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SOUTH AFRICA



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No. 17996

PROCLAMATION

by the

President of the Republic of South Africa

No. R. 35, 1997

PROCEEDS OF CRIME ACT, 1996 (ACT No. 76 OF 1996)

Under section 39 of the Proceeds of Crime Act, 1996 (Act No. 76 of 1996), I hereby fix **16 May 1997** as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twenty-seventh day of April, One thousand Nine hundred and Ninety-seven.

N. R. MANDELA

President

By Order of the President-in-Cabinet:

A. M. OMAR

Minister of the Cabinet

PROKLAMASIE*van die***President van die Republiek van Suid-Afrika****No. R. 35, 1997****WET OP DIE OPBRENGS VAN MISDAAD, 1996 (WET No. 76 VAN 1996)**

Kragtens artikel 39 van die Wet op die Opbrengs van Misdaad, 1996 (Wet No. 76 van 1996), bepaal ek hierby **16 Mei 1997** as die datum waarop genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Sewe-en-twingste dag van April Eenduisend Negehonderd Sewe-en-negentig.

N. R. MANDELA**President**

Op las van die President-in-Kabinet:

A. M. OMAR**Minister van die Kabinet**

GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE
DEPARTEMENT VAN JUSTISIE
No. R. 684**9 May 1997**

PROCEEDS OF CRIME ACT, 1996 (ACT No. 76 OF 1996)

PROCEEDS OF CRIME REGULATIONS

The Minister of Justice has, under section 36 of the Proceeds of Crime Act, 1996 (Act No. 76 of 1996), made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates—

“**designated person**” means the person referred to in regulation 3 and includes, for the purposes of regulations 4 (2) and 5, any official of the subcomponent of that person;

“**Master**” means the Master, Deputy Master of Assistant Master of the High Court appointed under section 2 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), who has jurisdiction in respect of the matter, property or estate concerned;

“**the Act**” means the Proceeds of Crime Act, 1996 (Act No. 76 of 1996).

Tariff of fees payable to *curator bonis*

2. (1) A *curator bonis* appointed under the Act shall be entitled to a fee which shall be assessed according to the following tariff:

- (a) On income collected during the existence of the curatorship: 6 per cent;
- (b) on the value of property, other than money, realised on completion of his or her curatorship: 2 per cent;
- (c) on the value of money realised on completion of his or her curatorship: 1 per cent;
- (d) on the value of property, other than money, subject to a restraint order where no confiscation order is made: 2 per cent;
- (e) on the value of money subject to a restraint order where no confiscation order is made: 1 per cent.

- (2) Notwithstanding subregulation (1), the Master may—
- (a) if in any particular case there are special reasons for doing so, reduce or increase any such fee; or
 - (b) if the *curator bonis* has failed to discharge his or her duties or has discharged them in an unsatisfactory manner, disallow any such fee, either wholly or in part.

Person to whom suspicion regarding proceeds of crime to be reported

3. The Commander of the Subcomponent: Commercial Crime Investigations of the South African Police Service is hereby designated for the purposes of section 31 of the Act.

Nature of information and manner in which it is to be reported

4. (1) A report contemplated in section 31 of the Act shall be made in writing and shall—
- (a) substantially correspond to Form 1 of the Annexure;
 - (b) contain full particulars of—
 - (i) the person making the report;
 - (ii) the person against whom the suspicion has been formed, in so far as such particulars are available;
 - (iii) the transaction or other action whereby the property concerned has come into the possession of the person making the report;
 - (iv) the property concerned;
 - (c) set out the grounds on which the suspicion rests; and
 - (d) indicate what documentary or other proof is available in respect of the transaction or other action referred to in paragraph (b) (iii), and of the grounds mentioned in paragraph (c).
- (2) The report shall be handed or faxed to the designated person.

Acknowledgement of receipt of report

5. The designated person shall, on receipt of a report, forthwith acknowledge receipt thereof to the person who has made it, on a form substantially corresponding to Form 2 of the Annexure, and shall affix the stamp of his or her office thereto.

