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KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

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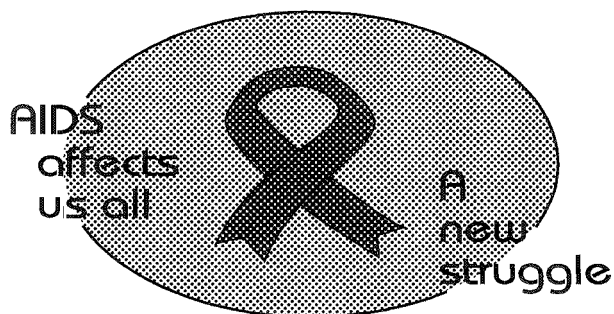
Vol. 4

PIETERMARITZBURG,

8 APRIL 2010
8 kuMBASA 2010

No. 422

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DEPARTMENT OF HEALTH

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PROCLAMATION—PROKLAMASIE—ISIMEMEZELO

No. 2**8 April 2010****DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS****APPOINTMENT OF A COMMISSION OF INQUIRY IN TERMS OF THE KWAZULU-NATAL COMMISSIONS ACT, 1999, TO INVESTIGATE ALLEGATIONS OF FRAUD, CORRUPTION AND THE ABUSE OF FINANCIAL RESOURCES AT THE UMNGENI LOCAL MUNICIPALITY**

I, ZL Mkhize, acting in my capacity as Premier of KwaZulu-Natal, and under the powers vested in me by section 2(1) of the KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999), hereby –

(a) appoint Adv BS Khuzwayo as Chairperson of a Commission of Inquiry for the purpose of an investigation with the following Terms of Reference –

(i) investigate and determine whether any employees of the Umngeni Municipality have committed misconduct in respect of any of the matters investigated by Messrs Ubuntu Forensic and Dobeyn Administration investigations, and if so to recommend to Council what action should be taken as a consequence thereof;

(ii) investigate the failure by the Municipal Manager to comply with a ruling of the SA Human Rights Commission insofar as this relates to the rating of retirement villages situated within the Umngeni Municipal area;

(iii) investigate possible interference by the Municipal Manager in the administration of the Municipality contrary to the terms of his suspension imposed by Council whilst the Dobeyn Administration report was in process and underway; and

(iv) investigate the failure by the Municipal Manager to act and behave in the best interests of the Municipality resulting in the credibility and integrity of the Municipality being compromised.

(b) appoint Mr Dumisani Xaba as Secretary to the Commission and Mr Paul Schuman as Evidence Leader, in terms of section 2(1)(d) of the KwaZulu-Natal Commissions Act, 1999;

(c) declare that the provisions of sections 1, 2(1)(c), 2(1)(d), 2(1)(e), 4, 5, 6 and 7 of the KwaZulu-Natal Commissions Act, 1999, are applicable to the investigation; and

(d) make the regulations contained in the Schedule hereto, in terms of section 2(1)(c) of the KwaZulu-Natal Commissions Act, 1999.

Given under my hand at Pietermaritzburg on this the 18th day of January, Two Thousand and Ten.

DR ZL MKHIZE

Premier of the Province of KwaZulu-Natal

SCHEDULE**REGULATIONS**

1. In these regulations, unless the context indicates otherwise –

"investigation" means the investigation referred to in this Proclamation; and

"the Act" means the KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999).

2. The Commission is empowered to co-opt any person or body or to avail itself of the services of any person or body whose assistance, advice or expertise the Commission deems to be necessary or expedient for the purposes of conducting its investigation, subject to the prior written approval of the Head of the KwaZulu-Natal Department of Co-operative Governance and Traditional Affairs.

3. The remuneration payable to a person or body referred to in regulation 2 of these regulations will be part of, and inclusive of, the costs contemplated in the letter of appointment issued by the Department of Co-operative Governance and Traditional Affairs in respect of the investigation.

4. For purposes of sections 4 and 7 of the Act, any interview, consultation or discussion with any person who has been subpoenaed in terms of the Act, will be deemed to be a sitting of the Commission.

5. A subpoena contemplated in section 4(1) and 4(2) of the Act must be substantially in the format contemplated in Annexure A hereto.

