

PROCLAMATIONS*by the**President of the Republic of South Africa***PROKLAMASIES***van die**President van die Republiek van Suid-Afrika***No. R. 21, 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), have been made in respect of the affairs of the Free State Provincial Treasury in so far as they relate to the administration of the Free State Provincial Development Fund (hereinafter referred to as the "Provincial Treasury");

AND WHEREAS the Provincial Treasury 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 Act, and at the request of the Premier of the Free State 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 Act any -

- (a) serious maladministration in connection with the affairs of the Provincial Treasury;
- (b) improper or unlawful conduct by officers and/or employees of the Provincial 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) 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 Provincial 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 have taken place between 1 January 2003 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 Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Provincial Treasury.

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

P. MLAMBO-NGCUKA

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The fruitless, wasteful and unauthorised expenditure and loss of public money by the Free State Provincial Development Fund (hereinafter referred to as the “FSPDF”) as a result of the failure of the Provincial Treasury to –
 - (a) ensure that applications for funding from the FSPDF were in accordance with the objectives, key focus areas and set requirements of the FSPDF in relation to such funding;
 - (b) take reasonable steps to ensure that projects submitted for funding from the FSPDF were reasonably feasible and sustainable and would be supported by a reasonable level of relevant skills, expertise and resources and likely to achieve the objectives of the FSPDF; and
 - (c) engage the services of an appropriately qualified service provider to assess the applications for the funding of projects by the FSPDF for feasibility, sustainability, adequate resourcing and likelihood of achievement of the objectives of the FSPDF.

2. The failure by the Provincial Treasury to prevent or mitigate the fruitless and wasteful expenditure of public money from the FSPDF for the funding of projects, and, in particular the failure to-
 - (a) regularly and effectively monitor the progress of such projects and the utilisation of such funding, having regard to the terms on which it was advanced by the FSPDF; and
 - (b) timeously take steps to recover such funding upon the breach by the beneficiary of the terms upon which it was advanced by the FSPDF and to take steps to secure the repayment thereof.

3. The disregard of an application of one entity for funding by the FSPDF to purchase a brick manufacturing, sand and stone business in Bethlehem, and the granting of an application for funding by the FSPDF for the same purpose to another entity in which the brother of the personal assistant to the Chief Executive Officer of the Provincial Treasury held a substantial and undisclosed interest.

4. The granting of an application for funding by the FSPDF to an entity in which the spouse of a Member of the Executive Committee of the Free State Provincial Government and Head of the Provincial Treasury held a substantial and undisclosed interest.