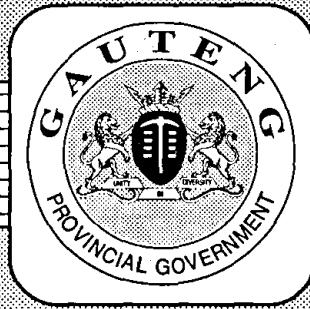


THE PROVINCE OF  
GAUTENG



DIE PROVINSIE  
GAUTENG

# Provincial Gazette Extraordinary Buitengewone Provinsiale Koerant

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PRETORIA, 13 FEBRUARY 1998  
FEBRUARIE

No. 454

## PROCLAMATIONS

No. 6 (Premier's), 1998

### PROCLAMATION

*by the*

*Premier of the Province of Gauteng*

#### PROVINCIAL COMMISSIONS ACT, 1997 (ACT No. 1 OF 1997)

In terms of section 2 (1) (d) of the Provincial Commissions Act, 1997 (Act No. 1 of 1997), I hereby appoint **Ms Anna Smit** as Secretary to the Commission of Inquiry appointed to investigate corruption and mismanagement in the Department of Safety and Security.

Given under my Hand at Johannesburg this Twelfth day of February, One thousand Nine hundred and Ninety-eight.

**M. MOTSHEKGA**

Premier: Gauteng Province

**No. 7 (Premier's), 1998****PROCLAMATION***by the**Premier of the Province of Gauteng***COMMISSION OF INQUIRY INTO THE ALLEGED CORRUPTION AND MISMANAGEMENT IN THE DEPARTMENT OF SAFETY AND SECURITY, GAUTENG PROVINCE**

By virtue of the powers vested in me by section 2 (1) of the Provincial Commissions Act, 1997 (Act No. 1 of 1997), I hereby appoint a commission of inquiry into the alleged corruption and mismanagement in the Department of Safety and Security of Gauteng Province with the Terms of Reference hereto and appoint **Messrs M. Moerane and S. Sangweni** as members of the said Commission, and further make regulations contained in the Schedule hereto.

Given under my Hand at Johannesburg this Eleventh day of February, One thousand Nine hundred and Ninety-eight.

**M. MOTSHEKGA****Premier: Gauteng Province****TERMS OF REFERENCE****of the****PREMIER OF GAUTENG****to the****COMMISSION OF INQUIRY INTO THE ALLEGED CORRUPTION AND MISMANAGEMENT IN THE DEPARTMENT OF SAFETY AND SECURITY**

The Commission's terms of reference are as follows:

1. To probe these allegations, make a finding and recommendations to me by no later than 28 February 1998.
2. The Commission is specifically directed to make a finding and recommendations on—
  - (a) whether MEC Duarte drove an official government vehicle without a valid driver's licence;
  - (b) whether the MEC was involved in a car accident with a government vehicle and failed to report the accident to the police on time, as required by law and government regulations;
  - (c) whether the Department of Safety and Security paid for the air-fares and other related expenses for Mr B. Bulunga on the MEC's official trip to Portugal;
  - (d) alleged irregularities in the appointment of consultants, and remuneration including a Mr Joseph Banda who was employed as Administrative Assistant to the MEC;
  - (e) the suspension of Mr Theo Burgers, a Director in the Department. Whether this suspension is in accordance with the Public Service Act and Regulations;
  - (f) any other relevant allegations of corruption and mismanagement of the Department of Safety and Security, which warrant consideration in pursuance of good governance in the Province.
3. If the Commission is unable to make any finding on any such matters, it shall record the fact.
4. The Commission shall commence its work on 16 February 1998.
5. The Commission is directed to report to the Premier on **28 February 1998**.

## SCHEDULE REGULATIONS

1. In these regulations, unless the context otherwise indicates-

**"Commission"** means the Commission of Inquiry into the alleged corruption and mismanagement in the Department of Safety and Security.

**"document"** includes any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;

**"inquiry"** means the inquiry conducted by the Commission;

**"Member"** means the 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 Member.

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 alleged corruption and mismanagement in the Department of Safety and Security 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 Member.