ANNEXURE A

SUBPOENA TO APPEAR BEFORE COMMISSION OF INQUIRY

To: _____
(Name and address of person subpoenaed)

You are hereby subpoenaed in terms of section 4(1) of the KwaZulu-Natal Commissions Act, 1988 (Act No. 3 of 1999) to appear at _____ on the _____ day of _____ 2010, at _____ before the Commission of Inquiry appointed to conduct an investigation into allegations of fraud, corruption and the abuse of financial resources at the Umngeni Local Municipality, and specifically to –

(a) give evidence in respect of: _____

_____;

(b) produce the following at the hearing: _____

_____.

Given under my hand at _____ on this _____ day of _____ 2010.

SECRETARY TO THE COMMISSION

No. 2

8 April 2010

DEPARTEMENT VAN KOÖPERATIEWE REGERING EN TRADISIONELE SAKE

AANSTELLING VAN 'N KOMMISSIE VAN ONDERSOEK INGEVOLGE DIE KWAZULU-NATAL WET OP KOMMISSIES, 1999, OM BEWERINGS VAN BEDROG, KORRUPSIE EN DIE MISBRUIK VAN FINANSIËLE HULPBRONNE BY DIE UMNGENI PLAASLIKE MUNISIPALITEIT TE ONDERSOEK

Ek, ZL Mkhize, in my hoedanigheid as Premier van KwaZulu-Natal, en kragtens die bevoegdhede aan my verleen deur artikel 2(1) van die KwaZulu-Natal Wet op Kommissies, 1999 (Wet No. 3 van 1999) –

(a) stel hiermee Adv BS Khuzwayo aan as voorsitter van 'n Kommissie van Onderzoek vir die doel om 'n ondersoek te loods met die volgende opdragte –

(i) ondersoek en bepaal of enige werknemers van die Umngeni munisipaliteit wangedrag gepleeg het met betrekking tot enige van die aangeleenthede ondersoek deur Ubuntu Forensiese Ondersoeke en Dobeyn Administrasie, en indien wel, om aanbevelings aan die Raad te maak aangaande stappe wat na aanleiding daarvan gedoen kan word;

(ii) ondersoek die versuim deur die Munisipale Bestuurder om aan 'n beslissing van die SA Menseregtekommissie te voldoen in soverre dit verband hou met die waardering van aftreedorpe geleë in die Umngeni munisipale gebied;

(iii) ondersoek moontlike inmenging deur die Munisipale Bestuurder in die administrasie van die Munisipaliteit strydig met die terme van sy skorsing wat deur die Raad opgelê is terwyl die verslag van die Dobeyn Administrasie hangende en onderweg was; en

(iv) ondersoek die Munisipale Bestuurder se versuim om in die beste belang van die Munisipaliteit op te tree, wat veroorsaak het dat die geloofwaardigheid en integriteit van die Munisipaliteit aangetas is.

(b) stel hiermee mnr Dumisani Xaba aan as sekretaris van die Kommissie en mnr Paul Schuman as Bewysleier, ingevolge artikel 2(1)(d) van die KwaZulu-Natal Wet op Kommissies, 1999;

(c) verklaar hiermee dat die bepalings van artikels 1, 2(1)(c), 2(1)(d), 2(1)(e), 4, 5, 6 en 7 van die KwaZulu-Natal Wet op Kommissies, 1999 op die ondersoek van toepassing is; en

(d) vaardig hiermee die regulasies uit soos in die meegaande bylae vervat, ingevolge artikel 2(1)(c) van die KwaZulu-Natal Wet op Kommissies, 1999.

Gegee onder my hand te Pietermaritzburg op hierdie 18de dag van Januarie, Tweeduisend-en-tien.

DR ZL MKHIZE

Premier van die Provinsie KwaZulu-Natal

BYLAE

REGULASIES

1. In hierdie regulasies, tensy die konteks anders bepaal, beteken –
"ondersoek" die ondersoek vermeld in hierdie Proklamasie; en

"die Wet" die KwaZulu-Natal Wet op Kommissies, 1999 (Wet No. 3 van 1999).

