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**CONTENTS****INHOUD**

No.		Page No.	Gazette No.	No.		Bladsy No.	Koerant No.
<b>PROCLAMATIONS</b>				<b>PROKLAMASIES</b>			
R. 26	Special Investigating Units and Special Tribunals Act (74/1996): Referral of matters to existing special investigating unit and special tribunal.....	3	27719	R. 26	Wet op Spesiale Ondersoekeenheid en Spesiale Tribunaal (74/1996): Verwysing van aangeleentheid na bestaande spesiale ondersoekeenheid en spesiale tribunaal .....	3	27719
R. 27	do.: Referral of matters to existing special investigating unit and special tribunal .....	13	27719	R. 27	do.: Verwysing van aangeleenthede na bestaande spesiale ondersoekeenheid en spesiale tribunaal .....	21	27719
<b>GOVERNMENT NOTICE</b>				<b>GOEWERMENSKENNISGEWING</b>			
<b>Justice and Constitutional Development, Department of Government Notice</b>				<b>Justisie en Staatkundige Ontwikkeling, Departement van Goewermentskennisgewing</b>			
R. 614	Promotion of Administrative Justice Act (3/2000): Amendment of regulations.....	29	27719	R. 614	Promotion of Administrative Justice Act (3/2000): Amendment of regulations.....	30	27719

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with effect from 3 May 2005.**

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**PROCLAMATIONS***by the**President of the Republic of South Africa***No. R. 26, 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 Municipalities as mentioned in the Schedule (hereinafter referred to as the "Municipalities");

AND WHEREAS the Municipalities 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 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 Municipalities;
- (b) improper or unlawful conduct by officials of the Municipalities;
- (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 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 1 January 1998 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 Municipalities.

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

**T. M. MBEKI**

**President**

By Order of the President-in-Cabinet:

**B. S. MABANDLA**

**Minister of the Cabinet**

- (b) Overpayments made by the Municipality in respect of services rendered to the Municipality.

## SCHEDULE

### 1. Emalahleni Municipality

- (a) The failure by the Municipality to collect rent in respect of fixed property leased by the Municipality.
- (b) The utilisation by the Municipality of a grant by the National Department of Provincial and Local Government to the Municipality for purposes other than that for which the grant was intended.

### 2. Mngquma Municipality

- (a) The failure by the Municipality to ensure that deductions that were made from employees' salaries in respect of PAYE tax, Unemployment Insurance Fund contributions and Provident Fund contributions were paid over to the appropriate institutions.
- (b) The utilisation by the Municipality of the Municipality's equitable share allocation and a grant to the Municipality for the provision of free basic services to refund Municipal employees in respect of the deductions referred to in paragraph (a), above.
- (c) The refunding, referred to in paragraph (b) above, of wrongly calculated amounts to employees.
- (d) The refunding, referred to in paragraph (b) above, of Provident Fund deductions to employees in a manner contrary to the provisions of the Pension Funds Act, 1956 (Act No. 24 of 1956).
- (e) The non-disclosure of an additional source of income by a Councillor of the Municipality contrary to the Code of Conduct for Councillors in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).
- (f) The decision of the acting Executive Mayor to authorise the payment of salaries, contrary to the Council's decision, to Municipal employees who participated in industrial action.

### 3. Ikwezi Municipality

- (a) Losses suffered by the Municipality in respect of overpayments, advances, loans, allowances and wages which were paid by the Municipality to Councillors and other employees of the Municipality.
- (b) Overpayments made by the Municipality in respect of services rendered to the Municipality.

- (b) Wasteful expenditure incurred by the Municipality in relation to –
- (i) the building of a lecture room to accommodate traffic officers not employed
- 

- (c) The issuing of cash cheques by the Municipality contrary to applicable prescripts and without supporting documentation.
- (d) The procurement of chemicals by the Municipality–
  - (i) contrary to applicable tender procedures;
  - (ii) in a manner that transgresses the Code of Conduct for Councillors; and
  - (iii) in excess of the amount budgeted for these purposes.
- (e) The absence of proof that the chemicals referred to in paragraph (d) were delivered to the Municipality.
- (f) Over-expenditure by the Municipality in respect of subsistence and travelling allowances.
- (g) The lack of internal controls in respect of petty cash disbursements.
- (h) The utilisation by the Municipality of financial aid obtained from the Department of Housing and Local Government to defray expenditure which was not budgeted for.

#### **4. Inxuba Yethemba Municipality**

- (a) The failure by the Municipality to ensure that cheques received from the Michausdal and Linelihle Townships are banked timeously.
- (b) The failure by the Municipality to exercise proper control over reconciliations of daily income with bank deposit details.
- (c) The failure by the Municipality to charge an employee for electricity rendered to him by the Municipality.
- (d) The lack of proper control in respect of, and irregularities relating to, the selling of prepaid electricity vouchers by the Municipality.
- (e) Payments made to creditors of the Municipality without substantiating supporting documentation.

