



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

R 0.30

WINDHOEK — 13 May 1991

No. 200

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## PROCLAMATION

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 12

1991

### COMMISSION OF INQUIRY INTO ALLEGED INSTANCES OF IRREGULARITIES IN RESPECT OF PROPERTY OF THE CENTRAL GOVERNMENT OF NAMIBIA AND MATTERS INCIDENTAL THERETO

Under the powers vested in me by Section 1 of the Commissions Act, 1947 (Act 8 of 1947), I hereby declare the provisions of the said Act to be applicable with reference to the Commission of Inquiry into Alleged Instances of Irregularities in respect of Property of the Central Government of Namibia, appointed by me, the appointment of which was made known by

Government Notice 57 of 13 May 1991, and hereby make the regulations set out in the Schedule hereto.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek this 2nd day of May, One thousand Nine hundred and Ninety-one (1991).

Sam Nujoma

President

BY ORDER OF THE PRESIDENT

### SCHEDULE

1. In these regulations, unless the context otherwise indicates -
  - “Chairperson” means the Chairperson of the Commission;
  - “Commission” means the Commission of Inquiry into Alleged Instances of irregularities in respect of Property of the Central Government of Namibia referred to in Government Notice 57 of 1991;
  - “document” includes any book, pamphlet, record (including any tape or other mechanical recording of anything), list, circular, plan, placard, poster, publication, drawing, photograph or picture;
  - “inquiry” means the inquiry conducted by the Commission in the execution of its terms of reference;
  - “member” means any member of the Commission;
  - “officer” means any person appointed or designated under these regulations to assist the Commission;
  - “premises” includes any land or any building or structure or any part of any building or structure or any vehicle, vessel, aircraft or other means of transport.
2. The Chairperson may, on such conditions as the Prime Minister may determine -
  - (a) appoint one or more persons to assist the Commission in, or in connection with, the execution of its inquiry;
  - (b) designate one or more persons to be present at the inquiry and to present evidence and arguments which have a bearing on the inquiry and to cross-examine witnesses appearing before the Commission subject to the provisions of regulation 7;
  - (c) appoint one or more persons otherwise to assist the Commission in the execution of its functions.
3. The Chairperson shall determine the procedure to be followed by the Commission.

4. (1) The proceedings of the Commission shall be recorded in such manner as may be determined by the Chairperson.

(2) Any person appointed 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 before the Chairperson or an officer generally or specifically authorised thereto by the Chairperson 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 in shorthand/record by mechanical means the proceedings of the Commission of Inquiry into Alleged Instances of Irregularities in respect of Property of the Central Government of Namibia;

(b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the Commission of Inquiry into Alleged Instances of Irregularities in respect of Property of the Central Government of Namibia, made by any person whatsoever, which I am ordered by the Chairperson of the said Commission to transcribe.

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

5. (1) Every person employed or assisting in the execution of the functions of the Commission, including any person appointed to transcribe the proceedings of the Commission which have been taken down in shorthand or recorded by mechanical means, shall preserve, and aid in preserving, secrecy with regard to the functions, proceedings and documents of the Commission and any matter or information which may come to his or her knowledge in the performance of his/her duties in connection with the said functions, except in so far as the disclosure of such proceedings, documents, matter or information shall be necessary for the purposes of the Commission's report or in terms of an order of a competent court, and every such person, except a member of the Commission, shall at the outset take an oath or make an affirmation of fidelity and secrecy before the Chairperson or an officer generally or specifically authorised thereto by the Chairperson in the following form:

“I, A.B., declare under oath/affirm and declare that, except in so far as it may be necessary for the purposes of the report of the Commission of Inquiry into Alleged Instances of Irregularities in respect of Property of the Central Government of Namibia, or in terms of an order of a competent court, I shall not communicate to any person any matter or information which may come or may have come to my knowledge at or in connection with the inquiry of the said Commission, or the performance of my duties in connection therewith, and that I shall not suffer or permit any person to obtain access to the proceedings and documents of the said 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 an official.”