2. Die Kommissie word bemaagtig om enige persoon of liggaam te koöpteer of om die dienste te gebruik van enige persoon of liggaam wie se bystand, raad of kundigheid die Kommissie as nodig of wenslik beskou vir die doeleindes van die uitvoer van sy ondersoek, onderhewig aan die vooraf skriftelike goedkeuring van die Hoof van die KwaZulu-Natal Departement van Koöperatiewe Regering en Tradisionele Sake.

3. Die vergoeding betaalbaar aan 'n persoon of liggaam vermeld in regulasie 2 van hierdie regulasies sal deel van en inklusief wees by die kostes bedoel in die aanstellingsbrief uitgereik deur die Departement van Koöperatiewe Regering en Tradisionele Sake met betrekking tot die ondersoek.

4. Vir die doeleindes van artikels 4 en 7 van die Wet sal enige onderhoud, konsultasie of bespreking met enige persoon wat ingevolge die Wet gedagvaar is, beskou word as 'n sitting van die Kommissie.

5. 'n Dagvaarding bedoel in artikel 4(1) en 4(2) van die Wet moet hoofsaaklik in die formaat bedoel in die meegaande aanhangsel A wees.

AANHANGSEL A

DAGVAARDING OM VOOR KOMMISSIE VAN ONDERSOEK TE VERSKYN

Aan: _____
(Naam en adres van persoon wat gedagvaar word)

U word hiermee gedagvaar om ingevolge artikel 4(1) van die KwaZulu-Natal Wet op Kommissies, 1988 (Wet No. 3 van 1999) om ____ op die _____ dag van _____ 2010, te _____ voor die Kommissie van Ondersoek aangestel om 'n ondersoek te loods na die bewerings van bedrog, korrupsie en die misbruik van finansiële hulpbronne by die Umngeni plaaslike munisipaliteit, te verskyn en spesifiek om –

(a) getuienis te lewer met betrekking tot: _____

_____;

(b) die volgende tydens die verhoor te produseer: _____

_____.

Gegee onder my hand te _____ op hierdie _____ dag van _____ 2010.

SEKRETARIS VAN DIE KOMMISSIE

No. 2

8 kuMbaso 2010

UMNYANGO WEZOKUBUSA NGOKUBAMBISANA NEZOMDABU

UKUQOKWA KWEKHOMISHANA YOPHENYO NGOKOMTHETHO WAMAKHOMISHANA WAKWAZULU-NATALI, 1999, UKUBA IPHENYE IZINSOLO ZOKUKHWABANISA, ZENKOHLAKALO KANYE NEZOKUXHASHAZWA KWEZIMALI KUMASIPALA WASEMNGENI

Mina, ZL Mkhize, ngokwesikhundla sami njengoNdunankulu waKwaZulu-Natali, nangokwamandla engiwanikezwe isigaba 2(1) soMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho No. 3 ka 1999), ngalokhu -

(a) ngiqoka u-Adv BS Khuzwayo njengoSihlalo weKhomishana yoPhenyo ngenhloso yokuphenya lawa maphuzu okuzosetshenzelwa phezu kwawo:

(i) ukuphenya nokunquma uma kukhona abasebenzi bakaMasipala waseMngeni abaziphathe budlabha mayelana nanoma iluphi udaba oluphenywa ngabe-Messrs Ubuntu Forensic kanye nabaphenyi be-Dobeyn Administration, futhi uma kunjalo kwenziwe izincomo kuMkhandlu ukuthi iziphi izinyathelo ezingathathwa ukubhekana nalokhu;

(ii) ukuphenya ngokwehluleka kweMenenja kaMasipala ukulandela isinqumo seKhomishana yamaLungelo aBantu yaseNingizimu Afrika mayelana nokukalwa kwezindawo zokuhlala zabadala ezisendaweni kaMasipala waseMngeni;

(iii) ukuphenya ngokugxambukela kweMenenja kaMasipala ekuphathweni kukamasipala okushayisanayo nemibandela yokumiswa kwayo ebekwe uMkhandlu ngenkathi kusaqhutshwa uphenyo lwe-Dobeyn Administration; kanye

