

WILDELA WENTZEL
BOWENS
10 FRICKER ROAD
LELOVO BOULEVARD
JOHANNESBURG 2196



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 8335

Regulasiekoerant

Vol. 484

Pretoria, 24 October 2005
Oktober

No. 28158



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

CONTENTS**INHOUD**

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>		<i>Bladsy No.</i>	<i>Koerant No.</i>
PROCLAMATION				PROKLAMASIE			
R. 63	Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing special investigating unit and special tribunal	3	28158	R. 63	Wet op Spesiale Ondersoekeenheide en Spesiale Tribunale (74/1996): Verwysing van aangeleentheid na bestaande spesiale ondersoekeenheid en spesiale tribunaal	6	28158

PROCLAMATION*by the**President of the Republic of South Africa***No. R. 63, 2005****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 Department of Housing, Local Government and Traditional Affairs (hereinafter referred to as "the Department") and the Nelson Mandela Metropolitan Municipality (hereinafter referred to as the "Municipality") of the Eastern Cape Province:

AND WHEREAS the Department and the Municipality 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 said Act, and at the request of the Premier of the Eastern Cape Province, refer the matters mentioned in the Schedule in respect of the following housing subsidy projects, namely –

- (a) the Motherweli Tjoks (1500) Project Linked Subsidy Scheme;

(b) the Bloemendal Block 23 South (1685) Project Linked Subsidy Scheme; and
(c) the Jacksonville (1200) Project Linked Subsidy Scheme,
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 the Department and the Municipality;
- (b) improper or unlawful conduct by officials of the Department and the Municipality;
- (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 Department and the Municipality; 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 16 March 2000 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 in the Schedule, for the purpose of the recovery of any losses suffered by the Department and the Municipality.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Eighteenth day of October Two thousand and five.

T. M. MBEKI

President

By Order of the President-in-Cabinet:

B. S. MABANDLA

Minister of the Cabinet

SCHEDULE

1. The granting of housing subsidies by the Municipality to non-qualifying beneficiaries.
2. Payments of funds made by the Department to the Municipality for housing subsidy projects in circumstances when such payments were not due.
3. Overspending by the Municipality of funds made available to it for housing subsidy projects.
4. Loss of funds that were made available to the Municipality by the Department for purposes of housing subsidy projects as a result of payment for services not rendered.
5. The non-registration of immovable property owners as liable ratepayers on the Municipality's immovable property rating system and the resultant non-recovery of rates.
6. The failure by the Municipality to procure goods and services in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
7. The failure by the Municipality to keep proper internal records and controls in respect of housing subsidy project funds.
8. The signature and submission of letters purporting to express satisfaction with top structures erected on erven in order to ensure the payment of money in respect thereof to the building contractor whereas no top structures had been erected.

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. R. 63, 2005

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEID NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996), gemaak is in verband met die aangeleenthede van die Departement van Behuising, Plaaslike Regering en Tradisionele Aangeleenthede (hierna die “Departement” genoem) en die Nelson Mandela Metropolitaanse Munisipaliteit (hierna die “Munisipaliteit” genoem) van die van die Oos-Kaap Provinsie;

EN AANGESIEN die Departement en die Munisipaliteit verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van gemelde Wet, en op versoek van die Premier van die Provinsie van die Oos-Kaap, die aangeleenthede in die Bylae ten opsigte van die volgende behuisingssubsidieprojekte, naamlik –

- (a) die “Motherwell Tjoks (1500) Project Linked Subsidy Scheme”;
- (b) die “Bloemendal Block 23 South (1685) Project Linked Subsidy Scheme”; and
- (c) die “Jacksonville (1200) Project Linked Subsidy Scheme”,

vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen

na enige -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Departement en die Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur werknemers van die Departement en die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, in verband met die sake van die Departement en die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie van die publiek veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 16 Maart 2000 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekkeenheid toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die Departement en die Munisipaliteit gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Agtiende dag van Oktober Tweeduisend-en-vyf.

T. M. MBEKI

President

Op las van die President-in-Kabinet:

B. S. MABANDLA

Minister van die Kabinet

BYLAE

1. Die toestaan van behuisingssubsidies deur die Munisipaliteit aan nie-kwalifiserende begunstigdes.
2. Betalings van fondse wat deur die Departement aan die Munisipaliteit gemaak is vir behuisingssubsidieprojekte in omstandighede waar sodanige betalings nie verskuldig was nie.
3. Oorbesteding deur die Munisipaliteit van fondse aan hom beskikbaar gestel vir behuisingssubsidieprojekte.
4. Verlies van fondse wat deur die Departement aan die Munisipaliteit vir behuisingssubsidieprojekte beskikbaar gestel is as gevolg van die betaling vir dienste wat nie gelewer is nie.
5. Die nie-registrasie van eienaars van onroerende eiendom op die Munisipaliteit se eiendomsbelastingstelsel as belastingpligtiges en die gevolglike nie-verhaling van eiendomsbelasting.
6. Die Munisipaliteit se versuim om goedere en dienste te verkry ooreenkomstig 'n stelsel wat regverdig, billik, deursigtig, mededingend en kostedoeltreffend is.
7. Die Munisipaliteit se versuim om behoorlike interne rekords en beheermaatreëls by te hou met betrekking tot projekfondse.
8. Die ondertekening en voorlegging van briewe wat voorgee om tevredenheid uit te spreek met topstrukture wat op erwe opgerig is ten einde die betaling van gelde aan die bou-kontrakteur te verseker terwyl geen topstrukture opgerig is nie.