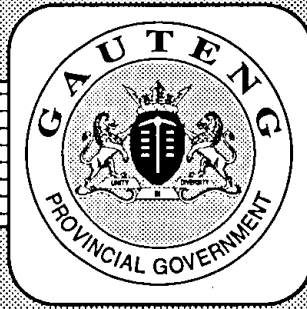


THE PROVINCE OF  
GAUTENG



DIE PROVINSIE  
GAUTENG

# Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

Selling price: R2,00 ◊ Other countries: R2,25  
Verkoopprijs: R2,00 ◊ Buitelands: R2,25

RP

Vol. 3

PRETORIA, 17 OCTOBER  
OKTOBER 1997

No. 402

## PROCLAMATION • PROKLAMASIE

No. 36 (Premier's), 1997

### PROCLAMATION

by the

*Premier of the Province of Gauteng*

**COMMISSION OF ENQUIRY INTO ACTS OF CORRUPTION AND OTHER IRREGULARITIES WITH REGARD TO THE ALLOCATION AND/OR SALE OF STATE-FUNDED RESIDENTIAL PROPERTIES IN THE URBAN AREAS OF GAUTENG**

By virtue of the powers vested in me by section 2 (1) of the Provincial Commissions Act, 1997 (Act No. 1 of 1997), I hereby appoint a Commission of Enquiry into acts of corruption and other irregularities with regard to the allocation and/or sale of state-funded residential properties in the urban areas of Gauteng, with the Terms of Reference hereto and appoint **Mr J. E. Dlamini** as Chairperson and **Mr J. V. G. Botha** and **Ms N. P. Sithole** as Members of the said Commission, and further make regulations contained in the Schedule hereto.

Given under my Hand at Johannesburg this Fourteenth day of October, One thousand Nine hundred and Ninety-seven.

**T. M. G. SEXWALE**  
Premier: Gauteng Province

**D. M. MOFOKENG**  
Member of the Executive Council for Housing and Land Affairs

Regs

**TERMS OF REFERENCE**  
of the  
**Premier of Gauteng**  
to the

**COMMISSION OF ENQUIRY INTO ACTS OF CORRUPTION AND OTHER IRREGULARITIES WITH REGARD TO THE ALLOCATION AND/OR SALE OF STATEFUNDED RESIDENTIAL PROPERTIES IN THE URBAN AREAS OF GAUTENG**

The Commission's terms of reference are as follows:

1. To enquire into and report on any acts of corruption or other irregularities with regard to the allocation and/or sale of state-funded residential properties in the urban areas of the Province of Gauteng, committed by a councillor, administrator, official or employee of a local authority, Development Board, provincial body or State department in the present area of jurisdiction of the Province of Gauteng during the period 1 January 1976 to 31 March 1994.
2. The Commission is specifically directed to report on—
  - (a) whether the conduct of any councillor, administrator, official or employee referred to in 1 above *prima facie* involves or amounts to an offence on the part of such person and, if so, what the identify of such person is;
  - (b) whether such corrupt or irregular acts or actions led to an individual being deprived or dispossessed of housing and if so, what the identity of such person (or persons) is;
  - (c) which steps, if any, should be taken by the Provincial Government to rectify any deprivation suffered by an individual as a result of such corrupt or irregular action.
3. The Commission shall begin its work on 20 October 1997.
4. The Commission is directed to report to the Premier on 30 April 1998, which date may be extended by the Premier upon the written request of the Commission.

---

**SCHEDULE**

---

**REGULATIONS**

1. In these regulations, unless the context otherwise indicates—
  - “**Chairperson**” means the member of the Commission designated as Chairperson of the Commission;
  - “**Commission**” means the Commission of Enquiry into acts of corruption and other irregularities with regard to the allocation and/or sale of state-funded residential properties in the urban areas of Gauteng;
  - “**document**” includes any book, file, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;
  - “**enquiry**” means the enquiry conducted by the Commission;
  - “**irregularities**” means actions taken by persons, acting in an official capacity, which did not comply with the provisions of the relevant legislation applicable to the administration of state-funded housing stock from time to time;
  - “**Secretary**” means the Africon Information Technology Division which division shall act as project manager for the Commission and shall perform all secretarial functions of the Commission;
  - “**State-funded residential properties**” means residential properties which have been erected with loans from the National Housing Fund or other moneys made available by the State to State departments, parastatals or local authorities.

