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OF
SOUTH AFRICA



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No. 16262

PROCLAMATION

*by the
President*

of the Republic of South Africa

No. R. 7, 1995

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No. 8 of 1947), I hereby declare that the provisions of that Act shall be applicable to a Commission appointed in terms of section 236 (6) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and I hereby make the regulations contained in the Schedule with reference to the said Commission.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this First day of February, One thousand Nine hundred and Ninety-five.

N. R. MANDELA,

President.

By Order of the President-in-Cabinet:

S. V. TSHWETE,

Acting Minister of the Cabinet.

SCHEDULE

REGULATIONS

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

“**Chairperson**” means the Chairperson of the Commission;

“**Commission**” means the Commission appointed in terms of Presidential Act No. 55 of 1995;

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PROKLAMASIE

*van die
President*

van die Republiek van Suid-Afrika

No. R. 7, 1995

Kragtens die bevoegdheid my verleen by artikel 1 van die Kommissiewet, 1947 (Wet No. 8 van 1947), verklaar ek hierby dat die bepalings van daardie Wet van toepassing is op 'n Kommissie aangestel kragtens artikel 236 (6) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), en vaardig ek hierby die regulasies in die Bylae vervat, met betrekking tot genoemde Kommissie uit.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Eerste dag van Februarie Eenduisend Negehoenderd Vyf-en-negentig.

N. R. MANDELA,

President.

Op las van die President-in-Kabinet:

S. V. TSHWETE,

Waarnemende Minister van die Kabinet.

BYLAE

REGULASIES

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“**beampte**” iemand wat in die voltydse diens van die Staat is en wat aangestel, aangewys of tot die beskikking van die Kommissie gestel is om die Kommissie by die verrigting van sy werksaamhede behulpsaam te wees;

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"document" includes any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;

"inquiry" means the inquiry conducted by the Commission;

"member" means a member of the Commission;

"officer" means a person in the full-time service of the State who has been appointed, designated or placed at the disposal of the Commission to assist the Commission in the execution of its functions;

"premises" includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft;

2. The proceedings of the Commission shall be recorded in the manner determined by the Chairperson.

3. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded shall 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 take down/record the proceedings of the Commission appointed in terms of Presidential Act No. 55 of 1995 in shorthand/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 shorthand notes/mechanical record of the proceedings of the said Commission made by me or by any other person.

(2) No shorthand notes or mechanical record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.

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, unless the publication of information is authorised by the Chairperson, and every such person, except the Chairperson, any member 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 appointed in terms of Presidential Act No. 55 of 1995 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 inquiry 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

"dokument" ook 'n boek, pamflet, aantekening, lys, omsendbrief, plan, plakkaat, aanplakbiljet, publikasie, tekening, foto of prent;

"Kommissie" die Kommissie aangestel kragtens Presidensiële Handeling No. 55 van 1995;

"lid" 'n lid van die Kommissie;

"ondersoek" die ondersoek wat deur die Kommissie ingestel word;

"perseel" ook grond of 'n gebou, bouwerk, gedeelte van 'n gebou of bouwerk, voertuig, vervoermiddel, vaartuig of lugvaartuig;

"Voorsitter" die Voorsitter van die Kommissie.

2. Die verrigtinge van die Kommissie word genoteer op die wyse deur die Voorsitter bepaal.

3. (1) Iemand wat aangestel of aangewys is om die verrigtinge van die Kommissie in snelskrif aan te teken of op meganiese wyse op te neem of om sodanige verrigtinge wat aldus aangeteken of opgeneem is, te transkribeer, moet vooraf 'n eed of bevestiging in die volgende vorm aflê:

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

- (a) dat ek getrou en na my beste vermoë die verrigtinge van die Kommissie aangestel kragtens Presidensiële Handeling No. 55 van 1995 in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Voorsitter gelas;
- (b) dat ek enige snelskrifaantekeninge/meganiese opname van die verrigtinge van genoemde Kommissie deur my of iemand anders gemaak, volledig en na my beste vermoë sal transkribeer.

(2) Geen snelskrifaantekeninge of meganiese opname van die verrigtinge van die Kommissie word getranskribeer nie behalwe op las van die Voorsitter.

