



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 10257

Regulasiekoerant

Vol. 591

Pretoria, 4 September 2014

No. 37969

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PROCLAMATION*by the**President of the Republic of South Africa***No. R. 62, 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 Department of Communications (hereinafter referred to as "the Department");

AND WHEREAS the Department 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 Department, 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 Department;
- (b) improper or unlawful conduct by employees or officials 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) 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 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 took place between 1 May 2009 and the date of publication of this Proclamation or which took place prior to 1 May 2009 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 Department, 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 Twelfth 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 donation of R10 million by the Department towards the hosting or organisation of the Information Communication and Technology Indaba which took place from 4 to 7 June 2012—
 - (a) contrary to applicable—
 - (i) legislation, manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (ii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department; or
 - (b) which was organised or facilitated by or through the improper intervention of employees or officials of the Department, and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department or which resulted in the improper enrichment of parties involved in the hosting or organisation of the Information Communication and Technology Indaba.
2. Travel and accommodation expenses or other benefits which were paid by the Department in respect of a person who does not qualify therefor, in a manner that was—
 - (a) contrary to applicable—
 - (i) legislation, manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (ii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department; or
 - (b) facilitated by or through the improper intervention of employees or officials of the Department, and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.
3. The recruitment, selection, and appointment of an employee to a position that did not exist in the Communications Unit of the Department.
4. Improper or unlawful conduct by an official of the Department which resulted in the Department purportedly breaching a contract concluded between the Department and Gitshasbaya Consulting.
5. Improper or unlawful conduct by employees or officials of the Department or third parties relating to the recruitment, selection, and appointment of the Chief Financial Officer of the South African Broadcasting Corporation on 14 February 2012.
6. The procurement of goods, works or services by or on behalf of the Department and payments made in respect thereof in relation to the—
 - (a) Nkowankowa event held in Limpopo on 21 June 2013; and
 - (b) World Telecommunications and Information Society Day event held in Richards Bay, KwaZulu-Natal on 17 May 2013,in a manner that was—
 - (i) not fair, equitable, transparent, competitive and cost-effective;
 - (ii) contrary to applicable—
 - (aa) legislation, manuals, guidelines, practice notes or instructions issued by the National Treasury; or
 - (bb) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department,and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.

PROKLAMASIE
van die
President van die Republiek van Suid-Afrika

No. R. 62, 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 Ondersoekeenheede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Departement van Kommunikasie (hierna na verwys as "die Departement");

EN AANGESIEN die Departement 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 aangeleenthede in die Bylae vermeld, ten opsigte van die Departement, 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 aangeleenthede, dit 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 aangeleenthede van die Departement;
- (b) onbehoorlike of onregmatige optrede deur werknemers of beamptes 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) 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 (Wet No. 12 van 2004), en welke misdrywe in verband met die sake van die Departement gepleeg is; 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 1 Mei 2009 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Mei 2009 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 Departement gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Twaalfde 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 skenking van R10 miljoen deur die Departement ten opsigte van die hou of organisasie van die Informasie Kommunikasie en Tegnologie Indaba wat vanaf 4 tot 7 Junie 2012 plaasgevind het, wat —
 - (a) strydig was met toepaslike—
 - (i) wetgewing, handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is;
 - (ii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is; of
 - (b) georganiseer of gefasiliteer is deur of deur die onbehoorlike inmenging van werknemers of beamptes van die Departement, en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes wat deur die Departement aangegaan is of wat aanleiding gegee het tot die onbehoorlike verryking van partye wat in die hou of organisasie van die Informasie Kommunikasie en Tegnologie Indaba betrokke was.
2. Reis-en-verblyf uitgawes of ander voordele wat deur die Departement betaal is ten opsigte van 'n persoon wat nie daarvoor kwalifiseer nie, op 'n wyse wat—
 - (a) strydig was met toepaslike—
 - (i) wetgewing, handleidings, riglyne, praktyknotas of instruksies wat deur die Nasionale Tesourie uitgevaardig is;
 - (ii) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op die Departement van toepassing is; of
 - (b) gefasiliteer is deur of deur die onbehoorlike inmenging van die werknemers of beamptes van die Departement, en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes deur die Departement aangegaan.
3. Die werwing, keuring en aanstelling van 'n werknemer in 'n pos wat nie in die Kommunikasie-eenheid van die Departement bestaan het nie.
4. Onbehoorlike of onregmatige optrede deur 'n beampte van die Departement wat tot beweerde kontrakbreuk deur die Departement aanleiding gegee het ten opsigte van 'n kontrak wat tussen die Departement en Gitshasbaya Consulting gesluit is.
5. Onbehoorlike of onregmatige optrede deur werknemers of beamptes van die Departement of derde partye wat verband hou met die werwing, keuring en aanstelling van die Hoof Finansiële Beampte van die Suid-Afrikaanse Uitsaaikorporasie op 14 Februarie 2012.
6. Die aanskaffing van goedere, werke of dienste deur of namens die Departement en betalings wat in verband daarmee gemaak is aan die—
 - (a) Nkowankowa geleentheid gehou te Limpopo op 21 Junie 2013; en
 - (b) "World Telecommunications and Information Society Day" geleentheid gehou te Richards Baai, KwaZulu-Natal op 17 Mei 2013,op 'n wyse wat—
 - (i) nie billik, regverdig, deursigtig, kompetierend, of koste-effektief was nie;
 - (ii) strydig was met toepaslike—
 - (aa) wetgewing, handleidings, riglyne, praktyknotas of instruksies deur die Nasionale Tesourie uitgevaardig; of
 - (bb) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van of wat op die Departement van toepassing is,en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verspilde uitgawes deur die Departement aangegaan.

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 - Maps : 012 748 6061/6065 BookShop@gpw.gov.za
 - Debtors : 012 748 6060/6056/6064 PublicationsDebtors@gpw.gov.za
 - Subscription : 012 748 6054/6055/6057 Subscriptions@gpw.gov.za
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

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

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

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 Advertisements: Tel: (012) 748 6205, 748 6208, 748 6209, 748 6210, 748 6211
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Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
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