2. The proceedings of the Commission shall be recorded by mechanical means.
3. (1) Any person appointed or designated to record the proceedings of the Commission by mechanical means or to transcribe such proceedings which have been so recorded at the outset take an oath or make an affirmation in the following form:
  - I, A.B., declare under oath/affirm and declare—
    - (a) that I shall faithfully and to the best of my ability record the proceedings of the Commission of Enquiry into acts of corruption and other irregularities with regard to the allocation and/or sale of state-funded residential properties in the urban areas of Gauteng by mechanical means as ordered by the Chairperson of the Commission;
    - (b) that I shall transcribe fully and to the best of my ability any mechanical record of the proceedings of the said Commission made by me or by any other person.
4. Every person employed in the execution of the functions of the Commission, including any person referred to in regulation 3 (1), shall help to preserve secrecy with regard to any matter or information that may come to his knowledge in the performance of his duties in connection with the said functions, except in so far as the publication of such matter or information is necessary for the purposes of the report of the Commission, and every such person, except the Members of the Commission or any officer shall, before performing any duty in connection with the Commission, take and subscribe before the Chairperson an oath of fidelity or secrecy in the following form:
  - I, A.B., declare under oath/affirm and declare that except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Enquiry into acts of corruption and other irregularities with regard to the allocation and/or sale of state funded residential properties in the urban areas of Gauteng, or by order of a competent court, I shall not communicate to any person any matter or information which may come to my knowledge in connection with the enquiry of the said Commission, or suffer or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer.
5. No person shall communicate to any other person any matter or information which may have come to his knowledge in connection with the enquiry of the Commission or suffer or permit any other person to have access to any records of the Commission, except in so far as it is necessary in the performance of his duties in connection with the functions of the Commission or by order of a competent court.
6. The Chairperson may designate one or more knowledgeable persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member.
7. The Chairperson or a officer generally or specially authorised thereto by the Chairperson shall administer an oath to or accept an affirmation from any witness appearing before the Commission.
8. Where, at the time of any person giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the Chairperson may, on the request of such person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.
9. Any witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.
10. Any witness appearing before the Commission may, in the discretion of the Chairperson and in such manner as may be determined by him, be assisted by an advocate or an attorney.
11. One or more officers, attorneys or advocates designated thereto by the Commission may be present at the hearing of evidence at the Enquiry and may adduce evidence and arguments relating to the enquiry.

12. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's enquiry may adversely affect any existing, instituted or pending legal proceedings or any investigation instituted in terms of any law, evidence which is relevant to such legal proceedings or investigation shall be dealt with by the Commission in such a manner as not to affect adversely such legal proceedings or investigation.
13. A member or any officer may, with a warrant, for the purposes of the enquiry, at all reasonable times enter and inspect any premises and demand and seize any document which is on such premises.
14. No person shall without the written permission of the Commission—
  - (a) disseminate any document submitted to the Commission by any person in connection with the enquiry or publish the contents or any portion of the contents of such documents; or
  - (b) peruse any document, including any statement, which is destined to be submitted to the Commission or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall insult, disparage or belittle a Member of the Commission or prejudice the proceedings or findings of the Commission.
16. Any person who—
  - (a) wilfully hinders, resists or obstructs a Member, or any officer in the exercise of any power contemplated in regulation 13; or
  - (b) contravenes a provision or regulation 5, 8, 14 or 15; or
  - (c) contravenes a provision of regulation 16, shall be guilty of an offence and liable on conviction—
    - (i) in the case of an offence referred to in paragraph (a) or (b), to a fine, or to imprisonment for a period not exceeding six months; and
    - (ii) in the case of an offence referred to in paragraph (c), to a fine, or to imprisonment for a period not exceeding 12 months.

