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CONTENTS**INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
PROCLAMATION			PROKLAMASIE		
R. 49			R. 49		
Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing Special Investigating Unit and Special Tribunal	3	37870	Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale (74/1996): Verwysing van aangeleenthede na bestaande Spesiale Ondersoekeenhede en Spesiale Tribunaal	4	37870

PROCLAMATION

by the

President of the Republic of South Africa

No. 49, 2014

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 KwaZulu-Natal Provincial Treasury (hereinafter referred to as "the Treasury");

AND WHEREAS the Treasury may have suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings 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 Treasury, 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 alleged—

- (a) serious maladministration in connection with the affairs of the Treasury;
- (b) improper or unlawful conduct by employees of the Treasury;
- (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) offences 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 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Treasury; 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 took place between 24 May 2012 and the date of publication of this Proclamation or which took place prior to 24 May 2012 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary 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 recovery of any losses suffered by the Treasury, 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 ninth day of July Two thousand and fourteen.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. The appointment, by the Treasury, of a service provider to the "Municipal Infrastructure Crack Team" of the Treasury to provide services for the Municipal Infrastructure Intervention Programme of the Treasury and payments made to the service provider in a manner that was—
 - (a) not fair, competitive, transparent, equitable or cost-effective;
 - (b) contrary to—
 - (i) applicable legislation; or
 - (ii) applicable manuals, guidelines, practice notes or instructions issued by the National Treasury or the Treasury; or
 - (c) conducted or facilitated by or through the improper intervention of employees of the Treasury,
 and related irregular or fruitless and wasteful expenditure incurred by the Treasury.

2. Unauthorised, irregular or fruitless and wasteful expenditure incurred by the Treasury in respect of the funding of the—
 - (a) "Commemorating Prisoners of War – St Helena" event;
 - (b) Durban International North Sea Jazz Festival; and
 - (c) KwaZulu-Natal Sharks Board.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika***No. 49, 2014****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 aangeleentede van die KwaZulu-Natal Provinsiale Tesourie (hierna na verwys as "die Tesourie");

EN AANGESIEN die Tesourie moontlike verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleentede in die Bylae vermeld, ten opsigte van die Tesourie, 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 die aangeleentede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

- (a) ernstige wanadministrasie in verband met die aangeleentede van die Tesourie;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die Tesourie;
- (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) misdrywe 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, en welke misdrywe gepleeg is in verband met die sake van die Tesourie ; 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 24 Mei 2012 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 24 Mei 2012 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Tesourie gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die negende dag van Julie Twee duisend-en-veertien.

J G Zuma
President

Op las van die President-in-Kabinet:

J T Radebe
Minister van die Kabinet

BYLAE

1. Die aanstelling deur die Tesourie van 'n diensverskaffer tot die "Municipal Infrastructure Crack Team" van die Tesourie om dienste te lewer aan die "Municipal Infrastructure Intervention Programme" van die Tesourie en betalings wat aan die diensverskaffer in verband daarmee gemaak is op 'n wyse wat—

- (a) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;
- (b) strydig was met—
 - (i) toepaslike wetgewing; of
 - (ii) toepaslike handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie of die Tesourie uitgevaardig is; of
- (c) gedoen of gefasiliteer was deur die onbehoorlike tussenkoms van werknemers van die Tesourie,

en enige verwante onreëlmatige of vrugtelose en verspilte uitgawes deur die Tesourie aangegaan.

2. Ongemagtigde, onreëlmatige of vrugtelose en verspilte uitgawes deur die Tesourie aangegaan ten opsigte van die befondsing van die—

- (a) "Commemorating Prisoners of War – St Helena" gebeurlikheid;
- (b) "Durban International North Sea Jazz Festival"; en
- (c) KwaZulu-Nataalse Haaibestrydingsraad.

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Please consult our website at www.gpwonline.co.za for more contact details.

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