

***THE PROVINCE OF  
GAUTENG***

***DIE PROVINSIE VAN  
GAUTENG***

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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**NOTICE 1471 OF 2019**

**THE COMMISSION OF INQUIRY INTO MINIBUS TAXI-TYPE SERVICE  
VIOLENCE, FATALITIES AND INSTABILITY IN THE PROVINCE OF GAUTENG  
APPOINTED IN TERMS OF SECTION 127(2)(e) OF THE CONSTITUTION OF THE  
REPUBLIC OF SOUTH AFRICA, 1996, READ WITH SECTION 2(1)(a) OF THE  
PROVINCIAL COMMISSIONS ACT, 1997 (ACT NO. 1 OF 1997)**

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**PRACTICE DIRECTIVE ISSUED IN TERMS OF RULE 13**

**OF THE**

**RULES GOVERNING PROCEEDINGS OF THE COMMISSION:**

**GUIDELINES ON THE MEDIA COVERAGE**

**OF**

**PROCEEDINGS OF THE COMMISSION**

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## **Introduction**

1. Ahead of the commencement of its hearing, the Commission adopted guidelines in regard to the media coverage of its proceedings. These take the form of a practice directive issued by the Chairperson of the Commission and are hereby published for general knowledge. Through these guidelines, the Commission seeks to give effect to the values of transparency and accountability in regard to how it conducts its proceedings in the execution of its mandate.
2. This practice directive is issued in terms of rule 13 of the Rules of the Commission.

## **Filming or recording of proceedings of the Commission**

3. Any person, media house, company or party which wishes to film or record the proceedings of the Commission must direct a written request to the Commission through the Secretary at least one a week before the date when it wishes to film or record proceedings. The request must include a statement that the person, media house, company or party is aware of the provisions of this Practice Directive and undertakes to comply with it. The Secretary must furnish the original of the request to the Chairperson and a copy to the Commission's legal Team.
4. Any such request must be published on the Commission's website as soon as possible after its receipt by the Secretary.
5. Any party who wishes to object to a request must do so in writing at least three business days prior to the commencement of the proceedings.
6. The Chairperson shall, after considering any objections received, consider and determine whether to grant the request received to film or record the proceedings of the Commission.
7. Any person, media house, company or party granted leave to film or record proceedings of the Commission may only do so subject to the conditions set out below.

## **Equipment limitations**

8. Video: only one camera may be used at a time and the location of the camera is not to change while the hearing is in session.
9. Audio: the media must install their own audio recording system provided that this is unobtrusive and does not interfere with the proceedings. Individual journalists may bring tape recorders in the auditorium for purposes of recording the proceedings but the changing of cassettes while the Commission is in session is not permitted.
10. Still Cameras: only one camera is allowed and the location of the camera is not to change and no changing of lenses or film while the Commission is in session is permitted.
11. All camera, video and audio equipment: the equipment must be in position at least 30 minutes before the start of the proceedings and may be moved or removed only when the Commission is not in session. Camera cables and the like are not to interfere with the free movement at the venue of the hearing.
12. Lighting: no movie lights, flesh attachments or artificial lightning devices may be used during proceedings.

13. Operating signals: no visible or audible light signal may be used on any equipment.

#### **Pooling Arrangements**

14. Only one media representative may conduct each of the audio, video and still photography activities.
15. The media representative is to be determined by the media themselves and is to operate an open and impartial distribution scheme in terms of which the footage sound or photographs would have to be distributed in a “clean” form, that is, with no visible logos or any symbol to any other media organisation requesting same and would also be archived in such a manner that it remains freely available to other media.
16. A person, media house, company or party seeking leave to film or record proceedings of the Commission that does not give an undertaking to comply with the provisions of the Practice Directive shall not be granted leave to film or record the proceedings.

#### **Rules regarding behaviour of media representatives**

17. Conduct must be consistent with the decorum and dignity of the hearing.
18. No identifying names, marks, logos or symbols must be used on any equipment or clothing worn by media representatives.
19. All media representatives, including camera crew, must be appropriately dressed.
20. Equipment must be positioned and operated to minimise any distraction while the hearing is in session.

#### **Absolute bar**

21. There is an absolute bar on the following:
  - 21.1 audio recordings or close-up photography of any of the Chairperson’s discussions;
  - 21.2 audio recordings or close-up photography of communications between or among members of the Commission’s Legal Team, and between or among any other legal representatives or between or among individuals and their legal representatives;
  - 21.3 close-up photographs or filming of the Chairperson, lawyers or persons present at the hearing;
  - 21.4 recordings, whether video or audio, being used for commercial or political advertising purposes thereafter; or
  - 21.5 use of sound bytes without the prior consent of the Chairperson.

