

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

**NORTH-WEST
NOORD WES**

**PROVINCIAL GAZETTE
PROVINSIALEKOERANT**

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9/8/1994

Nr. 21

No.

OFFICE OF THE PREMIER OF NORTH WEST.

GOVERNMENT NOTICE

NO. 10

APPOINTMENT OF THE COMMISSION OF INQUIRY INTO THE FUNDING, ACQUISITION OR ONGOING USE OF PUBLIC FUNDS BY ANY DEPARTMENT OF STATE, PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST, AT THE INSTANCE OF THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD INTEREST OF TRANSACTIONS OR PROJECTS OF ANY STATE DEPARTMENT AS WELL AS PARASTATALS OR COMPANIES IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST ON ANY PROPERTY (MOVABLE OR IMMOVABLE) OR ASSET WHEREVER SITUATED BELONGING TO (OR WHICH MIGHT HAVE BEEN DISPOSED OF BY) THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD A DIRECT OR INDIRECT INTEREST .

1. It is hereby notified for general information that the Premier has been pleased to appoint, by virtue of the powers vested in him under section 147(1)(d) of the Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993) a Commission of Inquiry into the funding, the acquisition or the ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of

Bophuthatswana has or has had any interest at the instance of the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of transactions or projects of any Department of State as well as parastatals or companies in which the ex-Government of Bophuthatswana has or has had any interest on any property (movable or immovable) or asset, wherever situated, belonging to the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of transactions or projects of any Department of State as well as parastatals or companies in which the ex-Government of Bophuthatswana has or has had a direct or indirect interest (hereinafter referred to as the Commission).

2. The Commission shall consist of Adv. T.L. Skweyiya, S.C. who shall be the chairman, and such additional members as the Premier may from time to time appoint.
3. The terms of reference of the Commission are to investigate and enquire into and ascertain -
 - (a) the nature and scope of the transactions, functioning, dealings and projects of the Department of Works regarding the renovations or work done at the ex-State President's private residence at Motswedi;
 - (b) the nature and extent of the funding, acquisition or ongoing

use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of the transactions, functioning, dealings and projects of the Department of Works regarding the renovations or work done at the ex-State President's private residence at Motswedi;

- (c) the nature and extent of the funding, acquisition or the ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of Moeng Dairy Farms at Motswedi;
- (d) the nature, scope and extent of the funding out of public funds of any other asset, wherever situated, belonging to (or which might have been disposed of by) the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces, or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest or of any interest the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest in any property (movable or immovable) or business undertaking;
- (e) the nature and extent of the funding, acquisition or ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswana has

or has had any interest of the transactions, functioning, dealings and projects of any other Department of State from which the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest benefited directly or indirectly;

- (f) reasons or causes for the failure (if any) on the part of the Auditor General to detect and report the said misappropriation of public funds to the National Assembly;
- (g) steps or actions (if any) taken by the Auditor General or any official to bring to the attention of the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of the said misappropriation of public funds in his favour;

(h) generally on any aspects related to the above, and to make its findings and recommendations in connection with the aforesaid matters.

4. Interested persons wishing to make representations to or testifying before the Commission may forward their memoranda or correspondence in this regard to:

The Secretary of the Commission of Inquiry

Private Bag X2010

MMABATHO

8681

and indicate whether they also wish to testify before the Commission.

5. The Commission is requested to submit its report, containing its findings and recommendations, to the Premier as soon as may be reasonably practicable after the conclusion of its investigation.
6. The Government Notice No. 47 published under Government Gazette No.77 dated 25 April 1994 is hereby withdrawn.

Signed:

P.S. MOLEFE

PREMIER OF NORTH WEST.

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No.

OFFICE OF THE PREMIER OF THE NORTH WEST

GOVERNMENT NOTICE

NO. 11

REGULATIONS MADE UNDER THE COMMISSIONS ACT, 1985 (ACT 14 OF 1984), IN RELATION TO THE COMMISSION OF INQUIRY INTO THE FUNDING, ACQUISITION OR ONGOING USE OF PUBLIC FUNDS BY ANY DEPARTMENT OF STATE, PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST AT THE INSTANCE OF THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD INTEREST OF TRANSACTIONS OR PROJECTS OF ANY STATE DEPARTMENT AS WELL AS PARASTATALS OR COMPANIES IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST ON ANY PROPERTY (MOVABLE OR IMMOVABLE) OR ASSET, WHEREVER SITUATED, BELONGING TO (OR WHICH MIGHT HAVE BEEN DISPOSED OF BY) THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD A DIRECT OR INDIRECT INTEREST.

