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CONTENTS • INHOUD

No.		Page No.	Gazette No.
	TERMS OF REFERENCE		
	Commission of Inquiry into the 11 April 2001 Ellis Park Disaster.....	3	22246
	PROCLAMATION		
R. 27	Commissions Act (8/1947): Commission of Inquiry into the 11 April 2001 Ellis Park Disaster	5	22246
	OPDRAG		
	Commission of Inquiry into the 11 April 2001 Ellis Park Disaster.....	3	22246
	PROKLAMASIE		
R. 27	Kommissiewet (8/1947): Kommissie van Onderzoek na die 11 April 2001 Ellis Park Ramp	13	22246

**TERMS OF REFERENCE
OF THE
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
TO THE
COMMISSION OF INQUIRY INTO THE 11 APRIL 2001
ELLIS PARK DISASTER**

- A. The Commission shall inquire into, make findings and report on the following matters:
1. The facts that led to the disaster on 11 April 2001 at Ellis Park Stadium, in particular:
 - 1.1 the events that took place on the day in question;
 - 1.2 factors which preceded the event and which led to the tragedy; and
 - 1.3 whether there was any mismanagement on the part of anybody.
- B. The Commission shall report and make recommendations on how a similar occurrence is to be prevented in future.
- C. These terms of reference may be added to, varied or amended from time to time.

D. The Commission shall commence with its duties forthwith.

E. The Commission shall have the power to publish interim reports.

F. The Commission shall be subject to and be conducted in terms of the provisions of the Commissions Act No 8 of 1947, as amended, and the regulations published thereunder.

PROCLAMATION
by the
President of the Republic of South Africa

No. R. 27, 2001

COMMISSION OF INQUIRY INTO THE 11 APRIL 2001 ELLIS PARK DISASTER

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 the Commission of Inquiry into the 11 April 2001 Ellis Park disaster, and I hereby make the regulations in the Schedule with reference to the said Commission.

Signed at Pretoria on this 18th day of April Two Thousand and One.

THABO MBEKI

PRESIDENT

By Order of the President-in-Cabinet:

PENUELL MADUNA

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 of Inquiry into the 11 April 2001 Ellis Park disaster;

“Document” includes any book, pamphlet, record, list, circular, plan, 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 or designated 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 of Inquiry into the 11 April 2001 Ellis Park stadium disaster 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 or her knowledge in the performance of his or her duties in connection with the said functions, except in so far as the publication of such matter or information is necessary for the purposes of the report of the Commission, 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 of Inquiry into the 11 April 2001 Ellis Park stadium disaster 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 notes, 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.

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 or her 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. Where, at the time of any person giving evidence before the Commission, members of the general public are or have been excluded from attendance at the proceedings of the Commission, the Chairperson may, on the request of such a person, direct that no person shall disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.
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 or her, 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. (1) The Chairperson, any member or any officer may, with a warrant, for the purposes of the inquiry, at all reasonable times and without prior notice or with such notice as he or she may deem appropriate enter and inspect any premises and demand and seize any document which is on such premises.

(2) any entry upon or search of any premises in terms of this regulation shall be conducted with strict regard to decency and order, including -

(1) a person's right to, respect for and the protection of his or her dignity;

(2) the right of a person to freedom and security; and

(3) the right of a person to his or her personal privacy.

(3) The premises referred to in sub-regulation (1) may only be entered by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises is situated: Provided that such a warrant may only be issued by a

magistrate, regional magistrate or judge who is not the Chairperson, member or officer of the Commission.

(4) Subject to the proviso to sub-regulation (3), a warrant referred to in sub-regulation (1) may be issued by a judge in respect of premises situated in another area of jurisdiction, if he or she deems it justified.

(5) The warrant may only be issued if it appears to the magistrate, regional magistrate or judge from information on oath or affirmation, stating the need, in regard to the inquiry, for a search and seizure in terms of this regulation that there are reasonable grounds for believing that any document or article referred to in sub-regulation (1) is upon or at such premises or suspected to be upon or at such premises.

14. No person shall without the written permission of the Chairperson -

(1) 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

(2) 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, except in so far as shall be necessary in the execution of the terms of reference of the Commission, publish or furnish any other person with the report or any interim report of the Commission or a copy or a part thereof or information regarding the consideration of evidence by the Commission for publication before the expiration of a period of 14 days after it has been submitted to the President: Provided that the President may authorise

publication of any such report before the expiration of that period.

16. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the proceedings or findings of the Commission.
17. Any person who -
 - (a) wilfully hinders, resist or obstructs the Chairperson, any member or any officer in the exercise of any power contemplated in regulation 13; or
 - (b) contravenes a provision of regulation 5, 8, 14 or 15; or
 - (c) contravenes a provision of regulation 16, 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, or to imprisonment for a period not exceeding six months; and
 - (ii) in the case of an offence referred to in paragraph (c), to a fine, or to imprisonment for a period not exceeding 12 months.

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika***No. R. 27, 2001****KOMMISSIE VAN ONDERSOEK NA DIE 11 APRIL 2001 ELLIS PARK RAMP**

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 die Kommissie van Onderzoek na die 11 April 2001 Ellis Park ramp en vaardig ek hierby die regulasies in die Bylae vervat met betrekking tot genoemde Kommissie uit.

Geteken te Pretoria op hede die 18de dag van April Tweeduisend-en-een.