#### **5. Ndlambe Municipality**

- (a) Irregularities relating to the tender processes in terms of which –
  - (i) a tender to build a new municipal office was awarded to H J Builders;
  - (ii) a tender for the construction of Karel Landman Street was awarded to a trust; and
  - (iii) a tender for the installation of a drainage system for the traffic centre was awarded to a consultant of the Municipality.
- (b) Wasteful expenditure incurred by the Municipality in relation to –
  - (i) the building of a lecture room to accommodate traffic officers not employed

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by the Municipality;

- (ii) the operating of two accounting systems; and
- (iii) the installation of a drainage system and the construction of a veranda for the traffic centre.

# PROKLAMASIES

van die

*President van die Republiek van Suid-Afrika*

No. R. 26, 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 Munisipaliteite vermeld in die Bylae (hierna die "Munisipaliteite" genoem);

EN AANGESIEN die Munisipaliteite 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 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



Munisipaliteite;

- (b) onbehoorlike of onregmatige optrede deur werknemers van die Munisipaliteite;
- (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 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 1 Januarie 1998 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekeenheid 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 Munisipaliteit gely is.

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

**T. M. MBEKI**

**President**

Op las van die President-in-Kabinet:

**B. S. MABANDLA**

**Minister van die Kabinet**

**BYLAE****1. Emalahleni Munisipaliteit**

- (a) Die versuim deur die Munisipaliteit om huurgelde in te vorder ten opsigte van onroerende eiendom wat deur die Munisipaliteit verhuur word.
- (b) Die aanwending deur die Munisipaliteit van 'n skenking deur die Nasionale Departement van Provinsiale en Plaaslike Regering aan die Munisipaliteit vir ander doeleindes as waarvoor die skenking verleen was.

**2. Mnquma Munisipaliteit**

- (a) Die versuim deur die Munisipaliteit om te verseker dat aftrekkings wat gemaak is van werknemers se salarisse ten opsigte van LBS belasting, Werkloosheidversekeringsfonds bydraes en Voorsorgfonds bydraes oorbetal word aan die toepaslike instansies.
- (b) Die aanwending deur die Munisipaliteit van die Munisipaliteit se aandeelhouersbelang toewysing en 'n vergunning aan die Munisipaliteit vir die lewering van gratis basiese dienste om munisipale werknemers terug te betaal ten opsigte van die aftrekkings waarna verwys word in paragraaf (a) hierbo.
- (c) Die terugbetaling, waarna in paragraaf (b) hierbo verwys word, van verkeerdlike berekende bedrae aan werknemers.
- (d) Die terugbetaling, waarna in paragraaf (b) hierbo verwys word, van Voorsorgfonds aftrekkings aan werknemers strydig met die bepalings van die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956).
- (e) Die nie-openbaarmaking van 'n addisionele bron van inkomste deur 'n Raadslid van die Munisipaliteit strydig met die Gedragskode vir Raadslede kragtens die Wet op Plaaslike Regerings: Munisipale Stelsels, 2000 (Wet No. 32 van 2000).
- (f) Die besluit van die waarnemende Uitvoerende Burgemeester om, strydig met die beslissing van die Munisipale raad, die betaling van salarisse aan Munisipale werknemers te magtig wat aan nywerheidsoptredes deelgeneem het.

**3. Ikwezi Munisipaliteit**

- (a) Verliese wat deur die Munisipaliteit gely is ten opsigte van oorbetalings, voorskotte, lenings, toelaes en lone wat deur die Munisipaliteit uitbetaal was aan Raadslede en ander

werknemers van die Munisipaliteit.

- (b) Oorbetalings gemaak deur die Munisipaliteit ten opsigte van dienste wat aan die Munisipaliteit gelewer is.
- (c) Die uitreiking van kontant tjeks deur die Munisipaliteit teenstrydig met toepaslike voorskrifte en sonder ondersteunende dokumentasie.
- (d) Die aanskaffing van chemikalieë deur die Munisipaliteit –
  - (i) strydig met toepaslike tender prosedures;
  - (ii) op 'n wyse wat die Gedragskode vir Raadslede oortree; en
  - (iii) in oorskryding van die bedrag wat begroot is vir hierdie doeleindes.
- (e) Die afwesigheid van bewys dat die chemikalieë waarna in paragraaf (d) verwys word aan die Munisipaliteit gelewer was.
- (f) Oorbesteding deur die Munisipaliteit ten opsigte van verblyf en reis toelaes.
- (g) Die afwesigheid van interne kontrole maatreëls ten opsigte van kleinkasuitgawes.
- (h) Die aanwending deur die Munisipaliteit van finansiële hulp wat bekom is van die Departement van Behuising en Plaaslike Regering om uitgawes te bestry waarvoor nie begroot was nie.

