

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 58, 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 Broadcasting Corporation Limited (hereinafter referred to as the "SABC");

AND WHEREAS the SABC 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 SABC, 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 SABC;
- (b) improper or unlawful conduct by board members, officials and/or employees of the SABC;
- (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 SABC; 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 or which took place prior to 1 January 2005, but are connected with, or incidental to, the matters mentioned in the Schedule or involve 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 the recovery of any losses suffered by the SABC, 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- fifth day of October 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 holding by the board members, officials or employees of the SABC (hereinafter collectively referred to as "the SABC's personnel") of undisclosed or unauthorised interests in -
 - (a) contractors, suppliers or service providers bidding for work or doing business with the SABC; or
 - (b) contracts awarded by the SABC,contrary to applicable laws, manuals, codes, policies, procedures, prescripts, guidelines, directives, instructions or practices of, or applicable to, the SABC or the SABC's personnel.
2. The procurement of, and contracting for, goods or services by the SABC and payments made in relation thereto, in a manner that was -
 - (a) not fair, equitable, transparent, competitive or cost-effective; or

- (b) contrary to applicable –
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes and instructions issued by the National Treasury; or
 - (iii) manuals, policies, procedures, directives, instructions or practices of, or applicable to, the SABC.

3. The mismanagement of the finances of the SABC, including:

- (a) Payment of remuneration, commissions or allowances or the provisioning of benefits to the SABC's personnel that were not due, owing or payable or that were in excess of stipulated limits;
- (b) the continued payment of remuneration or allowances or the continued provisioning of benefits to the SABC's personnel suspended from duty for excessively long periods;
- (c) the failure to record taxable payments, allowances or benefits of the SABC's personnel in the accounting records of the SABC;
- (d) the incurring of-
 - (i) irregular expenditure; or
 - (ii) fruitless and wasteful expenditure,in relation to payments made to the SABC's personnel or consultants, suppliers or service providers for any goods or services to the SABC; and
- (e) the granting of wasteful discounts to SABC clients for SABC services.

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