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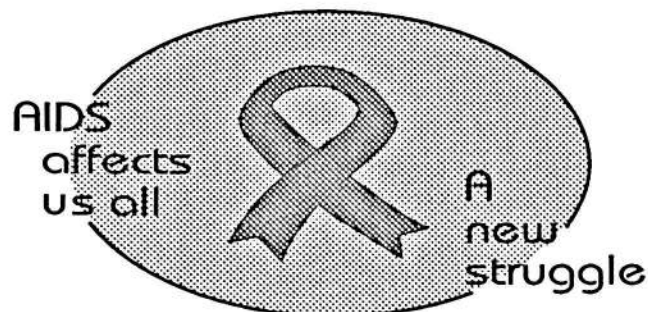
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PROCLAMATION

PROCLAMATION

by the

Premier of the Province of the Eastern Cape

No. 1, 2001

DISSOLUTION OF TRANSKEI DEVELOPMENT CORPORATION (TDC) UNDER SECTION 13 OF THE CORPORATIONS ACT, 1985 (TRANSKEI), AND OF CISKEI PEOPLES DEVELOPMENT BANK (CPDB), AND CISKEI SMALL BUSINESS CORPORATION (CSBC), UNDER SECTION 13A OF THE CISKEIAN CORPORATIONS ACT, 1981 (ACT No. 16 OF 1981), READ WITH THE CORPORATIONS TRANSITIONAL PROVISIONS ACT, 1995 (ACT No. 12 OF 1995) (EASTERN CAPE)

Under the powers vested in me by section 13 of the Corporations Act, 1985 (Act No. 10 of 1985) (Transkei), and section 13A of the Ciskeian Corporations Act, 1981 (Ciskei), as amended by the Corporations Transitional Provisions Act, 1995 (Act No. 12 of 1995) (Eastern Cape), I, Makhenkesi Arnold Stofile, Premier of the Province of the Eastern Cape—

1. (a) hereby—

- (i) after consultation with the competent authority, being the Member of the Executive Council responsible for Economic Affairs in the Province and the Ministers of Public Enterprises and Finance in the National Government of the Republic, and pursuant to the decision of the Eastern Cape Development Corporation to acquire the said corporations and their subsidiary companies for the purpose of restructuring and consolidating the said entities under the Eastern Development Corporation established in terms of the Eastern Cape Development Corporation Act, 1997 (Act No. 2 of 1997), subject to this proclamation;

(ii) pursuant to Provincial Notice No. 103 of 2000 promulgated in the *Provincial Gazette* No. 685 of 27 October 2000, dissolve—

(aa) Transkei Development Corporation Limited, established in terms of the Corporations Act, 1985 (Act No. 10 of 1985) (Transkei);

(bb) Ciskei Peoples Development Bank Limited, established in terms of the Ciskeian Corporations Act, 1981 (Act No. 16 of 1981) (Ciskei); and

(cc) Ciskei Small Business Corporation, established in terms of the Ciskeian Corporations Act, 1981 (Act No. 16 of 1981) (Ciskei),

(hereinafter referred to as the three corporations), with effect from the date of publication hereof.

- (b) (i) dissolve the Boards of the three corporations and determine that their powers and functions shall devolve upon the Board of the Eastern Cape Development Corporation;
- (ii) appoint Mcebisi Jonas, Chief Executive Officer of the Eastern Cape Development Corporation, as the Scheme Manager, of the dissolution and amalgamation process, envisaged herein, with the power to implement the provisions of this proclamation;
- (iii) determine that the provisions of section 313 of the Companies Act, 1973 (Act No. 61 of 1973), shall apply to the dissolution of the three corporations in so far as they are applicable.
- (iv) transfer the whole of the undertakings of the three corporations to the Eastern Cape Development Corporation;
- (v) (a) direct that all the assets, debts, liabilities, businesses, shares, rights and obligations of the three corporations shall devolve upon and vest in the Eastern Cape Development Corporation, or such wholly owned subsidiaries or entities thereof, as it may designate;
- (b) any bond, pledge, guarantee or instrument to secure future advances, facilities or services by or in favour of the three corporations, which was in force immediately prior to the date of this proclamation, shall remain in full force and effect and shall be construed as a bond, pledge, guarantee or instrument by or in favour of the Eastern Cape Development Corporation.
- (c) the Registrar of Companies, every Master of the Supreme Court and every person or officer in charge of a deeds registry or any other office, if in such office or register under his control there—
 - (aa) is registered any title to property belonging to, or any bond or other right in favour of, or any appointment of or by;
 - (bb) is registered any share, stock, debenture or other marketable security in favour of; or
 - (cc) has been issued any license to or in favour of;