#### **Further directives**

22. The Chairperson may give such further directives as he may deem appropriate, including directives that portions of the proceedings may not be recorded, or that already recorded portions of the proceedings may not be published or distributed, and must be deleted.
23. The Chairperson may at any stage suspend the filming or recording of the proceedings where he regards the filming or recording to be disruptive of the proceedings.

**Offence**

24. Any person who, in filming or recording the proceedings of the Commission, wilfully fails to comply with or who wilfully disregards the conditions set out in this Practice Directive commits an offence and on conviction is liable to the penalty contemplated in regulation 19 of the Regulations applicable to the Commission.

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Justice J B Shongwe  
Chairperson of the Commission

**Enquiries:**

All media enquiries relating to the Commission, including all request for information and interviews, must be addressed to the Secretary to the Commission, Ms Dimakatso Mamiki Selesho at the following details:

Email: [mselesho@metheo.co.za](mailto:mselesho@metheo.co.za)

Fax: +27 86 594 2638

Cell: +27 82 497 8045

**NOTICE 1472 OF 2019**

**PROVINCE OF GAUTENG**

**RULES GOVERNING PROCEEDINGS**

**OF**

**THE COMMISSION OF INQUIRY INTO MINIBUS TAXI-TYPE SERVICE  
VIOLENCE, FATALITIES AND INSTABILITY IN THE PROVINCE OF GAUTENG  
APPOINTED IN TERMS OF SECTION 127(2)(e) OF THE CONSTITUTION OF THE  
REPUBLIC OF SOUTH AFRICA, 1996, READ WITH SECTION 2(1)(a) OF THE  
PROVINCIAL COMMISSIONS ACT, 1997 (ACT NO. 1 OF 1997**



## 1. Introduction

The Commission of Inquiry into the Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of Gauteng ("Commission") was appointed the Premier, Mr Malemolla David Makhura, in terms of section 127(2)(e) of the Constitution of the Republic of South Africa, 1996 ("Constitution"), read with section 2(1)(a) of the Provincial Commissions Act, 1997 (Act No. 1 of 1997) ("Act"), by way of Proclamation No. 101 of 2019 published in the *Provincial Gazette* No. 284 dated 13 September 2019 ("Proclamation").

The Premier, in terms of section 2(1)(b) and (c) of the Act, respectively defined the Terms of Reference of the Commission and made Regulations applicable to the Commission as set out in Part A and Part B of the Schedule to the Proclamation.

In terms of paragraph 4 of the Terms of Reference, the Premier has declared the provisions of the Act applicable with reference to the Commission subject to such amendments or exemptions as may be specified by the Premier by proclamation in the *Provincial Gazette*.

Paragraph 12 of the Terms of Reference confers on the Commission the power to, in accordance with section 10 of the Act, determine rules for its own guidance on the conduct and management of its proceedings.

The Commission has determined the Rules set out herein as the Rules that govern its procedures. Accordingly, the proceedings of the Commission will be conducted in accordance with the Constitution, the Act, the Terms of reference, the Regulations, any other applications and these Rules.

## 2. Definitions

In these Rules, any phrase or expression to which a meaning has been assigned in the Act or the Regulations bears the same meaning, and unless the context indicates otherwise—

**"Commission's Legal Team"** means the team of lawyers appointed by the Chairperson to assist the Commission in the investigation and with the presentation of evidence and arguments before the Commission in regard to the matters referred to in the Terms of Reference;

**"evidence"** includes any documents, affidavit, video, sound-recording or oral testimony submitted to the Commission;

**"legal representative"** means a practising advocate or attorney;

**"person"** includes both a natural and a juristic person;

**"personal information"** means all information of a personal and private nature pertaining to an individual, including private addresses, private telephone numbers, private family information and details of medical conditions;

**"Proclamation"** means Proclamation No. 101 of 2019 issued by the Premier and published in *Provincial Gazette* No. 284 dated 13 September 2019;

**"Regulations"** means the Regulations applicable to the Commission as made by the Premier in terms of section 2(1)(c) of the Act and as set out in Part B of the Schedule to the Proclamation;

**"Rules"** means these Rules as amended from time to time;

**"Secretary"** means the person appointed by the Premier in terms of section 2(1)(d) of the Act as the Secretary to the Commission; and

**"Terms of Reference"** means the Terms of Reference of the Commission as defined by the Premier in terms of section 2(1)(b) of the Act and as set out in Part A of the Schedule to the Proclamation.

### 3. Commission to keep the public informed

The Commission must regularly inform the public of the matters to be covered at its hearings by publishing relevant information on its website.