4. Elke persoon wat diens doen by die verrigting van die Kommissie se werksaamhede, met inbegrip van iemand in regulasie 3 (1) bedoel, moet ten aansien van enige aangeleentheid of inligting wat by die vervulling van sy pligte in verband met bedoelde werksaamhede tot sy kennis kom, geheimhouding help bewaar, behalwe waar die Voorsitter die publiserings van sodanige inligting magtig, en elke sodanige persoon, behalwe die Voorsitter, 'n lid of 'n beampete, moet, voordat hy enige diens in verband met die Kommissie verrig, 'n eed van getrouheid of geheimhouding voor die Voorsitter in die volgende vorm aflê en onderteken:

Ek, A.B., verklaar onder eed/bevestig en verklaar dat, behalwe vir sover dit by die uitvoering van my pligte in verband met die werksaamhede van die Kommissie aangestel kragtens Presidensiële Handeling No. 55 van 1995 of ingevolge 'n bevel van 'n bevoegde hof nodig is, ek geen aangeleentheid of inligting wat in verband met genoemde Kommissie se ondersoek tot my kennis kom, aan enigiemand sal meedeel nie en niemand sal toelaat of veroorloof om toegang tot stukke van die Kommissie te verkry nie, met inbegrip van enige aantekening, opname of transkripsie van die

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 inquiry 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 an 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. (1) If any person who gave or is giving evidence before the Commission or who has been summoned so to give evidence so requests the Commission, the Chairperson may direct that no person shall publish in any manner whatsoever the name or address of such person or any information likely to reveal his identity.

(2) No person shall contravene any provision of a directive referred to in subregulation (1).

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. An officer, attorney or advocate designated thereto by the Chairperson may be present at the hearing of evidence at the inquiry and may adduce evidence and arguments relating to the inquiry.

12. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's inquiry 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. The Chairperson, any member or any officer may, for the purposes of the inquiry, 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 Chairperson—

- (a) disseminate any document submitted to the Commission by any person in connection with the inquiry or publish the contents or any portion of the contents of such document; or

verrigtinge van genoemde Kommissie in my besit of bewaring of in die besit of bewaring van genoemde Kommissie of 'n beamppte.

5. Niemand mag enige aangeleentheid of inligting wat in verband met die Kommissie se ondersoek tot sy kennis gekom het, aan iemand anders meedeel of iemand anders toelaat of veroorloof om toegang te verkry tot stukke van die Kommissie nie, behalwe vir sover dit by die uitoefening van sy pligte in verband met die werksaamhede van die Kommissie of ingevolge 'n bevel van 'n bevoegde hof nodig is.

6. Die Voorsitter kan een of meer kundige persone aanwys om die Kommissie in 'n ander hoedanigheid as 'n lid behulpzaam te wees by die verrigting van sekere van sy werksaamhede.

7. Die Voorsitter of 'n beamppte deur die Voorsitter in die algemeen of spesiaal daartoe gemagtig, moet 'n getuie wat voor die Kommissie verskyn, 'n eed oplê of van hom 'n bevestiging afneem.

8. (1) Indien 'n persoon wat getuie is voor die Kommissie afgelê het of aflê of wat opgeroep is om aldus getuie af te lê, die Kommissie aldus versoek, kan die Voorsitter gelas dat niemand die naam of adres van sodanige persoon of enige inligting wat waarskynlik sy identiteit sal openbaar, op enige wyse hoegenaamd bekend maak nie.

(2) Niemand mag 'n bepaling van 'n lasgewing bedoel in subregulasie (1) oortree nie.

9. 'n Getuie wat voor die Kommissie verskyn, kan deur 'n persoon in kruisverhoor geneem word slegs indien die Voorsitter sodanige kruisverhoor deur daardie persoon toelaat omdat die Voorsitter dit in belang van die werksaamhede van die Kommissie nodig ag.

10. 'n Getuie wat voor die Kommissie verskyn, kan na goedgevonden van die Voorsitter en op die wyse wat hy bepaal, deur 'n advokaat of prokureur bygestaan word.

11. 'n Beamppte, prokureur of advokaat deur die Voorsitter daartoe aangewys, kan by die aanhoor van getuie by die ondersoek aanwesig wees en getuie en argumente wat op die ondersoek betrekking het, aanvoer.

12. Wanneer die Kommissie op getuie of inligting aan hom voorgelê, oortuig is dat die Kommissie se ondersoek enige bestaande, ingestelde of hangende regsproses of enige ondersoek wat ingevolge die bepaling van enige wet ingestel is, nadelig kan raak, word getuie wat relevant is tot sodanige regsproses of ondersoek op so 'n wyse deur die Kommissie hanteer dat daardie regsproses of ondersoek nie daardeur nadelig geraak word nie.

13. Die Voorsitter, 'n lid of 'n beamppte kan vir doeleindes van die ondersoek te alle redelike tye enige perseel betree en besigtig en enige dokument wat op sodanige perseel is, opeis en in beslag neem.

