

# PROCLAMATION

*by the*

*President of the Republic of South Africa*

**No. R. 55, 2012**

**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 Guardians Fund components of the KwaZulu-Natal and Gauteng offices of the Master of the High Court of the Department of Justice and Constitutional Development (hereinafter referred to as "the Department");

**AND WHEREAS** the Department or the State may have 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, 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—

- (a) serious maladministration in connection with the affairs of the Department;
- (b) improper or unlawful conduct by officials and/or employees 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 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 January 2001 and the date of publication of this Proclamation or which took place prior to 1 January 2001 or after the date of publication of this Proclamation and which is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involves 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 or the State, 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 Eight day of September Two thousand and twelve.

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

By Order of the President-in-Cabinet:

**J T Radebe**  
**Minister of the Cabinet**

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**SCHEDULE**

1. Maladministration of the Guardians Fund by the KwaZulu-Natal and the Gauteng offices of the Master of the High Court.
2. Applications by beneficiaries for and payment by the KwaZulu-Natal and Gauteng offices of the Master of the High Court of funds to beneficiaries from the Guardians Fund, in a manner that was—
  - (a) contrary to applicable—
    - (i) legislation; or
    - (ii) manuals, policies, procedures, instructions, prescripts and practices of or applicable to the KwaZulu-Natal or Gauteng offices of the Master of the High Court or the Department of Justice and Constitutional Development; or
  - (b) fraudulent.