THABO MBEKI**PRESIDENT****Op las van die President-in-Kabinet:****PENUELL MADUNA****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 of aangewys is om die Kommissie by die verrigting van sy werksaamhede behulpsaam te wees;

“Dokument” ook ’n boek, pamflet, aantekening, lys, omsendbrief, plan, plakkaat, aanplakbiljet, publikasie, tekening, foto of prent;

“Kommissie” in hierdie proklomasie bedoelde Kommissie van Onderzoek na die 11 April 2001 Ellis Park ramp;

“Lid” ’n lid van die Kommissie;

“Onderzoek” 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 genotuleer 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 van Onderzoek na die 11 April 2001 Ellis Park ramp 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 verrigtinge 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 of haar pligte in verband met bedoelde werksaamhede tot sy of haar kennis kom, geheimhouding help bewaar, behalwe vir sover bekendmaking van sodanige aangeleentheid of inligting vir die doeleindes van die Kommissie se verslag nodig is, en elke sodanige persoon, behalwe die Voorsitter, 'n lid of 'n beampte, moet, voordat hy/sy 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 van Onderzoek na die Ellis Park ramp 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 aantekeninge, opname of transkripsie van die verrigtinge van genoemde Kommissie in my besit of bewaring of in die besit of bewaring van genoemde Kommissie of 'n beampte.

5. Niemand mag enige aangeleentheid of inligting wat in verband met die Kommissie se ondersoek tot sy of haar kennis gekom het, aan iemand anders meedeel of iemand toelaat of veroorloof om toegang te verkry tot stukke van die Kommissie nie,

behalwe vir sover dit by die uitoefening van sy/haar 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 opleë of van hom 'n bevestiging afneem.
8. Indien, ten tyde van die aflegging van getuienis deur 'n persoon voor die Kommissie, lede van die publiek van die verrigtinge van die Kommissie uitgesluit is of was, kan die Voorsitter op versoek van so 'n persoon gelas dat niemand die naam of adres van sodanige persoon of enige ander inligting wat waarskynlik sy of haar identiteit sal openbaar, op enige wyse hoegenaamd bekend maak 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 goeddunke van die Voorsitter en op wyse wat hy of sy bepaal, deur 'n advokaat of prokureur bygestaan word.
11. 'n Beampte, prokureur of advokaat deur die Voorsitter daartoe aangewys, kan by die aanhoor van getuienis by die ondersoek aanwesig wees en getuienis en argumente wat op die ondersoek betrekking het, aanvoer.
12. Wanneer die Kommissie op getuienis of inligting aan hom voorgelê, oortuig is dat die Kommissie se ondersoek enige bestaande, ingestelde of hangende regsproses of enige ondersoek wat ingevolge die bepalings van enige wet ingestel is, nadelig kan raak, word getuienis wat relevant is tot sodanige regsproses of ondersoek op sy 'n wyse deur die Kommissie hanteer dat daardie regsproses of ondersoek nie daardeur nadelig geraak word nie.
13. (1) Die Voorsitter, 'n lid of 'n beampte kan vir doeleindes van die ondersoek met 'n lasbrief, te alle redelike tye en sonder voorgaande kennisgewing of met die kennisgewing wat hy of sy geskik ag, enige perseel betree en besigtig en enige dokument of voorwerp wat op sodanige perseel is, opeis en in beslag neem.
- (2) Enige betreding op of deursoeking van enige perseel ingevolge hierdie regulasie word gedoen met streng voorbehoud van welvoeglikheid en orde,

met inbegrip van -

(a) die reg van 'n persoon tot, eerbied vir en die beskerming van sy of haar waardigheid;

(b) die reg van 'n persoon tot vryheid en sekuriteit; en

(c) die reg van 'n persoon tot sy of haar persoonlike privaatheid.

(3) Die perseel bedoel in subregulasie (1), mag slegs betree word uit hoofde van 'n lasbrief uitgereik deur 'n landdros, streeklanddros of regter van die gebied waarin die perseel geleë is: Met dien verstande dat so 'n lasbrief slegs deur 'n landdros, streeklanddros of regter wat nie die voorsitter, lid of beamppte van die Kommissie is nie, uitgereik mag word.

(4) Behoudens die voorbehoud in subregulasie (3), kan 'n lasbrief soos bedoel in subregulasie (1) deur 'n regter uitgereik word ten opsigte van 'n perseel geleë in 'n ander regsgebied, indien hy of sy dit geregverdig ag.

(5) Die lasbrief kan slegs uitgereik word indien dit aan die landdros, streeklanddros of regter blyk uit inligting onder eed of bevestiging wat die behoefte, met betrekking tot die ondersoek, aan 'n deursoeking en beslaglegging ingevolge hierdie regulasie uiteensit dat daar redelike gronde is om te glo dat enige dokument of voorwerp bedoel in subregulasie (1) wel op of in sodanige perseel is of vermoedelik op of in sodanige perseel is.

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) enige dokument, met inbegrip van enige verklaring, wat bestem is om aan die Voorsitter voorgelê te word, insien of onderwyl dit na die Voorsitter geneem of aan hom versend word, onderskep nie.
15. Niemand mag, behalwe vir sover dit by die uitvoering van die Kommissie se opdrag nodig is, die verslag van die Kommissie of 'n tussentydse verslag of 'n afskrif of 'n gedeelte daarvan of inligting met betrekking tot die oorweging van getuienis deur die Kommissie publiseer of aan iemand vir publikasie anders verstrek voor die verstryking van 'n period van 14 dae nadat dit aan die President voorgelê is nie: Met dien verstande dat die President publikasie van enige sodanige verslag kan magtig voordat sodanige periode verstryk het.
16. Niemand mag die Voorsitter of 'n lid van die Kommissie beledig, neerhaal of verkleineer of die verrigtinge of die bevindings van die Kommissie benadeel nie.
17. 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, 14 of 15 oortree; of

(c) 'n bepaling van regulasie 16 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, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande; en

(ii) in die geval van 'n misdryf in paragraaf (c) bedoel, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande.

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