

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 42, 2010

**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 South African Police Service, as established by section 5 of the South African Police Service Act, 1995 (Act No. 68 of 1995), on a national and provincial level (hereinafter referred to as the "Service");

AND WHEREAS the Service 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 Service 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 Service;
- (b) improper or unlawful conduct by officials, officers, employees, personnel and/or members of the Service;
- (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 Service; 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 2005 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, including the recovery of any losses suffered by the Service, 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 First day of August Two thousand and ten.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The procurement of and contracting for goods, works or services, including leased accommodation, by or on behalf of the Service (including procurement and contracting conducted on behalf of the Service by the Department of Public Works ("DPW") or the State Information Technology Agency (Pty) Ltd ("SITA")) and payments made in relation thereto, in a manner that was -
 - (a) not fair, equitable, transparent, competitive or cost-effective;
 - (b) contrary to applicable –
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasuries; or
 - (iii) manuals, codes, policies, procedures, instructions or practices of or applicable to the Service;
 - (c) conducted or facilitated by or through the intervention of officials, officers, employees, personnel or members of the Service (hereinafter collectively referred to as "the Service's personnel") with undeclared conflicts of interest; or
 - (d) conducted or facilitated by the manipulation of the Service's supply chain management, procurement or information system management processes -
 - (i) by property owners, property managers, contractors, suppliers or service providers (hereinafter collectively referred to as "the Service's suppliers and service providers") of the Service; or
 - (ii) by, in collusion with or through the intervention of the Service's personnel,

to unduly benefit themselves or others.
2. The incurrence of -
 - (a) unauthorized expenditure;
 - (b) irregular expenditure;
 - (c) fruitless and wasteful expenditure; or
 - (d) expenditure not due, owing and payable,

in relation to payments made to agents of the Service (including the DPW and SITA) or to the Service's suppliers and service providers for goods, works or services, including leased accommodation procured by or on behalf of the Service.
3. Non-compliance with the provisions of the Government Immovable Asset Management Act, 2007 (Act No. 19 of 2007), or the conditions of the "devolution of custodial responsibilities of functional assets" process embarked upon by the DPW, the Service and National Treasury, inter alia, due to the manner in which the Service's Building Services have been conducting their projects.
4. Unlawful or irregular conduct by the Service's personnel, the Service's suppliers and service providers or third parties relating to any one or more of the aforementioned allegations.