

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.