

PROCLAMATION

by the

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

No. R. 101, 1999

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 South African Rail Commuter Corporation Limited (hereinafter referred to as "the Corporation");

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, refer the matters in the Schedule for investigation to the Special Investigating Unit and for adjudication of justiciable civil disputes emanating from such investigation to the Special Tribunal established by Proclamation No. R. 24 of 14 March 1997 and determine that, for the purposes of the investigation of those 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 Corporation;
- (b) improper or unlawful conduct by employees of the Corporation;
- (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) corruption in connection with the affairs of the Corporation; 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 has taken place between January 1990 and the date of publication of this Proclamation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fifteenth day of September One thousand Nine hundred and Ninety-nine.

T. M. MBEKI
President

By Order of the President-in-Cabinet:

P. M. MADUNA
Minister of the Cabinet

SCHEDULE

1. The failure by employees of the Corporation to comply with the prescribed tender procedure in respect of the upgrading and/or development of facilities and security, at railway stations.

2. The irregular and/or injudicious -

(a) conclusion of contracts by, the Corporation with various individuals and businesses; and

(b) appointment of consultants by the Corporation, for purposes of the upgrading and/or development of facilities and security at railway stations based on misrepresentations made and/or fraud committed by employees of the Corporation, and/or individuals and/or businesses who/which were involved with such upgrading and/or development.

3. The irregular awarding of contracts for the upgrading and/or development of facilities and security at railway stations by the Corporation to -

(a) various individuals and/or businesses with whom/which the Corporation had already concluded contracts; and/or

(b) businesses of which some of the members have interests in other businesses with which the Corporation had already concluded contracts, contrary to the interests of the Corporation and/or with

the aim to favour such individuals and/or businesses to the detriment of other interested parties.

4. The unlawful, unauthorised and/or irregular receipt of pecuniary consideration by employees of the Corporation from individuals and/or businesses to whom/which contracts for the upgrading and/or development of facilities and security at railway stations were awarded.

5. The unlawful, unauthorised and/or irregular conduct of employees of the Corporation to ensure that the Corporation awards or extends contracts for the upgrading and/or development of facilities and security at railway stations to specific individuals and/or businesses.

6. The losses suffered by the Corporation due to -

(a) the unlawful, unauthorised and/or irregular conduct of employees of the Corporation in the awarding or extension of contracts for the upgrading and/or development of facilities and security at railway stations; and/or

(b) any misrepresentation made and/or fraud committed by employees of the Corporation, and/or individuals and/or businesses who/which were involved with the upgrading and/or development of facilities and security at railway stations.

7. The losses suffered by the Corporation as a result of the awarding of contracts to individuals and/or businesses for the upgrading and/or development of facilities and security at railway stations based on misrepresentations made and/or fraud committed by employees of the Corporation and/or such individuals and/or businesses due to -

(a) services having been rendered by such individuals and/or businesses-

(i) at inflated prices; and/or

(ii) which were poor in quality; and/or

(b) purchases of security prototype products, equipment and/or devices, or material and/or goods necessary for the upgrading and/or development of facilities and security at railway stations by such individuals and/or businesses -

(i) at inflated prices;

(ii) which appeared to be not viable or suitable for the projects it was intended for; and/or

(iii) which were of an inferior quality.