#### **4. Inxuba Yethemba Munisipaliteit**

- (a) Die versuim deur die Munisipaliteit om te verseker dat tjeks wat ontvang is van die Michausdal en Linelihle dorpsgebiede tydig gebank word.
- (b) Die versuim deur die Munisipaliteit om behoorlike kontrole uit te oefen oor rekonsiliasies van daaglikse inkomste met bank deposito besonderhede.
- (c) Die versuim deur die Munisipaliteit om 'n werknemer te laat betaal vir elektrisiteit wat aan hom deur die Munisipaliteit gelewer is.
- (d) Die afwesigheid van behoorlike kontrole ten opsigte van, en ongerymdhede wat verband hou met, die verkoop van vooruitbetaalde elektrisiteitsertifikate deur die Munisipaliteit.
- (e) Betalings wat aan die krediteure van die Munisipaliteit gemaak is sonder stawende dokumentasie.

#### **5. Ndlambe Munisipaliteit**

- (a) Ongerymdhede wat verband hou met die tender prosesse waarkragtens –

- (i) 'n tender om nuwe munisipale kantore te bou, toegeken was aan H J Builders;
  - (ii) 'n tender vir die konstruksie van Karel Landman Straat toegeken was aan 'n trust; en
  - (iii) 'n tender vir die installasie van 'n dreineringsstelsel vir die verkeersentrum aan 'n konsultant van die Munisipaliteit toegeken was.
- (b) Verspilte uitgawes wat deur die Munisipaliteit aangegaan is ten opsigte van –
- (i) die bou van 'n lesingslokaal om verkeersbeamptes te akkommodeer wat nie in diens van die Munisipaliteit is nie;
  - (ii) die bedryf van twee rekeningkundige stelsels; en
  - (iii) die installering van 'n dreineringsstelsel en die konstruksie van 'n stoep vir die verkeersentrum.

**No. R. 27, 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 Municipalities as mentioned in the Schedule (hereinafter referred to as the "Municipalities");

AND WHEREAS the Municipalities 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 said Act, and at the request of the Premier of the Eastern Cape Province, refer the matters mentioned 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 the Municipalities;

- (b) improper or unlawful conduct by officials of the Municipalities;
- (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 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 has taken place between 1 January 1998 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 Municipalities.

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

**T. M. MBEKI**

**President**

By Order of the President-in-Cabinet:

**B. S. MABANDLA**

**Minister of the Cabinet**

**SCHEDULE****1. O. R. Tambo Municipality**

- (a) The payment of the purchase price of a house by the Municipality on behalf of an acting municipal Manager.
- (b) The secondment of an employee of the Department of Health, Eastern Cape as a personal assistant to the Executive Mayor of the Municipality and the payment of a salary to that personal assistant out of the Municipality funds without proper authorisation.
- (c) The occupation and use by the Executive Mayor of a house belonging to the Municipality at no cost to herself and subsequent renovations and refurbishments to that house for the Mayor's benefit out of Municipal funds.
- (d) The use by the Executive Mayor of the Mayoral motor vehicle belonging to the Municipality for private transport purposes at the expense of the Municipality which expense included the cost of her driver and the fuel for the said vehicle.
- (e) Accommodation expenses incurred by the Executive Mayor in her private capacity and which were paid out of Municipal funds without any authorisation.
- (f) The failure by the Municipality to maintain a fixed asset register.
- (g) Expenditure incurred purporting to be payments out of Municipal funds without supporting documentation.
- (h) Loans made to Municipal Councillors for the purchase of cellular phones, which loans were not repaid.
- (i) The late submission or failure to submit VAT returns.
- (j) Losses suffered by the Municipality as a result of the negligence of the employees of the Municipality who failed to provide the South African Revenue Services with sufficient supporting documentation to warrant VAT refunds.
- (k) The failure by the Municipality to reverse transactions in the financial ledgers once cheques were dishonoured, leaving certain debts incorrectly reflected as having been paid.
- (l) Overpayments made to service providers in relation to Freedom Day celebrations which overpayments were not recovered by the Municipality.
- (m) The use of funds received for the financing of special projects to cover cash shortages occurring in the Municipality's bank account.

- (n) The failure by the Municipality to keep separate records of Municipal funds transferred from the Municipality's trading account and special projects account to the Municipality's investment account.
- (o) The failure by the Municipality to properly keep and maintain a cash book.
- (p) Irregularities regarding the approval of payments made from Municipality funds.
- (q) The failure by the Municipality to institute disciplinary proceedings timeously against employees who were on suspension with full pay.
- (r) The procurement of goods and services without proper tender procedures being followed.