(iv) nokuphenya ukwehluleka kweMenenja kaMasipala ukwenza kanye nokuziphatha ngendlela efanele kuMasipala okuholele ekutheni ukwethembeka nesithunzi sikamasipala kube sesimweni esingasihle;

(b) ngiqoka uMnu. Dumisani Xaba njengoNobhala weKhomishana kanye noMnu. Paul Schuman njengoMphenyi oPhambili, ngokwesigaba 2(1)(d) soMthetho wamaKhomishana waKwaZulu-Natali, 1999;

(c) ngimemezela ukuthi izinhlinzeko zezigaba 1, 2(1)(c), 2(1)(d), 2(1)(e), 4, 5, 6 no 7 zoMthetho wamaKhomishana waKwaZulu-Natali, 1999, ziyasebenza ophenyweni; futhi

(d) ngenza imithethonqubo equkethwe ohlelweni olungenzansi, ngokwesigaba 2(1)(c) soMthetho wamaKhomishana waKwaZulu-Natali, 1999.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku lwe-18 kuMasingana, oNyakeni weziNkulungwane eziMbili neShumi.

DKT. ZL MKHIZE

uNdunankulu wesiFundazwe saKwaZulu-Natali

UHLELO

IMITHETHONQUBO

1. Kule mithethonqubo, ngaphandle uma ingqikithi isho okwehlukile -

"uphenyo" kushiwo uphenyo okukhulunywe ngalo kulesi Simemezelo; kantii

"uMthetho" kushiwo uMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho No. 3 ka 1999).

2. IKhomishana inikezwe amandla okuqasha noma imuphi umuntu noma umgwamanda noma okuveza ithuba lomsebenzi kunoma imuphi umuntu noma umgwamanda osizo lwawo, ozeluleko zawo noma obungoti bawo iKhomishana ikubona kudingeka noma kuwusizo ukuze kuqhutshwe uphenyo lwayo, kuncike ekugunyazweni okubhalwe phansi kuqala iNhlolo yoMnyango wezokuBusa ngokuBambisana nezoMdabu KwaZulu-Natali.

3. Iholo elikhokhelwa umuntu noma umgwamanda okukhulunywe ngawo kumthethonqubo 2 wale mithethonqubo liyoba yingxenywe futhi liyohlenganisa, zonke izindleko ezihlongozwe encwadini yokuqokwa ekhishwe uMnyango wezokuBusa ngokuBambisana nezoMdabu mayelana nophenyo.

4. Ngokwezinhloso zezigaba 4 no 7 zoMthetho, noma ikuphi ukuphekwa ngemibuzo, ukubonisana noma izingxoxo nanoma imuphi umuntu obizelwe esigcawini ngokwalo Mthetho, kuyothathwa njengokuhlala kweKhomishana.

5. Ukubizelwa esigcawini okuhlongozwe esigabeni 4(1) no 4(2) soMthetho kumele kuhambisane nendlela yokubhala ehlongozwe kwisiThasiselo A ngezansi.

ISITHASISELO A

UKUBIZELWA ESIGCAWINI UKUBA UZOVELA PHAMBI KWEKHOMISHANA YOPHENYO

Siya ku: _____

(Igama kanye nekheli lomuntu obizelwe esigcawini)

Ngalokhu ubizelwa esigcawini ngokwesigaba 4(1) soMthetho wamaKhomishana waKwaZulu-Natali, 1988 (uMthetho No. 3 ka 1999) ukuba uvele e _____ mhla zi _____ enyangeni ka _____ ku 2010, ngo _____ phambi kweKhomishana yoPhenyo eqokelwe ukwenza uphenyo ngezinsolo zokukhwabanisa, zenkohlakalo kanye nezokuxhashazwa kwezimali kuMasipala waseMngeni, ngenhloso yokuthi –

(a) unikeze ubufakazi mayelana: _____

_____; futhi

(b) uveze lokhu okulandelayo esigcawini: _____

_____.

Sikhishwe ngaphansi kwesandla sami e _____ ngalolu suku lwe _____ enyangeni ka _____, 2010.

UNOBHALA WEKHOMISHANA