No. 36 (Premier's-), 1997

## PROKLAMASIE

*deur die*

*Premier van die Provinsie Gauteng*

### KOMMISSIE VAN ONDERSOEK NA DADE VAN KORRUPTIE EN ANDER ONREËLMATIGHEDE MET BETREKKING TOT DIE TOEKENNING EN/OF VERKOOP VAN STAATSBEFONDSDE WOONERWE IN DIE STEDELIKE GEBIEDE VAN GAUTENG

Kragtens die bevoegdhede aan my verleen deur artikel 2 (1) van die Wet op Provinsiale Kommissies, 1997 (Wet No. 1 van 1997), stel ek hiermee 'n Kommissie van ondersoek aan na daede van korrupsie en ander onreëlmatighede met betrekking tot die toekenning en/of die verkoop van staatsbefondsde woonerwe in die stedelike gebiede van Gauteng, met die meegaande Opdrag, en stel ek hiermee **mnr. J. E. Dlamini** as Voorsitter en **mnr. J. V. G. Botha** en **me. N. P. Sithole** as Lede van die genoemde Kommissie aan, en maak ek verder die regulasies soos vervat in die meegaande Bylae.

Gegee onder my Hand te Johannesburg, hierdie Veertiende dag van Oktober Eenduisend Negehonderd Sewe-en-negentig.

**T. M. G. SEXWALE**

Premier: Gauteng-provinsie

**D. M. MOFOKENG**

Lid van die Uitvoerende Raad vir Behuising en Grondsake

**OPDRAG**  
van die  
**Premier van Gauteng**  
na die

**KOMMISSIE VAN ONDERSOEK NA DADE VAN KORRUPTIE EN ANDER ONREËLMATIGHEDEN MET  
BETREKking TOT DIE TOEKENNING EN/OF VERKOOP VAN STAATSBEFONDSDE WOONERWE IN DIE  
STEDELIKE GEBIEDE VAN GAUTENG**

Die Kommissie se opdrag is soos volg:

1. Om ondersoek in te stel en verslag te doen oor daade van korrupsie of ander onreëlmatighede met betrekking tot die toekenning en/of verkoop van staatsbefondsde woonerwe in die stedelike gebiede van die Gauteng-provinsie, wat deur 'n raadslid, administrateur, beampte of werknemer van 'n plaaslike owerheid, Ontwikkelingsraad, provinsiale liggaam of Staatsdepartement gepleeg is in die huidige jurisdiksiegebied van die Gauteng-provinsie gedurende die tydperk 1 Januarie 1976 tot 31 Maart 1994.
2. Die Komitee word in die besonder opdrag gegee om verslag te doen oor die volgende:
  - (a) Of die gedrag van enige raadslid, administrateur, beampte of werknemer waarna in 1 verwys, *prima facie* 'n oortreding deur sodanige persoon behels of neerkom en, wel, die identiteit van sodanige persoon;
  - (b) of sodanige korrumperte daade of onreëlmatighede gelei het to die ontneming of onteiening van die behuising van 'n individu en indien wel, die identiteit van sodanige persoon;
  - (c) watter stappe, indien enige, deur die Provinsiale Regering geneem moet word om sodanige ontneming wat deur 'n individu gelei is as gevolg van sodanige korrumperte of onreëlmatige aksie, reg te stel;
3. Die Komitee sal sy werksaamhede op 20 Oktober 1997 begin.
4. Die Komitee word opdrag gegee om op 30 April 1998 verslag te doen aan die Premier, welke datum met die indiening van 'n geskrewe versoek van die Kommissie, deur die Premier uitgestel mag word.

---

**BYLAE**

---

**REGULASIES**

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—
  - “**Voorsitter**” die lid van die Kommissie wat as die Voorsitter van die Kommissie aangewys is;
  - “**Kommissie**” die Kommissie van Ondersoek na daade van korrupsie en ander onreëlmatighede met betrekking tot die toekenning en/of die verkoop van staatsbefondsde woonerwe in die stedelike gebiede van Gauteng;
  - “**dokument**” enige boek, lêer, pamflet, rekord, lys, omsendbrief, plan, aanplakbiljet, plakaat, publikasie, tekening, foto of prent;
  - “**ondersoek**” die ondersoek geloods deur die Kommissie;
  - “**onreëlmatighede**” aksies wat deur persone in hulle amptelike hoedanigheid geneem is en wat nie aan die bepalings van die betrokke wetgewing wat van tyd tot tyd toepaslike op die administrasie van staatsbefondsde behuisingsvoorraad, voldoen het nie;
  - “**Sekretaris**” die Africon Inligtingstechnologie Divisie, welke divisie as projekbestuurder vir die Kommissie sal optree en alle sekretariële funksies van die Kommissie sal uitvoer;