## 2. Whittlesea Municipality

- (a) The failure by the Municipality to ensure that an amount payable to the Municipality in terms of a deed of suretyship in favour of the Municipality did not prescribe.
- (b) Payments made to suppliers without valid invoices or without authorised cheque requisitions and in some cases without the cheques having been signed by two signatories.
- (c) The failure by the Municipality to timeously pay over PAYE tax deducted from its employees to the South African Revenue Services which resulted in the imposition of financial penalties against the Municipality.
- (d) The failure by the Municipality to account for all the expenditure in respect of an amount of R1 779 449,38 which was received from the Department of Housing and Local Government (Eastern Cape Province) for payment of leave gratuities for certain employees who were transferred from the TLC to the Municipality.
- (e) The increase of allowances for Councillors without prior consultation with the MEC for Local Government as required by law.
- (f) The losses suffered as a result of the Municipality's failure to timeously bank cheque payments.
- (g) The failure by the Municipality to submit VAT invoices in the prescribed manner with claims submitted to SARS for the repayment of VAT.
- (h) The lack of control and administration over fixed assets of the Municipality.

## 3. Maletswai Municipality

- (a) The failure by the Municipality to recover insurance premiums paid for the subsidised vehicles of three former officials after these officials had either terminated their services with the Municipality and/or had withdrawn the motor vehicles from the



subsidy scheme.

- (b) The failure by the Municipality to reconcile the units of electricity and water delivered by the Municipality with financial recoveries made in respect thereof which resulted in losses for the Municipality.
- (c) The failure by the Municipality to comply with the Council policy regarding the discontinuance of electricity services due to non-payment thereof.
- (d) The failure by the Municipality to take stock of assets or submit budgets and to take any remedial steps pursuant to findings contained in previous audit reports.
- (e) The utilisation of funds from the Municipality's capital account and the revolving fund for operational costs of the Council without any Council resolution.
- (f) The failure by the Municipality to repay the funds mentioned in paragraph (e), above.
- (g) The receipt of a loan from Ukhahlamba District Municipality by the Municipality without any Council resolution and the failure to repay the said loan.
- (h) The decision of the Municipality to place a moratorium on the repayment of two loans from the Department of Public Service Administration (DPSA).
- (i) The failure by the Municipality to establish a loan redemption fund into which all half yearly interest payable on the loans of the Municipality are deposited in order to repay amounts in terms of the loans when due.
- (j) The failure by the Municipality to –
  - (i) properly administer leases;
  - (ii) ensure that market related rentals are charged for the letting of properties; and
  - (iii) ensure that arrear rentals are recovered.
- (k) The failure by the Municipality to have adequate debt collection procedures in place.
- (l) The failure by the Municipality to ensure proper control over motor vehicle registration.

#### **4. Somerset East Municipality**

- (a) The failure by the Municipality to ensure that proper control measures are in place in respect of the use of Municipal vehicles.
- (b) The use of Municipal vehicles for private purposes.
- (c) The payment of travel allowances to municipal workers who make use of their own transport without verification of distances travelled.
- (d) The mismanagement of the motor vehicle loan scheme of the Municipality.
- (e) The non-compliance with applicable legislation and failure by the treasury section of the Municipality to compile and submit financial statements to the Auditors within 3

months after the end of the financial year.

**5. Inkwanca Municipality**

- (a) The failure by the Municipality to produce, for audit purposes, a service agreement for the Municipal vehicles.
- (b) Unauthorized expenditure that was incurred relating to the service and maintenance of Municipal vehicles.
- (c) The appointment of a Councillor of the Municipality as acting Town Clerk and the payment of additional allowances pursuant to such appointment.
- (d) The purchasing of a farm from a former Town Clerk without the prior approval of the MEC as required by law.
- (e) The award of a tender for servicing of motor vehicles without inviting formal tenders.
- (f) Legal costs incurred by the Municipality in circumstances which render such expenditure fruitless, wasteful and unnecessary.
- (g) Loans and advances made to Councillors by the Municipality without any written agreements.
- (h) A loan to the Town Clerk for the purchasing of a motor vehicle, for which no repayment contract could be produced.
- (i) The granting of an amount of R10 000,00 as travel allowance to the Town Clerk for which no tax was deducted and in respect of which it could not be shown that any work was performed by the said Town Clerk either away from his normal workplace or outside the Municipal boundaries.
- (j) Failure to collect rental owed by the Town Clerk for the period September 1998 to March 2000.
- (k) The failure by the Municipality to recover cellular phones from Councillors who left the service of the Municipality or to deduct the costs relating to the cellular phones from their allowances or salaries.
- (l) Irregularities in the Municipality relating to the collection and banking of revenue.
- (m) The shortfall incurred by the Municipality on the sale of prepaid electricity.
- (n) The increase of Councillors' allowances by the Municipality without the prior approval of the MEC.