1. Notice is hereby given that the Honourable Premier of the North West has, in relation to the Commission, made the Regulations under the Commissions Act, 1985 as attached in the Schedule hereto.

P.S. MOLEFE

PREMIER OF THE NORTH WEST.

SCHEDULE

REGULATIONS RELATING TO THE COMMISSION OF INQUIRY INTO THE FUNDING, ACQUISITION OR ONGOING USE OF PUBLIC FUNDS BY ANY DEPARTMENT OF STATE, PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST AT THE INSTANCE OF THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD INTEREST OF TRANSACTIONS OR PROJECTS OF ANY STATE DEPARTMENT AS WELL AS PARASTATALS OR COMPANIES IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD ANY INTEREST ON ANY PROPERTY (MOVABLE OR IMMOVABLE) OR ASSET, WHEREVER SITUATED, BELONGING TO (OR WHICH MIGHT HAVE BEEN DISPOSED OF BY) THE EX-STATE PRESIDENT OR EX-MINISTER OF STATE OR EX-DEPUTY MINISTER OR ANY CIVIL SERVANT OF THE EX-REPUBLIC OF BOPHUTHATSWANA, INCLUDING THE SECURITY FORCES OR ANY EMPLOYEE OF ANY PARASTATAL OR COMPANY IN WHICH THE EX-GOVERNMENT OF BOPHUTHATSWANA HAS OR HAS HAD A DIRECT OR INDIRECT INTEREST.

1. In these Regulations, unless inconsistent with the context, the words and expressions occurring therein shall have the meanings assigned thereto in the Commissions Act, 1985 (Act 14 of 1985 - hereinafter referred to as the Act), and, unless the context otherwise indicates -

"assessor" means any assessor appointed for the Commission in terms of regulation 2;

"Chairman" means the chairman of the Commission;

"document" includes any book, pamphlet, record (including, without derogating from the generality of that term, any record or information stored on microfilm, video or audio cassettes, computer hardware, discs or diskettes or laser discs, or any combination or print-out of any of the foregoing) as well as any note, transcription, list, circular, plan, placard, poster, publication, drawing, photograph, film or picture;

"inquiry" means the inquiry conducted by the Commission in accordance with and in pursuance of its terms of reference;

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

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

"the Commission" means the Commission of Inquiry into the funding, acquisition or ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest, at the instance of the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces of any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of transactions or projects of any State Departments as well as parastatals or companies in which

the ex-Government of Bophuthatswana has or has had any interest on any property (movable or immovable) or asset, wherever situated, belonging to (or which might have been disposed of by) the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had a direct or indirect interest.

2.(1) The chairman may in his discretion appoint one or more persons as assessors with the view to assisting the Commission with or in connection with its investigations and enquiries and presentation of evidence regarding any matter relevant to its terms of reference.

(2) The provisions of sections 10 and 11 of the Act shall mutatis mutandis apply in respect of any assessor.

(3) The consideration (if any) payable to an assessor in respect of his services, and all travelling and subsistence expenses reasonably incurred by him in connection with his functions and duties as such, shall be defrayed from the Provincial Revenue Fund.

3. The proceedings of the Commission shall be recorded in the manner determined by the Chairman.

4.(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 or make, and subscribe to, an oath or affirmation substantially 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 of Inquiry into the Funding, Acquisition or Ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswan has or has had any interest at the instance of the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the security forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of transactions or projects of any Department of State on any Property (movable or immovable) or asset, wherever situated, belonging to (or which might have been disposed of by) the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the forces or any employee of any parastatal or company in which the State has or has had a direct or indirect interest;
- (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 Commissions shall be transcribed except by order of the chairman.

