

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 2, 2011

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 National Heritage Council, as established by section 3 of the National Heritage Council Act, 1999 (Act No. 11 of 1999) (hereinafter referred to as the "Council");

AND WHEREAS the Council 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 Council, 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 Council;
- (b) improper or unlawful conduct by members, officials and/or employees of the Council;
- (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 Council; 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 2006 and the date of publication of this Proclamation or which took place prior to 1 January 2006, but are connected with or incidental 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 Council 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 Sixth day of January Two thousand and eleven.

J G ZUMA
President

By Order of the President-in-Cabinet:

J T RADEBE
Minister of the Cabinet

SCHEDULE

1. The procurement of goods or services by the Council in a manner -
 - (a) that was not fair, equitable, transparent, competitive or cost-effective; or
 - (b) that was contrary to applicable –
 - (i) legislation;
 - (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the relevant provincial treasuries; or
 - (iii) manuals, codes, policies, procedures, instructions or practices of, or applicable to the Council.
2. Irregular expenditure incurred by the Council as a result of the procurement of goods or services as is set out in paragraph 1.
3. The making of statements relating to expenditure, including fruitless and wasteful expenditure, in the financial records of the Council that were not true and or accurate.