**6. KSD Municipality**

- (a) The adjustment of staff salaries by the treasury section of the Municipality without the Municipal Council's authorisation.

- (b) The failure by the Human Resources Department of the Municipality to keep, maintain and update personnel records and registers relating to personnel matters and matters such as staff advances and housing guarantees.
- (c) The procurement of goods and services without following proper tender procedures.
- (d) The appointment of officials on the basis of false qualifications.
- (e) The failure by the Municipality to pay over to appropriate institutions deductions made from employees' salaries in respect of, inter alia, the Unemployment Insurance Fund, the Municipality's Pension Fund and the Provident Fund.
- (f) The use of Municipal funds to pay beneficiaries of deceased employees.
- (g) The payment by the Municipality of travel allowances to certain officials contrary to the Transport Allowance Policy applicable to the Municipality.
- (h) Fraudulent claims made by officials of the Municipality in relation to transport allowances.
- (i) The payment by the Municipality of housing allowances to employees of the Municipality despite the fact that such officials were provided with free lodging by the Municipality.
- (j) The misuse of telephone facilities by the employees of the Municipality.
- (k) The failure by the Municipality to recover costs of private calls from its employees.

#### **7. Nyandeni Municipality**

- (a) The purchasing of motor vehicles by the Municipality for the Mayor, the Speaker and the Municipal Manager, when this expenditure had not been budgeted for in the 2001/2002 financial year.
- (b) The absence of a policy or car scheme in terms of which the cars referred to in paragraph (a) were to be utilised or repaid.
- (c) Over-expenditure by the Municipality in respect of the hiring of motor vehicles.
- (d) The employment of casual workers by the ward Councillors without any Council Resolution.
- (e) The lack of control over the use of telephones by employees of the Municipality.
- (f) The procurement of goods and services –
  - (i) which were not budgeted for; and
  - (ii) without complying with prescribed tender procedures.
- (g) The payment by the Municipality of travelling allowances to Municipal Councillors who already participated in the Municipality's motor vehicle scheme.
- (h) The lack of control by the Municipality over the use of Municipal vehicles.

- (i) **Unauthorised expenditure incurred as a result of the use of Municipal vehicles.**

No. R. 27, 2005

**WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996  
(WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE 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 aangeleentheid van die Munisipaliteite soos vermeld in die Bylae (hierna die "Munisipaliteite" genoem);

EN AANGESIEN die Munisipaliteite 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 aangeleentheid genoem in die Bylae 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 hierdie aangeleentheid, 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 Munisipaliteit;
- (b) onbehoorlike of onregmatige optrede deur werknemers van 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, en welke misdrywe gepleeg is in verband met die sake van 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 1 Januarie 1998 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede, wat deur die Wet aan die Spesiale Ondersoekeenheid 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 Munisipaliteit gely is.

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

**T. M. MBEKI**

**President**

Op las van die President-in-Kabinet:

**B. S. MABANDLA**

**Minister van die Kabinet**

**BYLAE****1. O. R. Tambo Munisipaliteit**

- (a) Die betaling van 'n koopprys van 'n huis deur die Munisipaliteit namens 'n waarnemende munisipale bestuurder.
- (b) Die sekondering van 'n werknemer van die Departement van Gesondheid, Oos-Kaap, as 'n persoonlike assistent aan die Uitvoerende Burgemeester van die Munisipaliteit en die betaling van die salaris van die persoonlike assistent uit Munisipale fondse sonder die nodige magtiging.
- (c) Die okkupasie en gebruik deur die Uitvoerende Burgemeester van 'n huis wat aan die Munisipaliteit behoort sonder enige koste vir haarself en die daaropvolgende herstel en opknapping van die huis vir die Burgemeester se voordeel uit Munisipale fondse.
- (d) Die gebruik deur die Uitvoerende Burgemeester van die Burgemeestersvoertuig wat aan die Munisipaliteit behoort vir privaat vervoerdoeleindes ten koste van die Munisipaliteit welke koste die koste vir haar bestuurder en brandstof vir die voormelde voertuig insluit.
- (e) Verblyfuitgawes aangegaan deur die Uitvoerende Burgemeester in haar privaat hoedanigheid en wat gedelg is uit Munisipale Fondse sonder enige magtiging.
- (f) Die versuim van die Munisipaliteit om 'n vaste bate register by te hou.
- (g) Uitgawes aangegaan wat voorgee om betalings uit Munisipale fondse te wees sonder ondersteunende dokumentasie.
- (h) Lenings toegestaan aan Munisipale Raadslede vir die aankoop van sellulêre telephone, welke lenings nie terugbetaal is nie.
- (i) Die laat indiening of nalate om BTW opgawes in te dien.
- (j) Verliese wat deur die Munisipaliteit gely is as gevolg van die nalatigheid van die werknemers van die Munisipaliteit wat nagelaat het om die Suid-Afrikaanse Inkomste Diens te voorsien van genoegsame stawende dokumentasie om BTW terugbetalings te verseker.
- (k) Die versuim van die Munisipaliteit om transaksies in die finansiële leërs om te keer sodra tjeks gedishonoreer word wat sekere skulde verkeerdelik as betaald reflekteer.
- (l) Oorbetalings gemaak aan diensverskaffers ten opsigte van Vryheidsdagfeesvieringe welke oorbetalings nie deur die Munisipaliteit teruggevorder is nie.
- (m) Die gebruik van fondse wat ontvang is vir die finansiering van spesiale projekte om kontant tekorte wat in die Munisipaliteit se bankrekening ontstaan het te dek.
- (n) Die versuim van die Munisipaliteit om aparte rekords te hou van Munisipale fondse wat oorgedra is van die Munisipaliteit se bedryfsrekening en spesiale projekte

