
PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. 16 OF 2016

by the
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

COMMISSION OF INQUIRY INTO HIGHER EDUCATION AND TRAINING

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No. 8 of 1947), I hereby –

- (a) declare that the provisions of the said Act shall be applicable to the Commission of Inquiry into Higher Education and Training; and
- (b) make the regulations in the Schedule with reference to the said Commission.

Given under my Hand and the Seal of the Republic of South Africa at
.....*PRETORIA*..... on this*24*..... day of*MARCH*.....
Two thousand and Sixteen.

**PRESIDENT**

By Order of the President-in-Cabinet:

**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 Higher Education and Training;
 “**Director-General**” means the Director-General of the Department of Justice and Constitutional Development;
 “**document**” includes, whether in electronic form or otherwise, any book, pamphlet, record, list, circular, plan, poster, publication, drawing, photograph, picture or data, and also any disc, hard drive recording or other device by means of which information or data is recorded or stored;
 “**inquiry**” means the inquiry conducted by the Commission;
 “**member**” means a member of the Commission;
 “**Minister**”- means the Minister of Justice and Constitutional Development.
 “**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; and
 “**Secretary**” means a person designated by the Minister to provide administrative support to the Commission.
2. The Minister shall, after consultation with the Chairperson, designate the place where the Commission shall conduct its business.
3. The Chairperson may direct that the Commission holds its sitting at any place other than its place of sitting if it is expedient or in the public interest

to so. The Chairperson shall take such decision after having considered cost implications and the availability of funds.

4. The Minister may, at the request of the Chairperson and after consultation with the Minister of Higher Education and Training, designate one or more knowledgeable or experienced persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member.
5. Any person designated under regulation 4 who is not a an employee in the public service may be paid such remuneration, fees or traveling and subsistence allowance while engaged upon the business of the Commission as the Minister may determine."
6. The Minister may, after consultation with the Chairperson, designate a suitably qualified person as Secretary of the Commission. The Secretary shall be assisted by officers of any Department of State or persons in the service of any public body who are by arrangement with the body concerned seconded to the service of the Commission.
7. The Secretary shall be delegated such powers and functions by the Minister or the Director-General as the case may be, as may be necessary to enable him or her to carryout administrative support functions to the Commission.
8. Any officer or person designated thereto by the Chairperson may be present at any stage or aspect of the inquiry or the gathering of information or the hearing of evidence at the inquiry.
9. Any person appearing before the Commission may be assisted by an advocate or an attorney at his or her own cost.

10. The Chairperson or an officer generally or specifically authorised thereto by the Chairperson may, if necessary, administer an oath to or accept an affirmation from any person appearing before the Commission.
11.
 - (1) No person appearing before the Commission may refuse to answer any question on any grounds other than those contemplated in section 3(4) of the Commissions Act, 1947 (Act No. 8 of 1947).
 - (2) No evidence regarding questions and answers contemplated in sub-regulation (1), and no evidence regarding any fact or information that comes to light in consequence of any such questions or answers, shall be admissible in any criminal proceedings, except in criminal proceedings where the person concerned is charged with an offence in terms of section 6 of the Commissions Act, 1947 (Act No. 8 of 1947), or regulation 16.
12. Where, at the time of any person appearing during or at any aspect or stage of the inquiry, or presenting information to or giving evidence to or before the Commission, members of the general public are or have been excluded from attendance at any stage or aspect of the inquiry or 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.
13. 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 inquiry instituted in terms of any law, evidence which is relevant to such legal proceedings or

inquiry shall be dealt with by the Commission in such a manner as not to affect adversely such legal proceedings or inquiry.

14. (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 or article which is on such premises.
- (2) Any entry upon or search of any premises or person thereon in terms of this regulation, shall be conducted with strict regard to decency and order including -
- (i) a person's right to, respect for and the protection of his or her dignity;
 - (ii) the right of a person to freedom and security; and
 - (iii) the right of a person to his or her personal privacy.
- (3) Subject to sub-regulation (4), the premises referred to in sub-regulation (1) may be entered only by virtue of a warrant issued in chambers by a magistrate, regional magistrate or judge of the area of jurisdiction within which the premises are situated.
- (4) 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) "A warrant referred to in subregulation (1) may be issued only if it appears to the magistrate, regional magistrate of judge from

information revealed under oath or affirmation that there is a need for a warrant authorising a search and seizure and that there are reasonable grounds to believe that any document or article referred to in subregulation (1) is or at such premises or suspected to be on or at such premises"

15. Every person employed in the execution of the functions of the Commission 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 or by order of a competent court, I shall not communicate to any person any matter or information which comes to my knowledge in connection with the inquiry, or allow 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."

16. No person shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry, or allow 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.

17. 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.
18. 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 except where the President has authorised such publication.
19. No person shall insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the inquiry or proceedings or findings of the Commission.
20. Any person who -
 - (a) wilfully hinders, resists 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 10(1), 15, 16 or 17; or
 - (c) contravenes a provision of regulation 18,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.

21. The Commission may determine its own procedures.

22. These regulations may be added to, varied or amended from time to time.