14. Niemand mag sonder die skriftelike toestemming van die Voorsitter—

- (a) 'n dokument wat in verband met die ondersoek deur enige persoon aan die Kommissie voorgelê is, versprei of die inhoud of 'n gedeelte van die inhoud van so 'n dokument publiseer nie; of

- (b) peruse any document, including any statement, which is destined to be submitted to the Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.

15. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice, influence or anticipate the proceedings or findings of the Commission.

16. Any person who—

- (a) wilfully hinders, resists or obstructs the Chairperson, any member or any officer in the exercise of any power referred to in regulation 13; or
 (b) contravenes a provision of regulation 5, 8 (2) or 14; or
 (c) contravenes a provision of regulation 15,

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 not exceeding R200 or imprisonment for a period not exceeding six months; and
 (ii) in the case of an offence referred to in paragraph (c), to a fine not exceeding R1 000 or imprisonment for a period not exceeding 12 months.

GOVERNMENT NOTICE

OFFICE OF THE PUBLIC SERVICE COMMISSION

No. R. 207 10 February 1995

APPOINTMENT OF A COMMISSION CONTEMPLATED IN SECTION 236 (6) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1993 (ACT No. 200 OF 1993)

The President on 1 February 1995 appointed a Commission contemplated in section 236 (6) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), consisting of the following persons:

The Honourable Mr Acting Justice Jules Browde as Chairperson.
 Adv. S. A. M. Baqwa as Member.
 Adv. L. Theron as Member.
 Adv. M. L. Mailula as Member.
 Adv. V. M. Ponnann as Member.
 Mr C. M. Somyalo as Member.

The Commission is empowered to in terms of section 236 (6) review any of the following matters which occurred **between 27 April 1993 and 30 September 1994** in respect of any person or class of persons in the

- (b) insae hê in enige dokument, met inbegrip van enige verklaring, wat bestem is om aan die Voorsitter voorgelê te word of onderwyl dit na die Voorsitter geneem of aan hom versend word, onderskep nie.

15. Niemand mag die Voorsitter of 'n lid van die Kommissie beledig, neerhaal of verkleineer of die verrigtinge of die bevindings van die Kommissie benadeel, beïnvloed of vooruitloop nie.

16. Iemand wat—

- (a) die Voorsitter, 'n lid of 'n beampte by die uitoefening van 'n bevoegdheid in regulasie 13 bedoel, opsetlik hinder, teengaan of dwarsboom; of
 (b) 'n bepaling van regulasie 5, 8 (2) of 14 oortree; of
 (c) 'n bepaling van regulasie 15 oortree,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar—

- (i) in die geval van 'n misdryf in paragraaf (a) of (b) bedoel, met 'n boete van hoogstens R200 of gevangenisstraf vir 'n tydperk van hoogstens ses maande; en
 (ii) in die geval van 'n misdryf in paragraaf (c) bedoel, met 'n boete van hoogstens R1 000 of gevangenisstraf vir 'n tydperk van hoogstens 12 maande.

GOEWERMENSKENNISGEWING

KANTOOR VAN DIE STAATSDIENSKOMMISSIE

No. R. 207 10 Februarie 1995

AANSTELLING VAN 'N KOMMISSIE BEDOEL IN ARTIKEL 236 (6) VAN DIE GRONDWET VAN DIE REPUBLIEK VAN SUID-AFRIKA, 1993 (WET No. 200 VAN 1993)

Die President het op 1 Februarie 1995 'n Kommissie bedoel in artikel 236 (6) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), aangestel wat uit die volgende persone bestaan:

Sy Edele Waarnemende Regter Jules Browde as Voorsitter.
 Adv. S. A. M. Baqwa as Lid.
 Adv. L. Theron as Lid.
 Adv. M. L. Mailula as Lid.
 Adv. V. M. Ponnann as Lid.
 Mnr. C. M. Somyalo as Lid.

Die Kommissie is by magte om ingevolge artikel 236 (6) enige van die volgende aangeleenthede wat **tussen 27 April 1993 en 30 September 1994**, ten opsigte van enige persoon of 'n klas persone in die voormalige

former public services of the RSA, the TBVC States and the Self-governing Territories as well as the present Public Service:

- ▶ *The conclusion or amendment of a contract.*
- ▶ *Any appointment or promotion.*
- ▶ *The award of any term or condition of service or other benefit.*

Should the Commission find that any action of the sort indicated above was not proper or justifiable in the circumstances of the case, it may reverse or alter the contract, appointment, promotion or award.

