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**PROCLAMATION***by the**President of the Republic of South Africa***No. R. 45, 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) (the Act), have been made in respect of the affairs of the KwaZulu-Natal Provincial Department of Transport in its administrative Cost Centres at Durban (Merebank), Port Shepstone and Stanger (hereinafter referred to as the "Department");

AND WHEREAS the Department 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 said Act, and after consultation with or at the request of the Premier of the KwaZulu-Natal Province, 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 said Act, any -

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by officers 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 2002 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 said Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Department.

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

**T. M. MBEKI**

**President**

By Order of the President-in-Cabinet:

**B. S. MABANDLA**

**Minister of the Cabinet**

**SCHEDULE**

1. The awarding of contracts for the supply of goods and/or services to the Department at its Durban (Merebank), Port Shepstone and Stanger Cost Centres (“hereinafter collectively referred to as “departmental Cost Centres”) by employees of the Department –
  - (a) contrary to statutory provisions or departmental policy, prescripts and/or procedures;
  - (b) as a result of procurement processes that were manipulated by the aforementioned employees; and/or
  - (c) under circumstances where such employees have an undisclosed conflict of interest.
2. The failure of the departmental Cost Centres to maintain proper stock control systems.
3. The excessive or otherwise unnecessary -
  - (a) ordering of stock for the departmental Cost Centres; and/or
  - (b) outsourcing of services by the departmental Cost Centres.
4. Losses, theft and/or unauthorised use of stock at the departmental Cost Centres.
5. The performance of remunerative work by employees of the departmental Cost Centres outside the scope of their employment with the Department, contrary to statutory provisions, departmental policy and/or departmental prescripts.
6. Damage to or loss of public property at the departmental Cost Centres as a result of the wilful or negligent acts or omissions of responsible employees of the Department.

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

**No. R. 45, 2007**

No. R. , 2007

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996  
(WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEID 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 “die Wet” genoem), gemaak is in verband met die aangeleenthede van die KwaZulu-Natal Provinsiale Departement van Vervoer en dié se administratiewe Kostesentrums te Durban (Merebank), Port Shepstone en Stanger (hierna die “Departement” genoem);

EN AANGESIEN die Departement 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, en op versoek van die Premier van die KwaZulu-Natal Provinsie, die aangeleenthede in die Bylae 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 aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in die Wet, ondersoek te doen na enige -

(a) ernstige wanadministrasie in verband met die aangeleenthede van die

- Departement;
- (b) onbehoorlike of onregmatige optrede deur beamptes 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 van die publiek veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2002 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenheid toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoris op hede die Tweede dag van Desember Tweeduisend-en-sewe.

**T. M. MBEKI**

**President**

Op las van die President-in-Kabinet:

**B. S. MABANDLA**

**Minister van die Kabinet**

**BYLAE**

1. Die toekenning van kontrakte vir die verskaffing van goedere en/of dienste aan die Departement by dié se Durban (Merebank), Port Shepstone en Stanger Koste Sentrums (hierna gesamentelik na verwys as die “departementele Kosesentrums”) deur werknemers van die Departement –
    - (a) strydig met statutere voorskrifte of departementele beleid, voorskrifte of prosedures;
    - (b) as gevolg van aanskaffingsprosesse wat gemanipuleer is deur voorafgenoemde werknemers; en/of
    - (c) onder omstandighede waar sodanige werknemers ‘n ongeopenbaarde konflik van belange gehad het.
  2. Die versuim van die departementele Kosesentrums om behoorlike voorraadkontrolesisteme in stand te hou.
  3. Die oormatige of andersins onnodige –
    - (a) bestelling van voorraad vir die departementele Kosesentrums; en/of
    - (b) uitbesteding van dienste deur die departementele Kosesentrums.
  4. Verlies, diefstal en/of ongemagtigde gebruik van voorraad by die departementele Kosesentrums.
  5. Die verrigting van betaalde werk deur werknemers van die departementele Kosesentrums buite die bestek van hulle werksverband met die Departement, strydig met statutêre voorskrifte, departementele beleid en/of departementele voorskrifte.
  6. Skade aan of verlies van publieke eiendom by die departementele Kosesentrums as gevolg van opsetlike of nalatige optredes of lates van verantwoordelike beamptes van die Departement.
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