
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

**THE PRESIDENCY
NOTICE 981 OF 2015****ESTABLISHMENT OF THE BOARD OF INQUIRY INTO THE NATIONAL
COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE: GENERAL
MV PHIYEGA**

I hereby, in terms of section 9(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995), establish a Board of Inquiry into allegations of misconduct by the National Commissioner of the South African Police Service and/or her fitness to hold office and or her capacity to execute official duties efficiently.

The members of the Board of Inquiry shall be the following.

- a) Judge C J Claasen, Chairperson
- b) Adv B S Khuzwayo, member
- c) Adv A R Rawjee, member

The terms of reference of the Board of Inquiry are set out in the schedule attached hereto.

Given under my hand and the Seal of the Republic of South Africa
at PRETORIA on this 21 day of SEPTEMBER 2015

**PRESIDENT****MINISTER OF POLICE**

SCHEDULE

TERMS OF REFERENCE OF THE BOARD OF INQUIRY INTO THE FITNESS TO HOLD OFFICE OF THE NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE: GENERAL MV PHIYEGA

WHEREAS on 26 August 2012 I appointed a commission of Inquiry chaired by Honourable Judge Ian Farlam, to investigate matters of public, national and international concern arising out of the tragic incidents at the Lonmin Mine in Marikana, North West Province.

AND WHEREAS the Commission has finalised its investigation and submitted its report to me.

AND WHEREAS the Commission *inter alia* recommended that steps should be taken in terms of section 9 of the South African Police Service Act, 1995 (the Act), to inquire into the fitness of Commissioner Phiyega the National Commissioner (the National Commissioner), to hold office and whether she is guilty of misconduct.

AND WHEREAS the National Commissioner was invited by me to make representations regarding the report and the recommendations of the Commission and has in fact done so.

NOW THEREFORE:

1. In terms of powers vested in me in terms of section 9 of the South African Police Service Act, 1995 (Act No.68 of 1995) (the Act), I hereby establish a Board of Inquiry ("the Board") into allegations of misconduct by the National Commissioner and/or into her fitness to hold such office and/or into her capacity for executing her official duties efficiently and according to law.
2. The board of inquiry shall inquire into the whether:
 - 2.1 the National Commissioner acting together with other leadership of the South African Police Service or alone, misled the Commission by concealing that it had made the decision to implement a "tactical option", taken at the National Management Forum (NMF) meeting on or about 15 August 2012;
 - 2.2 the decision taken to implement the "tactical option" ought reasonably to have foreseen the tragic and catastrophic consequences which ensued;
 - 2.3 the remarks by the National Commissioner at the SAPS parade on 17 August 2012 would have been understood to be an unqualified endorsement of the police action and thereby having the consequence of undermining, frustrating or otherwise impeding the work of the Commission;

- 2.4 the report prepared by the National Commissioner for the President of the Republic on the 16 August 2012 and the media statement subsequently issued on 17 August 2012, was deliberately amended to conceal the fact that there was two shooting incidents (Scene 1 and Scene 2), resulting in misleading the public that all the deaths had occurred at Scene 1 which arose out of members of SAPS having to defend themselves from an advancing mass;
- 2.5 the overall testimony by the National Commissioner at the Commission was in keeping with the office which she holds and the discharge of her duties commensurate therewith.
3. The board of inquiry will determine its own procedure.
4. At the conclusion of the inquiry, the board shall make findings and recommendations, and submit its report to:
- 4.1 the President of the Republic of South Africa;
- 4.2 the National Commissioner of the South African Police Services;
- and
- 4.3 the relevant Parliamentary committee(s).
5. In terms of section 9(1) read with section 8(4) of the Act, the National Commissioner may:
- 5.1 be assisted or represented by another person or legal representative;
- 5.2 be present at the inquiry;