**“staatsbefondsde woonerwe”** woonerwe wat deur middel van lenings van die Nasionale Behuisingsfonds of ander gelde wat deur die Staat aan ander Staatsdepartemente, semi-staatsinstellings of plaaslike owerhede beskikbaar gestel het, opgerig is.

2. Die verrigtinge van die Kommissie sal deur meganiese middel vasgelê word.
3. (1) Enige persoon wat aangestel of aangewys word om die verrigtinge van die Kommissie meganies vas te lê of om sodanige verrigtinge wat vasgelê is te transkribeer, sal ter aanvang 'n eed aflê of 'n verklaring maak soos volg:

Ek, A.B., verklaar onder eed/bevestig en verklaar—

- (a) dat ek pligsgetrou en tot die beste van my vermoë die verrigtinge van die Kommissie van ondersoek na dade van korrupsie en ander onreëlmatighede met betrekking tot die toekenning en/of verkoop van staatsbefondsde woonerwe in die stedelike gebiede van Gauteng meganiese sal vaslê, soos deur die Voorsitter van die Kommissie beveel;
  - (b) dat ek ten volle en tot die beste van my vermoë enige meganiese rekord van die verrigtinge van die Kommissie wat deur my of enige ander persoon gemaak is, sal transkribeer.
4. Elke persoon wat die funksies van die Kommissie uitvoer, ingesluit enige persoon waarna daar in regulasie 3 (1) verwys word, moet help om die geheimhouding met betrekking tot enige aangeleentheid of inligting wat in die uitvoering van sy pligte met betrekking tot sodanige funksies onder sy aandag mag kom in stand te hou, behalwe insoverre die publikasie van sodanige saak of inligting noodsaaklik is vir die doeleindes van die Kommissie se verslag, en sodanige persone, behalwe lede van die Kommissie of enige beampte, moet voordat hulle enige plig in verband met die Kommissie uitvoer, 'n eed van getrouheid of geheimhouding voor die Voorsitter soos volg aflê:

Ek, A.B., verklaar onder eed/bevestig en verklaar dat behalwe insoverre dit noodsaaklik is met die uitvoering van my pligte met betrekking tot die funksies van die Kommissie van Ondersoek na dade van korrupsie en ander onreëlmatighede met betrekking tot die toekenning en/of verkoop van staatsbefondsde woonerwe vir die stedelike gebiede van Gauteng, of op bevel van 'n bevoegde hof, sal ek nie aan enige ander persoon enige saak of inligting wat in verband met die ondersoek van die Kommissie onder my aandag mag kom, sal kommunikeer, of toelaat of vergun dat enige persoon toegang tot rekords van die Kommissie sal hê nie, insluitende enige nota, rekord of transkripsie van die verrigtinge van sodanige Kommissie in my besit of bewaring of in die besit of bewaring van die genoemde Kommissie of enige beampte.

5. Geen persoon mag aan enige ander persoon enige aangeleentheid of inligting wat met betrekking tot die ondersoek van die Kommissie onder sy aandag mag gekom het kommunikeer nie, of toelaat of vergun dat enige ander persoon toegang tot enige rekords van die Kommissie sal hê nie, behalwe insoverre dit noodsaaklik is in die uitvoering van sy pligte met betrekking tot die funksies van die Kommissie, of op bevel van 'n bevoegde hof.
6. Die Voorsitter mag een of meer kundige persone aanwys om die Kommissie in die uitvoering van sy pligte by te staan, in 'n hoedanigheid anders as dié van 'n lid.
7. Die Voorsitter of 'n amptenaar wat in die algemeen of spesifiek deur die Voorsitter daartoe gemagtig is, sal 'n eed afneem of 'n bevestiging aanvaar van enige getuie wat voor die Kommissie verskyn.
8. Waar die publiek ten tye van die aflê van 'n persoon se getuienis uitgesluit is van bywoning van die verrigtinge van die Kommissie, mag die Voorsitter op versoek van sodanige persoon, beveel dat niemand op enige manier hoegenaamd, die naam en adres van sodanige persoon, of enige inligting wat moontlik sy identiteit kan bekend maak, mag onthul nie.
9. Enige getuie wat voor die Kommissie verskyn mag slegs deur 'n persoon kruisondervra word indien die Voorsitter sodanige kruisondervraging toelaat omdat hy dit in die belang van die funksies van die Kommissie nodig ag.