Title

6. These regulations shall be called the **Proceeds of Crime Regulations, 1997**, and shall come into operation on 16 May 1997.

ANNEXURE**FORM 1****REPORT IN TERMS OF SECTION 31 OF THE PROCEEDS OF
CRIME ACT, 1996 (ACT NO. 76 OF 1996)**

**TO: THE COMMANDER: COMMERCIAL CRIME INVESTIGATIONS OF THE
SOUTH AFRICAN POLICE SERVICE**

I,
(Name)

.....
(Contact address, telephone number and fax number)

.....
(Business/employment address, telephone number and fax number)

in my capacity as

of, hereby

report as follows:

(a) Particulars of the person against whom the suspicion has been formed

Full names:

Identity/passport number:

Nationality:

Occupation:

Residential address in the Republic:

.....

Business/employment address:

.....

Telephone numbers: (i) work:

(ii) home:

(b) Particulars of the transaction or other action whereby the property concerned came into my possession (including date and place thereof)

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(e) List of documentation and other proof available in respect of the transaction or other action (paragraph (b)), and grounds (paragraph (d))

Signed at this day of
19 .. .

(Signature of person making the report)

FORM 2**ACKNOWLEDGEMENT OF RECEIPT IN TERMS OF REGULATION 5 OF
THE PROCEEDS OF CRIME REGULATIONS, 1997**

I,,
being the/acting as,
designated as contemplated in regulation 3 of the Proceeds of Crime Regulations, 1997,
hereby acknowledge receipt of the following report(s)
.....
made in terms of section 31 of the Proceeds of Crime Act, 1996 (Act No. 76 of 1996), by
..... in his/her capacity as
of on 19

Signed at this day of
19

.....
(Signature of designated person)

No. R. 684

9 Mei 1997

WET OP DIE OPBRENGS VAN MISDAAD, 1996 (WET No. 76 VAN 1996)

REGULASIES INSAKE DIE OPBRENGS VAN MISDAAD

Die Minister van Justisie het kragtens artikel 36 van die Wet op die Opbrengs van Misdad, 1996 (Wet No. 76 van 1996), die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie regulasies het 'n woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken—

“aangewese persoon” die persoon in regulasie 3 bedoel en sluit dit, vir doeleindes van regulasies 4 (2) en 5, 'n beampte van die subkomponent van daardie persoon in;

“die Wet” die Wet op die Opbrengs van Misdad, 1996 (Wet No. 76 van 1996);

“Meester” die Meester, Adjunkmeester of Assistentmeester van die Hoë Hof kragtens artikel 2 van die Boedelwet, 1965 (Wet No. 66 van 1965), aangestel, wat ten opsigte van die betrokke aangeleentheid, goed of boedel met regsbevoegdheid bekleed is.

Tarief van gelde betaalbaar aan *curator bonis*

2. (1) 'n *Curator bonis* aangestel kragtens die Wet is geregtig op gelde wat ooreenkomstig die volgende tarief bereken word:

- (a) Op inkomste gevorder gedurende die bestaan van die kuratorskap: 6 persent;
- (b) op die waarde van eiendom, uitgesonderd geld, gerealiseer by beëindiging van sy of haar kuratorskap: 2 persent;
- (c) op die waarde van geld gerealiseer by beëindiging van sy of haar kuratorskap: 1 persent;
- (d) op die waarde van eiendom, uitgesonderd geld, onderworpe aan 'n inkortingsbevel waar geen inbeslagnemingsbevel verleen word nie: 2 persent;
- (e) op die waarde van geld onderworpe aan 'n inkortingsbevel waar geen inbeslagnemingsbevel verleen word nie: 1 persent.

(2) Ondanks subregulasie (1) kan die Meester—

- (a) indien daar in 'n bepaalde geval besondere redes bestaan om dit te doen, enige sodanige gelde verlaag of verhoog; of
- (b) indien die *curator bonis* versuim het om sy of haar pligte na te kom of dit op 'n onbevredigende wyse nagekom het, enige sodanige gelde in die geheel of ten dele weier.

