

PROCLAMATION*by the**President of the Republic of South Africa*

No. R. 77, 2002

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 Performing Arts Centre of the Free State or its predecessor in title (herein after referred to as "PACOFS");

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 said Act, refer the matters 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 these matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the said Act, any -

- (a) serious maladministration in connection with the affairs of PACOFS;
- (b) improper or unlawful conduct by officials of PACOFS;
- (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) corruption in connection with the affairs of PACOFS; 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 has taken place between January 1994 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 said Act in relation to the said matters.

Given under my Hand at Pretoria this Eleventh day of October Two thousand and two.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

P. M. MADUNA

Minister of the Cabinet

SCHEDULE

1. Irregularities regarding the establishment of the Orange Free State Performing Arts Institute Trust in 1994 and the administration of the financial affairs of the trust.
2. Irregularities regarding the establishment of the Performing Arts Council of the Orange Free State Early Retirement Trust in 1995 as well as the obtaining of State funds by the trust and the administration of the financial affairs of the trust.
3. Irregularities regarding the establishment of the Lily Lakewood Trust in 1994 as well as the acquisition of assets from the PACOFS and the financial administration of the trust.
4. The irregular and/or unlawful conduct on the part of the Administrator of the Free State in establishing the Orange Free State Performing Arts Institute Trust, the Performing Arts Council of the Orange Free State Early Retirement Trust and the Lily Lakewood Trust.
5. The improper and/or unlawful conduct of the Board of Directors of PACOFS in establishing the Lily Lakewood Trust and the improper alienation of fixed property of PACOFS to the trust.
6. The role of the Board of Directors of PACOFS in establishing the Performing Arts Council of the Orange Free State Early Retirement Trust and the improper, irregular and/or unlawful disposition of public funds in the amount of R2 000 000, 00 in favour of the trust.
7. The improper or unlawful conduct of certain auditors in the establishment of the Orange Free State Performing Arts Institute Trust, the Performing Arts Council of the Orange Free State Early Retirement Trust and the Lily Lakewood Trust.
8. The failure by the Board of Directors of PACOFS to disclose the assets and accounting records to the National Department of Arts, Culture, Science and Technology.