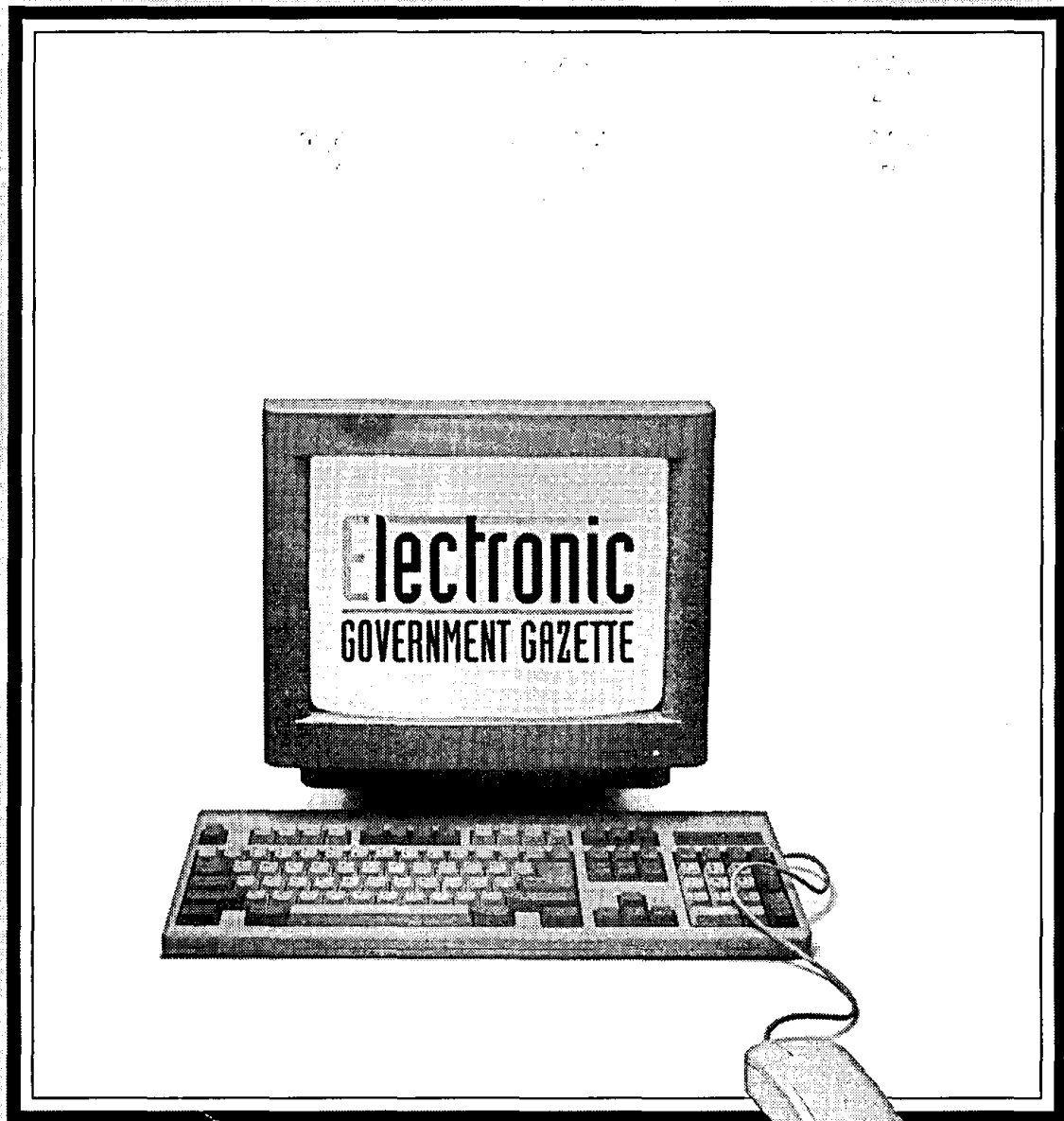
4. Every person employed in the execution of the functions of the Commission, including any person referred to in regulation 3(1), shall help to preserve secrecy with regard to any matter or information that may come to his knowledge in the performance of his duties in connection with the said functions, 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 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 alleged corruption and mismanagement in the Department of Safety and Security, 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 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.

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 duties in connection with the functions of the Commission or by order of a competent court.
6. The Member 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 Member 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 Member may, on the request of such 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 Member permits such cross-examination by such person because the Member 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 Member and in such manner as may be determined by him, be assisted by an advocate or an attorney.
11. An officer, attorney or advocate designated thereto by the Member 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. The Member or any officer may, with a warrant, for the purposes of the inquiry, at all reasonable times enter and inspect any premises and demand and seize any document which is on such premises.
14. No person shall without the written permission of the Member-
  - (a) 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
  - (b) peruse any document, including any statement, which is destined to be submitted to the Member or intercept such document while it is being taken or forwarded to the Chairperson.
15. No person shall insult, disparage or belittle the Member of the Commission or prejudice the proceedings or findings of the Commission.
16. Any person who-
  - (a) wilfully hinders, resists or obstructs the 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.



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