Persoon by wie verdenking betreffende die opbrengs van misdad aangemeld moet word

3. Die Bevelvoerder van die Subkomponent: Handelsmisdadondersoek van die Suid-Afrikaanse Polisie word hierby vir die doeleindes van artikel 31 van die Wet aangewys.

Aard van inligting en wyse waarop dit aangemeld word

4. (1) 'n Aanmelding beoog in artikel 31 van die Wet word skriftelik gemaak en—

- (a) stem wesenlik ooreen met Vorm 1 van die Aanhangsel;
- (b) bevat volle besonderhede van—
 - (i) die persoon wat die aanmelding maak;
 - (ii) die persoon teen wie die suspisie gevorm is, in sover sodanige besonderhede beskikbaar is;
 - (iii) die transaksie of ander handeling waardeur die betrokke eiendom in die besit van die persoon wat die aanmelding maak, gekom het;
 - (iv) die betrokke eiendom;
- (c) sit die gronde uiteen waarop die suspisie berus; en
- (d) dui aan welke dokumentêre of ander bewys beskikbaar is ten opsigte van die transaksie of ander handeling vermeld in paragraaf (b) (iii) en van die gronde vermeld in paragraaf (c).

(2) Die aanmelding word aan die aangewese persoon oorhandig of gefaks.

Erkenning van ontvangs van aanmelding

5. By ontvangs van 'n aanmelding erken die aangewese persoon onverwyld ontvangs daarvan aan die persoon wat dit gemaak het, op 'n vorm wat wesenlik ooreenstem met Vorm 2 van die Aanhangsel en bring die stempel van sy of haar kantoor daarop aan.

Titel

6. Hierdie regulasies heet die **Regulasies insake die Opbrengs van Misdad, 1997**, en tree in werking op 16 Mei 1997.

AANHANGSEL

VORM 1

AANMELDING INGEVOLGE ARTIKEL 31 VAN DIE WET OP DIE OPBRENGS VAN MISDAAD, 1996 (WET NO. 76 VAN 1996)

AAN: DIE BEVELVOERDER: HANDELSMISDAADONDERSOEKE VAN DIE SUID-AFRIKAANSE POLISIEDIENS

Ek,

(Naam)

(Kontakadres, telefoonnommer en faksnommer)

(Besigheids-/werkadres, telefoonnommer en faksnommer)

in my hoedanigheid as

van, meld

hierby as volg aan:

(a) Besonderhede van die persoon teen wie die suspisie gevorm is

Volle name:

Identiteits-/paspoortnommer:

Nasionaliteit:

Beroep:

Woonadres binne die Republiek:

.....

Besigheids-/werkadres:

.....

Telefoonnommers: (i) werk:

(ii) huis:

(b) Besonderhede van die transaksie of ander handeling waardeur die betrokke eiendom in my besit gekom het (insluitende die datum en plek daarvan)

.....

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[illegible]

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- (e) **Lys van dokumentasie en ander bewys beskikbaar ten opsigte van die transaksie of ander handeling (paragraaf (b)), en gronde (paragraaf (d))**

Geteken te op hede die dag van

..... 19 ..

.....
(Handtekening van persoon wat aanmelding maak)

VORM 2

**ERKENNING VAN ONTVANGS INGEVOLGE REGULASIE 5 VAN DIE
REGULASIES INSAKE DIE OPBRENGS VAN MISDAAD, 1997**

Ek,, synde
die/handelende as,
aangewys soos bedoel in regulasie 3 van die Regulasies insake die Opbrengs van
Misdad, 1997, erken hierby ontvangs van die volgende aanmelding(s)
.....
gemaak ingevolge artikel 31 van die Wet op die Opbrengs van Misdad, 1996 (Wet No.
76 van 1996), deur in sy/haar hoedanigheid as
..... van op 19 ...

Geteken te op hede die dag van
19 ...

.....
(Handtekening van aangewese persoon)

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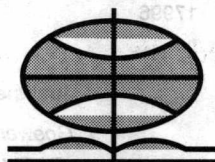
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