

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 65, 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 Public Service Sector Education and Training Authority (hereinafter referred to as "the PSETA");

AND WHEREAS the PSETA 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 PSETA 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 PSETA;
- (b) improper or unlawful conduct by the Boards, board members, officials or employees of the PSETA;
- (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 PSETA; 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 February 2005 and the date of publication of this Proclamation or which took place prior to 1 February 2005 or after the date of publication of this Proclamation, and which is relevant to, connected with or 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 PSETA 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 Sixteenth day of October Two thousand and twelve.

J G Zuma
President

By Order of the President-in-Cabinet:

J T Radebe
Minister of the Cabinet

SCHEDULE

1. Losses or prejudice suffered by the PSETA as a result of –
 - (a) maladministration;
 - (b) irregular payments or transfers made from the PSETA Grant Disbursement account;
 - (c) irregular payments or transfers made from the PSETA National Skills Fund account;
 - (d) the failure or refusal by the PSETA to refund unused funds to the National Skills Fund;
 - (e) irregular use of skills development levy funds;
 - (f) unauthorised, irregular or fruitless and wasteful expenditure incurred; or
 - (g) irregular payments made by previous Boards of the PSETA.

2. The procurement of, and contracting for goods or services by or on behalf of the PSETA and payments made in relation thereto, in a manner that was –
 - (a) not fair, equitable, transparent, competitive or cost- effective; or
 - (b) contrary to the 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, prescripts, guidelines, instructions or practices of, or applicable to, the PSETA,and related unauthorised, irregular or fruitless and wasteful expenditure by the PSETA.