matters mentioned in the Schedule or involve the same persons, entities or grants 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 Twenty-first day of January Two thousand and eleven.

J G ZUMA
President

By Order of the President-in-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

1. The application for and award of grants, the transfer of land or the payment of funds to beneficiaries and the administration thereof by the Department, under the Department's Land Reform Programme, in a manner that was -
 - (a) contrary to applicable -
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes and instructions issued by the National Treasury; or
 - (iii) manuals, policies, procedures, instructions, prescripts or practices of, or applicable to the Department; or
 - (b) fraudulent.

2. The incurrence of -
 - (a) irregular expenditure;
 - (b) fruitless and wasteful expenditure; or
 - (c) expenditure not due, owing and payable, in relation to payments made, land transferred or grants awarded to beneficiaries, suppliers, contractors or service providers, in or relating to the Department's Land Reform Programme.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika*

No. R. 8, 2011

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 Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleentheid van die Nasionale Departement van Landelike Ontwikkeling en Grondhervorming (hierna na verwys as die "Departement");

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

EN AANGESIEN ek dit nodig ag dat 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 aangeleentheid 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 aangeleentheid, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige -

- (a) ernstige wanadministrasie in verband met die aangeleentheid 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 voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, 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 2006 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Januarie 2006, maar wat verband hou met, of insidenteel is tot, die aangeleenthede vermeld in die Bylae of dieselfde persone, entiteite of toelaes 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 Ondersoekkeenheid toegewys of opgedra is, uit te oefen of te verrig, insluitend die verhaal van enige verliese wat deur die Departement of die Staat gely is, ten opsigte van die aangeleenthede in die Bylae vermeld.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Een-en-twintigste dag van Januarie Tweeduisend-en-elf.

J G ZUMA
President

Op las van die President-in-Kabinet:

J T RADEBE
Minister van die Kabinet

BYLAE

1. Die aansoek vir en toekenning van toelaes, die oordrag van grond of die betaling van fondse aan begunstigdes en die administrasie daarvan deur die Departement, kragtens die Departement se Grondhervormingsprogram, op 'n wyse wat -
 - (a) strydig was met toepaslike -
 - (i) wetgewing;
 - (ii) handleidings, riglyne, praktyknotas en instruksies deur die Nasionale Tesourie uitgevaardig; of
 - (iii) handleidings, beleid, prosedures, instruksies, voorskrifte of praktyke van, of wat op die Departement van toepassing is; of
 - (b) bedrieglik was.
2. Die aangaan van -
 - (a) onreëlmatige uitgawes;
 - (b) vrugtelose en verkwiste uitgawes; of
 - (c) uitgawes wat nie opeisbaar, verskuldig of betaalbaar is nie, ten opsigte van betalings wat gemaak is, grond wat oorgedra is of toelaes wat toegeken is aan begunstigdes, verskaffers, kontrakteurs of diensverskaffers ten opsigte van, of in verband met, die Departement se Grondhervormingsprogram.

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