rekening na die Munisipaliteit se beleggingsrekening.

- (o) Die versuim van die Munisipaliteit om behoorlik 'n kasboek te hou en te onderhou.
- (p) Ongerymdhede wat verband hou met die goedkeuring van betalings wat uit Munisipale fondse gemaak is.
- (q) Die versuim van die Munisipaliteit om tydig dissiplinêre stappe teen werknemers in te stel wat geskors is met volle betaling.
- (r) Die aankoop van goedere sonder dat behoorlike tender prosedures gevolg is.

## **2. Whittlesea Munisipaliteit**

- (a) Die versuim deur die Munisipaliteit om te verseker dat 'n bedrag wat betaalbaar is aan die Munisipaliteit kragtens 'n borgakte ten gunste van die Munisipaliteit nie verjaar nie.
- (b) Betalings wat gemaak is aan verskaffers sonder geldige fakture en sonder gemagtigde tjekrekwisies en in sekere gevalle sonder dat die tjeks onderteken is deur twee ondertekenaars.
- (c) Die versuim van die Munisipaliteit om tydig BTW aftrekkings van werknemers oor te betaal aan die Suid-Afrikaanse Inkomste Diens wat aanleiding gegee het tot die oplegging van finansiële boetes teen die Munisipaliteit.
- (d) Die versuim van die Munisipaliteit om rekenskap te gee van al die uitgawes met betrekking tot 'n bedrag van R1 779 449,38 wat ontvang was van die Departement van Behuising en Plaaslike Regering (Oos-Kaap Provinsie) vir die betaling van verlof gratifikasies vir sekere werknemers wat verplaas is van die Plaaslike Oorgangsraad na die Munisipaliteit.
- (e) Die verhoging van toelaes vir Raadslede sonder enige konsultasie met die LUR vir Plaaslike Regering soos wetlik vereis word.
- (f) Die verliese wat gelyk is as gevolg van die Munisipaliteit se versuim om tydiglik tjek betalings te bank.
- (g) Die versuim van die Munisipaliteit om BTW fakture op die voorgeskrewe manier in te dien met eise wat ingedien is by die Suid-Afrikaanse Inkomstediens vir die terugbetaling van BTW.
- (h) Die afwesigheid van kontrole en administrasie oor vaste bates van die Munisipaliteit.

## **3. Maletswai Munisipaliteit**

- (a) Die versuim van die Munisipaliteit om versekeringspremies wat betaal is vir



gesubsidieerde voertuie van drie voormalige amptenare wat of hulle dienste met die Munisipaliteit beëindig het en/of die voertuie van die subsidie skema ontrek het, te verhaal.

- (b) Die versuim deur die Munisipaliteit om die eenhede van elektrisiteit en water wat deur die Munisipaliteit gelewer is te rekonsilieer met finansiële verhalings wat in verband daarmee gemaak is wat aanleiding gegee het tot verliese vir die Munisipaliteit.
- (c) Die versuim van die Munisipaliteit om te voldoen aan Raadsbeleid ten aansien van die onderbreking van elektrisiteitsdienste weens wanbetaling daarvan.
- (d) Die versuim deur die Munisipaliteit om opname te neem van bates of om begrotings voor te lê en om enige remediërende optredes te neem ooreenkomstig bevindinge vervat in vorige oudit verslae.
- (e) Die gebruik van fondse van die Munisipaliteit se kapitale rekening en die wentel fonds vir operasionele koste van die Raad sonder enige Raadsbesluit.
- (f) Die versuim van die Munisipaliteit om die fondse vermeld in paragraaf (e), hierbo, terug te betaal.
- (g) Die ontvangs van 'n lening van Ukhahlamba Distriksmunisipaliteit deur die Munisipaliteit sonder enige Raadsbesluit en die versuim om die lening terug te betaal.
- (h) Die besluit van die Munisipaliteit om 'n moratorium te plaas op die terugbetaling van twee lenings van die Departement Staatsdiensadministrasie (DSA).
- (i) Die versuim van die Munisipaliteit om 'n leningsdelgingsfonds tot stand te bring waarin alle halfjaarlikse rentes wat betaalbaar is op lenings van die Munisipaliteit gedeponeer word om bedrae terug te betaal ingevolge lenings van die Munisipaliteit waaneer dit verskuldig is.
- (j) Die versuim van die Munisipaliteit om -
  - (i) verhurings behoorlik te administreer;
  - (ii) te verseker dat markverwante huurgeld gehef word vir verhuurde eiendom; en
  - (iii) te verseker dat agterstallige huurgeld verhaal word.
- (k) Die versuim van die Munisipaliteit om toereikende skuldinvorderingsprosedures in plek te hê.
- (l) Die versuim deur die Munisipaliteit om behoorlike kontrole uit te oefen oor motorvoertuigregistrasie.