5. Every assessor and additional member of the Commission and every person employed in the execution of the functions of the Commission, including any person referred to in regulation 4(1), shall aid in preserving secrecy in regard to any matter or information which may come

to his knowledge in the performance of the duties of his office in relation to the Commission, except in so far as the disclosure of such matter or information shall be necessary for the purposes of the report to the Commission, and every such assessor, additional member and person shall, prior to performing any duty with the Commission, before the Chairman take or make, and subscribe to, an oath or affirmation of fidelity and secrecy substantially in the following form:

"I, A.E., declare under oath/affirm and declare that, except in so far as it shall be necessary in the performance of my duties in connection with the functions of the Commission of Inquiry into the funding, acquisition or ongoing use of public funds by any Department of State, parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest at the instance of the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the forces or any employee of any parastatal or company in which the ex-Government of Bophuthatswana has or has had any interest of transactions or projects of any Department of State on any property (movable or immovable) or asset, wherever situated, belonging to (or which might have been disposed of by) the ex-State President or ex-Minister of State or ex-Deputy Minister or any civil servant of the ex-Republic of Bophuthatswana, including the forces or any employee of any parastatal or company in the ex-Government of Bophuthatswana has or has had any interest directly or indirectly, or by order of a competent court, I shall not communicate to any person any matter or information whatsoever which may come to my knowledge in connection with the inquiry of the said Commission, or allow any person to have access to any records or documents 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."

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

6. Any person who is required to take and subscribe to, an oath or affirmation of fidelity and secrecy in terms of regulation 5, shall not 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 allow any other person to have access to any records or documents of the Commission, except in so far as it shall be necessary in the performance of his duties in connection with the functions of the Commission or by order of a competent court.

7.(1) The evidence and addresses heard and the examinations conducted before the Commission shall be heard and conducted in camera with only the following persons present, namely -

- (a) the Chairman and the other members of the Commission;
- (b) any assessor;
- (c) any witness, in the course of testifying before or being questioned, examined or re-examined before the Commission or addressing the Commission;
- (d) the legal representative of a witness so testifying or being questioned or examined, provided such legal representative is a practising advocate or attorney of the Supreme Court of Bophuthatswana or South Africa: Provided that the Chairman may, in his sole discretion, allow such legal representative

to address the Commission in the absence of such witness if, in the opinion of the Chairman, there exists good cause for doing so and the Chairman is satisfied that the inquiry and the investigations and/or proceedings of the Commission are not likely to be prejudiced thereby.

(2) The Chairman or any additional member of the Commission or an officer designated by the Chairman for that purpose, may at the inquiry examine and question any witness and adduce evidence and arguments relating to the inquiry.

(3)(a) Upon the conclusion of the examination and questioning of a witness in terms of subregulation (2), the legal representative of such witness shall be entitled to re-examine or question such witness as he deems fit and to address the Commission in regard to any matter connected with any such examination, re-examination and questioning.

(b) Such legal representative shall not be entitled to examine, question or cross-examine any other witness or person.

8. The Chairman or any officer generally or specially authorised thereto by the Chairman shall administer an oath or affirmation to any witness appearing before the Commission.

9. If requested thereto by any person who gave or is giving evidence before the Commission or has been called upon or summoned or has requested to give evidence, the Chairman may direct that no person shall publish or make known, in any manner whatsoever, the name or address of such person or any information likely to reveal his identity.

10. The Chairman, any member or a person appointed under regulation 2 and any officer authorised by the Chairman for that purpose may, in so far as

it may be necessary for or relevant to the inquiry, at all reasonable times enter and inspect any premises and demand and seize any document on or kept on such premises.

11. No person shall, without the written permission of the Chairman, disseminate any documents submitted by any person to the Commission or seized in terms of regulation 10 in connection with the inquiry or publish the contents or any portion of the contents of any such document.

12. The Chairman may, upon having completed any particular aspect or subject constituting but part of its inquiry and investigation, prepare and submit an interim report to the Premier regarding that aspect or subject: Provided that the contents of such interim report shall be included in the final report of the Commission to be submitted to the Premier following the conclusion of such inquiry and investigation.

13. No person shall, except in so far as may, in the Chairman's opinion, be necessary in the execution of the terms of reference of the Commission, publish or furnish to any other person the report of the Commission or a copy or part thereof or any information regarding the consideration of evidence by the Commission unless and until the Premier has released the report for publication.

14.(1) No person may insult, disparage or belittle the Chairman, any additional member or any assessor or prejudice, influence or anticipate the proceedings or findings of the Commission.

(2) Any person who contravenes the provisions of sub-regulation (1) shall be guilty of an offence and liable on conviction to a fine not

exceeding one thousand two hundred rand or imprisonment for a period not exceeding one year.

15. Any person who -

(a) wilfully hinders, resists or obstructs the Chairman, any additional member or any officer in the exercise of any power referred to in regulation 10; or

(b) contravenes the provisions of regulation 6, 9, 11, 13 or 14, shall be guilty of an offence and liable on conviction to a fine not exceeding six hundred rand or to imprisonment for a period not exceeding six months.