- (2) No person shall, except in so far as it may be necessary in the execution of the terms of reference of the Commission or in terms of an order of a competent court, publish or furnish or communicate to any person the report of the Commission or a copy or any part thereof or an extract therefrom or any finding, recommendation or information contained therein, unless and until the President has made the report available for publication.
6. The Chairperson, or any officer generally or specifically authorised thereto by the Chairperson in the presence of the Chairperson, shall administer an oath to or take an affirmation from any witness appearing before the Commission.
7. (1) Any witness appearing before the Commission may be cross-examined by a person, or the legal representative of such person, only if the Chairperson permits such cross-examination because he deems it necessary in the interests of the functions and inquiry of the Commission.
  - (2) The Chairperson may, when he permits the cross-examination of any witness in terms of sub-regulation (1), limit such cross-examination to the subjects and in the manner which he deems necessary in the interests of the functions and inquiry of the Commission.
8. If any person who appears or has appeared before the Commission or who has been summoned to appear before the Commission, so requests, the Chairperson may in his discretion order that no person shall publish in any manner whatsoever the name or address of that person or any information likely to reveal his identity.
9. Any witness appearing before the Commission may, in the discretion of the Chairperson and in the manner described by him, be assisted by an advocate or attorney.
10. The Commission, or the Chairperson or any member or officer may, for the purposes of the Commission's inquiry at any reasonable time enter and inspect any premises and there carry out any investigation which it or he deems necessary and demand, peruse and seize or copy or make extracts from any document which is or is kept in custody upon such premises.
11. No person shall insult, disparage or belittle the Commission or the Chairperson or a member or prejudice, influence or anticipate the proceedings or findings of the Commission.
12. Any person who contravenes or fails to comply with any provision of these regulations or an order under regulation 8 or who wilfully hinders, resists or obstructs the Commission, the Chairperson, a member or any officer in the exercise of any power referred to in regulation 10, shall be guilty of an offence and liable on conviction to a fine not exceeding R200,00 or to imprisonment for a period not exceeding six months.

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## Government Notice

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### OFFICE OF THE PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 57

1991

#### APPOINTMENT OF COMMISSION OF INQUIRY INTO ALLEGED INSTANCES OF IRREGULARITIES IN RESPECT OF PROPERTY OF THE CENTRAL GOVERNMENT OF NAMIBIA AND MATTERS INCIDENTAL THERETO

IT IS HEREBY NOTIFIED for general information that His Excellency, the President of the Republic of Namibia has appointed a Commission of Inquiry into Alleged Instances of Irregularities in respect of Property of the Central Government of Namibia, with the following terms of reference:

1. To inquire into -

- (a) any alleged instance of misappropriation or misapplication of State- and public money (including any statutory fund) or Government property by functionaries of the Central Government and its Ministries, including any receipt or appropriation by any person of any such monies or property which is unlawful or not properly authorised;
- (b) existing regulations, methods and measures prescribed or applied for the control of State- and public monies and the application of Government property and the adequacy thereof to ensure the proper and efficient control in regard to such monies and the application of such property;
- (c) the procedures and practices followed in the effecting of salary payments and any other benefits (including social pensions) by the Central Government and its Ministries and the adequacy or otherwise of existing control measures aimed at ensuring the proper and efficient control over such payments;
- (d) existing methods and measures of control in respect of the recovery of loans or monies advanced to any person (including both natural and legal persons) by the Central Government or its Ministries and the adequacy or otherwise thereof, aimed at ensuring the proper and efficient control in respect of the return and repayment of such loans or monies; and
- (e) any other matter which in the opinion of the Commission may be connected with or may have a bearing on any matter mentioned in sub-paragraphs (a), (b), (c) and (d).

2. To report to the President on its findings from time to time.
3. To make recommendations to the President on
  - (a) steps to be taken against any person (including both natural and legal persons) as a result of or arising from the findings of the Commission;
  - (b) steps which, in the opinion of the Commission, should be considered in order to remedy or correct any irregularity found by it, or the consequences thereof and to prevent a recurrence thereof;
  - (c) any matter pertaining to its inquiry and which, in the opinion of the Commission, should be reported to the President.

The Commission shall consist of the Honourable Judge T.J. Frank, who shall also be the Chairperson, Mr. S. Black and Advocate K.S. Akwaake.

Interested persons (including both natural and legal persons) wishing to make representations to or give evidence before the Commission are requested to submit memoranda, or in the event of such person intending to give evidence, a fair summary in writing of such evidence. The said memoranda or summaries, as the case may be, must be addressed or delivered to the following address as soon as possible, but not later than 10 June 1991:

The Secretary  
The Commission of Inquiry  
6th Floor East  
Government Building  
Private Bag 13345  
Tel.: 220241 x 614  
Fax: 222428  
Windhoek

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