

**PROCLAMATION NO. R. 18 OF 2016**

**by the  
PRESIDENT of the REPUBLIC of SOUTH AFRICA**

**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 Correctional Services ("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) offence referred to in Parts 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 June 2011 and the date of publication of this Proclamation or which took place prior to 1 June 2011 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 the 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 Thirtieth day of March Two thousand and sixteen.

**J G Zuma**  
**President**

By Order of the President-in-Cabinet:

**T M Masutha**  
**Minister of the Cabinet**

### **Schedule**

1. Irregularities in the procurement of an electronic monitoring system by the Department in terms of bids HK 07/2011, HO 06/2013 and HO 01/2014 and payments made in respect thereof, in a manner that was—

- (a) not fair, equitable, transparent, competitive or cost-effective;
  - (b) contrary to applicable—
    - (i) legislation;
    - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury;
    - (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department;
  - (c) conducted by or facilitated through the improper conduct of—
    - (i) employees or officials of the Department; or
    - (ii) any other person or entity, to corruptly or unduly benefit themselves or others; or
  - (d) fraudulent,
- and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.

2. The extension of the contract awarded in terms of bid HK 07/2011 and payments made in respect thereof in a manner that was—

- (a) not fair, equitable, transparent, competitive or cost-effective;
  - (b) contrary to applicable—
    - (i) legislation;
    - (ii) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury; or
    - (iii) 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.

3. Any non-performance or defective performance by the service provider appointed by the Department for the electronic monitoring system referred to in paragraph 1 of this Schedule.
4. Any improper or unlawful conduct, in relation to the allegations set out in paragraph 1 of this Schedule, by employees or officials of the Department, the applicable service provider or any other person or entity.