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

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

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.

- (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

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.