#### **4. Somerset Oos Munisipaliteit**

- (a) Die versuim van die Munisipaliteit om te verseker dat behoorlike beheermaatreëls in plek is ten opsigte van die gebruik van Munisipale voertuie.

- (b) Die gebruik van Munisipale voertuie vir private doeleindes.
- (c) Die betaling van reistoelaes aan munisipale werkers wat gebruik maak van eie vervoer sonder verifikasie van afstande wat gereis is.
- (d) Die wanbestuur van die motorvoertuigleningskema van die Munisipaliteit.
- (e) Die nie-voldoening aan toepaslike wetgewing en versuim van die tesourie afdeling van die Munisipaliteit om finansiële state op te stel en voor te lê aan die ouditeurs binne 3 maande na die einde van die finansiële jaar.

#### **5. Inkwanca Munisipaliteit**

- (a) Die versuim van die Munisipaliteit om, vir oudit doeleindes, 'n dienskontrak vir Munisipale voertuie te toon.
- (b) Ongemagtigde uitgawes wat aangegaan is ten opsigte van die diens en onderhoud van Munisipale voertuie.
- (c) Die aanstelling van 'n Raadslid van die Munisipaliteit as waarnemende Stadsklerk en die betaling van addisionele toelaes as gevolg van hierdie aanstelling.
- (d) Die aankoop van 'n plaas van 'n voormalige Stadsklerk sonder die voorafgaande goedkeuring van die LUR soos wetlik vereis word.
- (e) Die toekenning van 'n tender vir die versiening van motorvoertuie sonder om formele tenders aan te vra.
- (f) Regskostes aangegaan deur die Munisipaliteit in omstandighede wat sodanige uitgawes vrugtelose, verkwiste en onnodige uitgawes maak.
- (g) Lenings en voorskotte deur die Munisipaliteit gemaak aan Raadslede sonder skriftelike ooreenkomste.
- (h) 'n Lening aan die Stadsklerk, vir die aankoop van 'n motorvoertuig, waarvoor geen terugbetalingsooreenkoms getoon kon word nie.
- (i) Die toestaan van 'n bedrag van R10 000, 00 as reistoelae aan die Stadsklerk waarvoor geen belasting afgetrek is nie en waarvoor daar geen bewys is dat die Stadsklerk enige werk verrig het of weg van sy normale werkplek af of buite die Munisipale grense was nie.
- (j) Die versuim om huurgeld in te vorder wat deur die Stadsklerk verskuldig was vir die periode September 1998 tot Maart 2000.
- (k) Die versuim van die Munisipaliteit om sellulêre fone terug te vorder van Raadslede wat die diens van die Munisipaliteit verlaat het of om kostes wat verband hou met die sellulêre fone van hulle toelaes of salarisse af te trek.
- (l) Ongerymdhede deur die Munisipaliteit wat verband hou met die invordering en die

bank van inkomste.

- (m) Die tekort wat deur die Munisipaliteit opgedoen is deur die verkoop van voorafbetaalde elektrisiteit.
- (n) Die verhoging van die Raadslede se toelaes deur die Munisipaliteit sonder voorafgaande goedkeuring deur die LUR.