Any person who is aware of any irregularities regarding aspects which fall within the terms of reference of the Commission and which warrants investigation, is invited to submit full particulars to a Minister of the Cabinet or a Member of the Executive Council of a Province, at whose instance only, such matters may be reviewed by the Commission. Persons who wish to report irregularities should do so as soon as possible and preferably not later than **15 March 1995**.

staatsdienste van die RSA, die TBVC State en die Self-regerende Gebiede asook in die huidige Staatsdiens plaasgevind het, te hersien:

- ▶ *Die sluiting of wysiging van 'n kontrak.*
- ▶ *Enige aanstelling of bevordering.*
- ▶ *Die toekenning van 'n beding of voorwaarde van diens of 'n ander voordeel.*

Sou die Kommissie bevind dat enige optrede van die aard hierbo aangedui in die omstandighede van die geval nie behoorlik of geregverdig was nie, kan die Kommissie die kontrak, aanstelling, bevordering of toekenning tersyde stel of wysig.

Enige persoon wat van enige ongerymdhede met betrekking tot aspekte wat binne die verwysingsraamwerk van die Kommissie val en wat 'n ondersoek geregverdig, bewus is, word genooi om volledige besonderhede aan 'n Minister van die Kabinet of 'n Lid van die Uitvoerende Raad van 'n Provinsie voor te lê, op wie se aandrang alleen sodanige aangeleenthede deur die Kommissie hersien kan word. Persone wat begerig is om ongerymdhede te rapporteer moet dit so gou as moontlik en verkieslik nie later nie as **15 Maart 1995** doen.

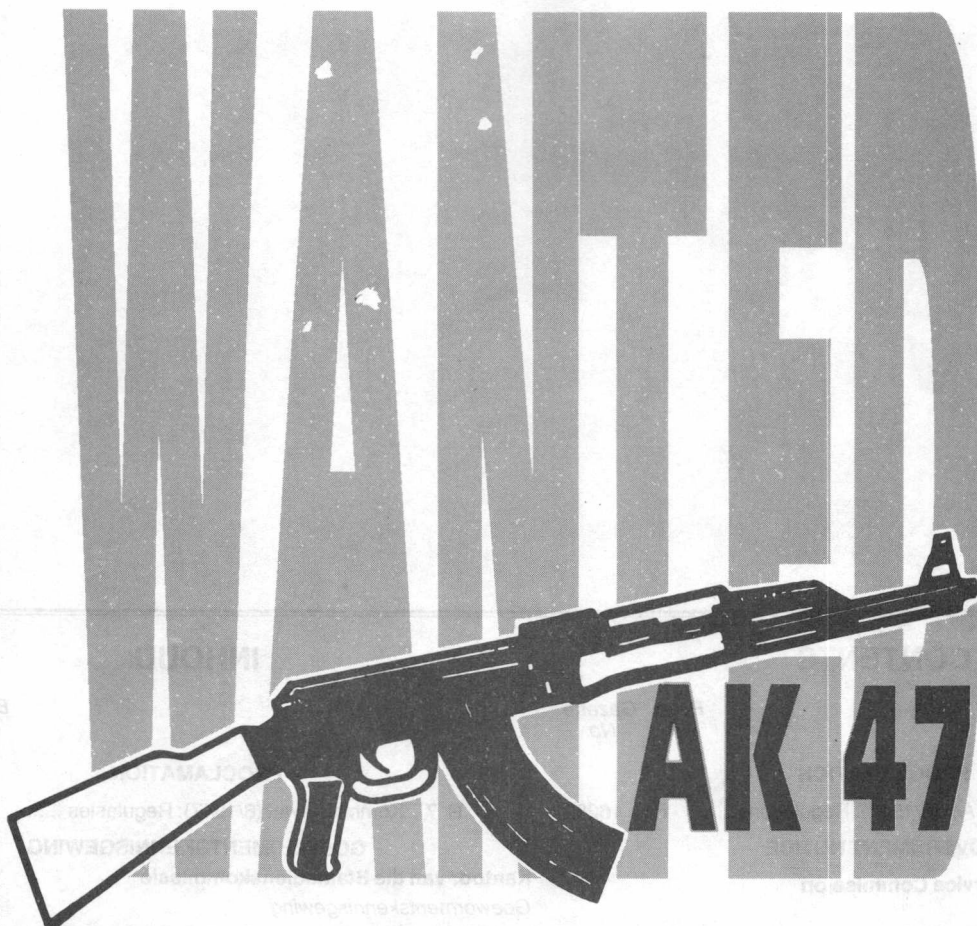
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