### 4. Witnesses presented by the Commission's Legal Team and implicated persons and their evidence

4.1 Subject to anything to the contrary contained in these Rules or to the Chairperson's directive in regard to any specific witness, the Commission's Legal Team bears the overall responsibility to present the evidence of witnesses to the Commission.

4.2 A member of the Commission's Legal Team may put questions to a witness whose evidence is presented to the Commission by the Commission's Legal Team, including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of the witness. Subject to the directive of the Chairperson, the Commission's Legal Team may ask leading questions.

4.3 Where the Commission's Legal Team intends to present to the Commission a witness whose evidence implicates or may implicate another person, the Commission's Legal Team must, through the Secretary, notify that person (implicated person) in writing within a reasonable time before the witness gives evidence—

- (a) that he or she is, or may be, implicated by the witness' evidence;
- (b) in what way, he or she is, or may be, implicated and furnish him or her with the witness' statement or relevant portions of the statement;
- (c) of the date when and the venue where the witness will give the evidence;
- (d) that he or she may attend the hearing at which the witness gives evidence;
- (e) that he or she may be assisted by a legal representative when the witness gives evidence;
- (f) that, if he or she wishes—
  - (i) to give evidence himself or herself;
  - (ii) to call any witness to give evidence on his or her behalf; or
  - (iii) to cross-examine the witness,

he or she must, 14 calendar days from the date of notice, apply in writing to the Commission for leave to do so; and

- (g) that the Commission shall decide the application.

4.4 An application in terms of paragraph (f) of sub-rule 4.3 must be submitted in writing to the Secretary. The application must be accompanied by a statement from the implicated person responding to the witness' statement in so far as it implicates him or her. The statement must make it clear what part or parts of the witness' statement are disputed or denied and the grounds upon which that part or those parts are disputed or denied.

- 4.5 Where an implicated person believes that the Commission's Legal Team did not give him or her the notice referred to in sub-rule 4.3 within a reasonable time before the witness could or was to give evidence and that this may be prejudicial to him or her, the implicated person may apply to the Commission for such an order as will ensure that he or she is not seriously prejudiced.
- 4.6 In deciding an application referred to in paragraph (f) of sub-rule 4.3, the Chairperson may on such terms and conditions as the Chairperson may deem appropriate, grant leave to an implicated person—
- (a) to give evidence;
  - (b) to call a witness to give evidence on his or her behalf; or
  - (c) to cross-examine the witness implicating him or her.
- 4.7 There is no right to cross-examine a witness before the Commission. Where the Chairperson deems it necessary and in the best interests of the work of the Commission to do so, the Chairperson may permit cross-examination.
- 4.8 Where the Chairperson grants leave to an implicated person in terms of sub-rule 4.6, a member of the Commission's Legal Team may put questions to any witness who gives evidence pursuant to the Chairperson's decision, including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of a witness. Subject to the directive of the Chairperson, the Commission's Legal Team may ask leading questions.
- 4.9 An implicated person may apply to the Commission for leave to make written or oral submissions, or both, on the findings or conclusions that the Chairperson must make on the evidence placed before the Commission that relates to him or her.
- 4.10 The Chairperson may, at any time, direct any person against whom allegations are made in a witness' statement or evidence to respond in writing to the allegations relating to him or her in that statement or evidence or to answer in writing specific questions put to him or her by the Chairperson arising from the witness' statement or evidence, or both.

## **5. Hearings to be held in public**

Subject to regulations 8, 9 and 10 of the Regulations applicable to the Commission, the Chairperson may make an order that a hearing of the Commission be held *in camera*. In such a case, the Chairperson must specify in the order those persons who are permitted to attend the hearing *in camera*.

## **6. Venue for hearings**

- 6.1 Subject to sub-rule 6.2, the hearings of the Commission are scheduled to be held at a venue designated for this purpose at the Disaster Management Centre, Block B, Janadel Avenue, Riverview, Midrand.
- 6.2 The Chairperson may direct that a hearing or certain hearing of the Commission are held at a venue other than the venue referred to in sub-rule 6.1.

## **7. Evidence presented to Commission**

- 7.1 The Commission may receive any evidence that is relevant to its mandate, including evidence that might otherwise be inadmissible in a court of law. The rules of evidence applicable in a court of law need not be strictly applied to the determination of the admissibility of evidence before the Commission.
- 7.2 Any person who has knowledge of the matters that fall within the Terms of Reference may deliver to the Secretary a statement or affidavit setting out the information and the Secretary must hand that information over to the Commission's Legal Team for consideration.
- 7.3 Affidavits or statements that are submitted to the Commission must—
- 7.4 Where a person seeks to provide expert evidence to the Commission, the person's evidence must include a summary of the relevant qualifications and experience of the expert, a summary of the expert's opinion, as well as an explanation of the relevance of the expert's testimony to the work of the Commission.
- 7.5 Where the evidence intended to be placed before the Commission has previously been placed before another Commission, court, tribunal or body, that fact must be disclosed by the person submitting that evidence in order for the commission to secure the relevant transcript in respect of those proceedings.