#### **6. KSD Munisipaliteit**

- (a) Die wysiging van personeel salarisse deur die tesourie afdeling van die Munisipaliteit sonder die Raad van die Munisipaliteit se toestemming.
- (b) Die versuim van die Personeel Afdeling van die Munisipaliteit om personeel rekords en registers by te hou, in stand te hou en by te werk ten opsigte van personeel aangeleenthede en aangeleenthede soos personeelvoorskotte en behuisingswaarborge.
- (c) Die verkryging van goedere en dienste sonder om tender prosedures te volg.
- (d) Die aanstelling van amptenare op grond van vervalste kwalifikasies.
- (e) Die versuim van die Munisipaliteit om aftrekkings wat gemaak is van werknemers se salarisse ten opsigte van, onder andere, die Werkloosheidsversekeringsfonds, die Munisipaliteit se pensioenfonds en Voorsorgfonds oor te betaal aan die gepaste instellings.
- (f) Die gebruik van Munisipale fondse om begunstigdes van oorlede werknemers te betaal.
- (g) Die betaling deur die Munisipaliteit van reistoelaes aan sekere amptenare strydig met die Vervoertoelaagbeleid van die Munisipaliteit.
- (h) Valse vervoertoelaageise wat gemaak is deur amptenare van die Munisipaliteit.
- (i) Die betaling deur die Munisipaliteit van behuisingssubsidies aan wernemers van die Munisipaliteit ongeag die feit dat hierdie amptenare deur die Raad voorsien is van kostelose verblyf.
- (j) Die misbruik van telefoonfasiliteite deur werknemers van die Munisipaliteit.
- (k) Die versuim van die Munisipaliteit om die koste van private oproepe van werknemers te verhaal.

#### **7. Nyandeni Munisipaliteit**

- (a) Die aankoop van motorvoertuie deur die Munisipaliteit vir die Burgemeester, die Speaker en die Munisipale Bestuurder, terwyl daar nie begroot was vir hierdie uitgawes in die 2001/ 2002 finansiële jaar nie.
- (b) Die afwesigheid van 'n beleid of motorskema ingevolge waarvan die motorvoertuie

gemeld in paragraaf (a) gebruik of terugbetaal moet word.

- (c) Oorbesteding deur die Munisipaliteit ten opsigte van die huur van motorvoertuie.
- (d) Die indiensneming van tydelike werkers deur Wyksraadslede sonder enige Raadsbesluit.
- (e) Die afwesigheid van kontrole oor die gebruik van telefone deur werknemers van die Munisipaliteit.
- (f) Die aanskaffing van goedere en dienste -
  - (i) waarvoor nie begroot is nie; en
  - (ii) sonder die nakoming van voorgeskrewe tender prosedures.
- (g) Die betaling deur die Munisipaliteit van reistoelae aan Munisipale Raadgewers wat reeds deel in die Munisipaliteit se motorvoertuigskema.
- (h) Die afwesigheid van kontrole deur die Munisipaliteit oor die gebruik van Munisipale motorvoertuie.
- (i) Ongemagtigde uitgawes wat opgeloop is as gevolg van die gebruik van Munisipale motorvoertuie.

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**GOVERNMENT NOTICE**  
**GOEWERMENTSKENNISGEWING**

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**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**  
**DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

No. R. 614

27 June 2005

**PROMOTION OF ADMINISTRATIVE JUSTICE ACT, 2000**  
**AMENDMENT OF REGULATIONS**

The Minister for Justice and Constitutional Development has in terms of section 10 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), made the regulations set out in the Schedule.

**SCHEDULE**

**Definitions**

1. In this Schedule "the Regulations" means the Regulations on Fair Administrative Procedures published by Government Notice No. R. 1022 of 31 July 2002.

**Insertion of regulation 1A in the Regulations**

2. The following regulation is hereby inserted after regulation 1 of the Regulations:

**"Tabling of report on training courses**

**1A.** The Minister must table a report in Parliament contemplated in section 9A(7) of the Act, within six months after-

- (a) the commencement of this regulation; and
- (b) every date on which there is a substantial change in either the content or the implementation of the training courses or both."

No. R. 614

27 June 2005

**UNYUSELO LOMTHETHO WOLAWULO LOBULUNGISA****IMBUYEKEZO YEMIMISELO**

UmPhathiswa wezoBulungisa noPhuhliso lomGaqa-siseko ngokwecandelo 10 loNyuselo lomThetho woLawulo loBulungisa, 2000 (UmThetho No. 3 ka-2000), wenze imimiselo exelwe kwishedyuli.

**ISHEDYULI****linkcazelo**

1. Kule shedyuli " iMimiselo" ithetha imimiselo yeNkqubo zoLawulo eziLungileyo ezipapashwe siSaziso sikaRhulumente No. R. 1022 wange-31 kweyeKhala 2002.

**Ukufakwa kommiselo 1A kwiMimiselo**

2. Ummiselo olandelayo ufakelwe apha ngenxa yokuba usemva kommiselo 1 weMimiselo:

**"Ukumisela ingxelo kuludwe lwezifundo zoqeqesho"**

1 A. UmPhathiswa makamisele ingxelo ePalamente ecingwe kwicandelo 9A(7) yomThetho, kungaphalanga iinyanga ezintandathu emva koko-

- (a) isiqalo salo mmiselo; na
- (b) wonke umhla apho kukho utshintsho olomeleleyo mhlawumbi kwisiqu-latho okanye kuzalisekiso koludwe lwezifundo zoqeqesho okanye zizombini."

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