10. Enige getuie wat voor die kommissie verskyn mag in die diskresie van die Voorsitter en op 'n manier deur hom bepaal, deur 'n advokaat of 'n prokureur bygestaan word.
  11. Een of meer beamptes, prokureurs of advokate deur die Komitee daartoe aangewys, mag ten tye van die aanhoor van getuienis by die ondersoek teenwoordig wees en mag getuienis en argumente met betrekking tot die ondersoek aanvoer.
  12. Indien die Kommissie op sterkte van die getuienis of inligting wat aan hom voorgelê is, oortuig is dat die Kommissie se ondersoek 'n nadelige uitwerking mag hê op bestaande, geïnisieerde of afwagende regsprosesse of enige ondersoek wat ingevolge enige wet geïnisieer is, sal getuienis met betrekking tot sodanige regsprosesse of ondersoek op so 'n wyse deur die Kommissie behandel word om nie sodanige regsprosesse of ondersoek nadelig te beïnvloed nie.
  13. 'n Lid of beampte wat oor die nodige bevelskrif beskik mag vir die doeleindes van die ondersoek, te alle redelike tye enige perseel betree en inspekteer en enige dokument wat op sodanige perseel is opeis en daarop beslag lê.
  14. Geen persoon sal sonder die toestemming van die Kommissie—
    - (a) enige dokument wat deur enige persoon in verband met die ondersoek by die Kommissie ingedien is, versprei of uitgee of die inhoud of enige deel daarvan openbaar maak nie; of
    - (b) enige dokument, insluitend enige verklaring, wat bestem is vir indiening by die Kommissie deurwerk, of sodanige dokument onderskep onderwyl dit na die Voorsitter onderweg is nie.
  15. Geen persoon sal 'n Lid van die Kommissie beledig, afkraak, of verkleineer of die bevindinge van die verrigtinge benadeel nie.
  16. Enige persoon wat—
    - (a) doelbewus, 'n Lid of enige beampte in die uitvoer van enige van die magte soos in regulasie 13 beoog, verhinder, teenstaan of belemmer; of
    - (b) 'n bepaling van regulasie 5, 8, 14 of 15 oortree; of
    - (c) 'n bepaling van regulasie 16 oortree, sal skuldig wees aan 'n oortreding, en op skuldigbevinding aanspreeklik wees vir—
      - (i) in die geval van 'n oortreding waarna in paragraaf (a) of (b) verwys, 'n boete, of tronkstraf van nie meer nie as ses maande; en
      - (ii) in die geval van 'n oortreding waarna in paragraaf (c) verwys, 'n boete of tronkstraf van 'n tydperk van nie meer nie as 12 maande.
-

**CONTENTS****INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
<b>PROCLAMATION</b>			<b>PROKLAMASIE</b>		
36	Provincial Commissions Act (1/1997): Commission of Enquiry into acts of corruption and other irregularities with regard to the allocation and/or sale of state-funded residential properties in the urban areas of Gauteng: Appointment of chairperson and members, with the Terms of Reference and regulations .....	1	402	36	Wet op Provinsiale Kommissies (1/1997): Kommissie van Ondersoek na dade van korrupsie en ander onreëlmatighede met betrekking tot die toekenning en/of verkoop van staatsbefondsde woonerwe in die stedelike gebiede van Gauteng: Aanstelling van voorsitter en lede, asook die Opdrag en regulasies ....
		4	402		