## **8. Oral evidence at hearings**

- 8.1 Witnesses may be called to give oral evidence before the Commission. The Chairperson's decision to call a witness must be informed by the likely significance of the evidence in advancing the work of the Commission.
- 8.2 A witness appearing before the Commission may be assisted by a legal representative.
- 8.3 The Chairperson, or another person who is generally or specifically authorised by the Chairperson to do so, must administer the oath or affirmation to a witness before the witness may commence giving evidence.

## **9. Order of evidence of witness**

- 9.1 The order or sequence in which witnesses are called before the Commission is subject to the discretion of the Chairperson.
- 9.2 The Chairperson may direct cross-examination of a witness by an implicated person or his legal representative to take place after the Commission's Legal Team and the Chairperson have exhausted their respective questions to the witness.

## **10. Other witnesses**

- 10.1 Where a person considers that a particular witness must be called to give oral evidence at the hearing of the Commission, a written request to this effect must be made to the Commission and must include reasons for the request and the likely value of the evidence of that witness. The Chairperson may, where in the opinion of the Chairperson the reasons provided are satisfactory or are in the interests of the work of the Commission, call the witness.
- 10.2 A witness may apply to the Chairperson, at least 14 calendar days before the witness is scheduled to appear at a hearing of the Commission, to have the witness' evidence taken *in camera*. The application must be in writing and must give reasons why an order must

be made. The Chairperson must make a decision on the application in accordance with regulation 9 of the Regulations.

## **11. Call for documents**

- 11.1 Any person to whom a subpoena to produce a document is directed must, within 10 calendar days of receiving the subpoena, produce the document or submit an affidavit to the Commission explaining why the document cannot be produced.
- 11.2 Where a person claim that a document referred to in the subpoena is subject to legal professional privilege, the person must—
- (a) identify the document in respect of which privilege is claimed; and
  - (b) explain the basis for the claim of privilege in relation to each document.
- 11.3 Where a person claims that a document referred to in the subpoena is confidential for a reason other than that it is subject to legal professional privilege, such as that it is commercially sensitive or includes personal information, the person must produce the document but must specify that the document, or part of it, must not be made public and must make an application for the document, or part of it, to be treated as confidential in the investigation of the Chairperson. The application must be in writing and must set out—
- (a) what portion or portions of the document are claimed to be confidential; and
  - (b) why that portion of those portions must not be publicly disclosed.
- 11.4 The Chairperson must consider all claims of confidentiality for documents provided to the Commission and must rule on whether the document shall be treated as confidential.
- 11.5 The Commission must notify the person who made a claim of confidentiality for a document of the Chairperson's determination prior to the document being referred to in the Commission's public hearing or publication.
- 11.6 Where the document, or part of it, is determined to be confidential, it must not be included nor referred to, or must be included only in redacted form or referred to in relevant part to protect confidentiality, in any of the Commission's public hearings or publications.
- 11.7 Where the document is determined not to be confidential, it may be referred to in the Commission's hearings or publications.

## **12. General**

- 12.1 Any party wishing to make any application to the Commission which is not otherwise provided for in these Rules must do so on at least seven calendar days' notice in writing to the Commission.
- 12.2 Whenever the Rules make provision for any person to apply to the Commission or to the Chairperson, the application must be a substantive application on affidavit with the notice of motion. The affidavit must, among others, reflect the relevant facts, the order sought and the grounds relied upon to seek that order.

- 12.3 The application must be lodged with the Secretary who will ensure that the original is delivered to the Chairperson and a copy to the Commission's Legal Team. The applicant in the application must cite every other person whose rights may be adversely affected by the order sought and serve a copy on that other person.
- 12.4 As soon as possible after the Chairperson has become aware of the application, the Chairperson must issue a directive or order as to the future conduct of the matter as the Chairperson may consider appropriate.
- 12.5 The Commission or Chairperson may, on good cause shown or when it is in the interest of the work of the Commission to do so, condone non-compliance with, or extend, any timeframe provided for in these Rules.

### **13. Practice directives**

The Chairperson may issue practice directives in regard to the proceedings of the Commission.

### **14. Amendment of Rules**

The Chairperson may amend these Rules.

### **15. Short time and commencement**

These Rules are called the Rules of the Commission of Inquiry into Minibus Taxi-Type Service Violence, Fatalities and Instability in the Province of Gauteng and come into operation on the date of publication in the *Provincial Gazette*.