any of the three corporations, upon production to him of any relevant deed, bond, share, stock, debenture, certificate, letter of appointment, license or other document, make such endorsements thereon and effect such alterations in his registers as may be necessary to record the transfer of the relevant property, bond or other right, share, stock, debenture, marketable security, letter of appointment or license and any rights thereunder to the Eastern Cape Development Corporation or as the case may be, to such wholly owned subsidiary thereof that has taken transfer of the said assets and liabilities;

- (vi) declare that any legal proceedings pending by or against the three corporations shall continue, by or against the Eastern Cape Development Corporation;
- (c) determine that no provision of this proclamation shall affect any right or obligation acquired or incurred by the three corporations or the Eastern Cape Development Corporation under any contract or agreement entered into prior to the coming into effect of the dissolution of the three corporations; and that the provisions of the law which applied in respect of such contract or agreement shall continue so to apply in favour of or against the Eastern Cape Development Corporation or its designate;
- (d) determine that no provision of this proclamation shall affect any right or obligation acquired or incurred by the three corporations and creditors and employees of the three corporations, prior to their dissolution;
- (e) direct that the following general provisions shall apply in relation to the dissolution of the three corporations and shall apply from the date of dissolution from which date the Scheme Manager shall have the following powers; without derogating from any other powers which a liquidator has in a winding up in terms of the Companies Act, 1973 (Act No. 61 of 1973), or the Insolvency Act, 1936 (Act No. 24 of 1936), as it so applies to that Act; save that the Scheme Manager shall not be entitled to any remuneration by virtue of his office in terms of this Proclamation, over and above remuneration as Chief Executive Officer of the Eastern Cape Development Corporation:
 - (i) The Scheme Manager is authorised to engage the services of attorneys and/or counsel for the purposes of—
 - (aa) taking any legal action that may be considered necessary in the interest of the dissolution;
 - (bb) instituting or defending any action in respect of any matter affecting the dissolution in any court of law;
 - (cc) instituting an enquiry into the affairs of the dissolved corporations and their subsidiaries and/or any matter relating thereto.
 - (ii) The Scheme Manager is authorised to employ auditors to investigate and write up books of the three corporations to the date of dissolution and to produce an audited balance sheet as at the date, and to take such steps as may be necessary to consolidate these with those of the Eastern Cape Development Corporation and that all costs so incurred shall be costs in the dissolution of the three corporations.
 - (iii) The Scheme Manager is authorised and empowered in his discretion to hold an enquiry into the affairs of the three corporations, and/or any matter relating thereto, should he deem it to be in the interest of the estate of the said corporations and/or their subsidiaries; to appoint a Commission or Chairman to preside over such enquiry who he in his discretion deems to be suitable and to employ attorneys and/or counsel and/or recording agents to assist in the said enquiry and to summons any person who he deem necessary to be present at the enquiry, all costs so incurred to be costs of dissolution.
 - (iv) The Scheme Manager is authorised and empowered to investigate any undue dispositions of property or transaction involving the dissolving corporations and subsidiaries that has taken place prior to the promulgation of the dissolution of the said corporations, and to take any steps which he in his discretion may deem necessary, including the instituting of legal action and the employment of attorneys and/or counsel, to have these set aside and to proceed to the final end or determination of any such legal action or to abandon same at any time as he in his discretion may deem appropriate and that all costs incurred in terms hereof shall be treated as dissolution costs.
 - (v) The Scheme Manager is authorised to utilise the services of former officials of the Corporation and/or representatives for the purposes of tracing assets, compiling an inventory of stock and taking possession of the assets, and their remuneration and disbursements shall be paid out of the funds of the three corporations.
 - (vi) The Scheme Manager is authorised to submit for determination and/or arbitration any dispute concerning the dissolution of the three corporations and any costs so incurred shall be costs of the dissolution.
 - (vii) The costs incurred by the Scheme Manager in maintaining, conserving and effecting transfer of any assets of the three corporations shall be paid out of the combined estate of the said corporations.
 - (viii) This Scheme Manager is enjoined to take such steps as he in his discretion deems necessary, to transfer all or any of the assets of the three corporations to the Eastern Cape Development Corporation.

- (ix) The Scheme Manager is authorised prior to transfer of assets and liabilities in terms of this proclamation, to write off debts that he considers irrecoverable from the books of the three corporations, subject to due regard to relevant provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and sound economic and financial considerations. Provided that:
 - (x) The scheme manager is hereby authorised and empowered to alienate or dispose of assets of the three corporations by sale or otherwise in the normal course of business and if in his discretion this will promote efficiency and economy; without them first being transferred to the Eastern Cape Development Corporation in terms of this proclamation, and remit the proceeds from any sale of such assets to the Eastern Cape Development Corporation or utilise them to defray the cost of this dissolution.
 - (xi) The Scheme Manager shall have full power to deal with such incidental, consequential and supplemental matters as may be necessary to ensure the full and effective carrying out of the dissolution and referred to matters, and is without detracting from the generality of the foregoing, authorised to sign all documents necessary to effect the transfer of the assets of the three corporations to the Eastern Cape Development Corporation.
- (f) The Scheme Manager shall furnish the Premier with monthly reports concerning the implementation of this proclamation and shall do so with regard to any matter in connection therewith should the Premier require him to do so.

2. Immovable property and improvements on land vesting in the Provincial Government of the Eastern Cape

- 2.1 Insofar as any improvements have been effected by the three Corporations on land vesting in the State, represented by the Government of the Eastern Cape, in terms of a certificate issued by the competent authority as envisaged in item 28, Schedule 6 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), I hereby direct that the Scheme Manager, is hereby authorised to determine the extent of such land necessary for the purposes of conducting the business or functions relating to such improvements, and to take all steps necessary to survey and excise such land and give title thereof to the Eastern Cape Development Corporation, pursuant to the Resolution of the Executive Council, dated 1 November 2000, donating to the Eastern Cape Development Corporation, to the extent necessary for the purposes for which such improvements were effected, all land on which the three corporations have made improvements.
- 2.2 The Director-General, Office of the Premier, is hereby authorised to grant power of attorney to the Scheme Manager or his duly designated representatives, to transfer such land in the name of the Eastern Cape Development Corporation or to obtain a grant in its favour as the case may be, upon being furnished with details thereof by the former.
- 2.3 (a) in terms of section 27 (2) of the Eastern Cape Development Corporation Act, 1997 (Act No. 2 of 1997), relating to the payment of duty fees or other charges in respect of a registration of transfer of immovable property, no duty fees or other charges are payable with regard the transfer and registration of any immovable property relevant to this proclamation in the name of the Eastern Cape Development Corporation.
- (b) on the production by the Scheme Manager, or persons duly appointed by him, of a power of attorney given by the Director-General, in respect of land or immovable property referred to in paragraph 2.1, a registrar of deeds must in accordance with law, issue the necessary grant or make such entries or endorsements in or any relevant register, title deed or other document to register that immovable property in the name of the Eastern Cape Development Corporation.

3. Employees of the three corporations

I determine that any person employed immediately before the commencement of this proclamation, by the three corporations shall, with recognition of his or her period of service by virtue of such employment, continue in such employment (which is referred to hereinafter as "employment in pre-rationalised post") until he or she is dealt with by the Board of the Eastern Cape Development Corporation, in terms of applicable labour laws.

4. Continued validity of resolutions and actions of the three corporations

All powers exercised, duties or obligations performed, directives issued, resolutions and actions taken or anything else done by the Boards of the three corporations or by any committees thereof, Officer, body or persons or holder of a post designated by the Board of the three corporations, shall be deemed to have been done by or on behalf of the Board of the Eastern Cape Development Corporation.

Dated and signed at Bisho this 23rd day of January 2001.

M. A. STOFIE

Premier: Province of the Eastern Cape

E. GODONGWANA

Member of the Executive Council responsible for Economic Affairs and Finance; and Competent Authority in terms of the laws referred to in this Proclamation