



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

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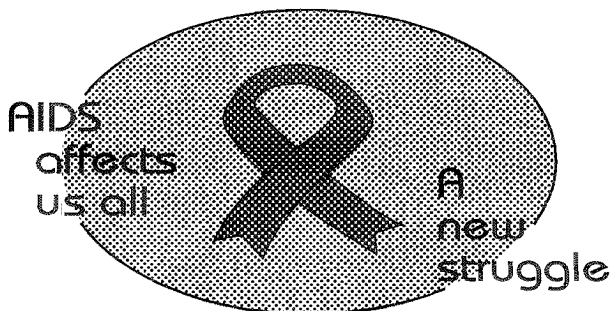
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Ikhasi

PROCLAMATION*by the**Premier of the Province of KwaZulu-Natal***No. 1, 2013****ESTABLISHMENT OF COMMISSION OF ENQUIRY INTO THE RECRUITMENT OF ROAD TRAFFIC INSPECTORATE PERSONNEL IN KWAZULU-NATAL**

In terms of section 127(2)(e) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), read with section 2(1) of the KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999), I hereby –

(a) appoint a Commission of Enquiry to investigate matters of public and Provincial concern arising out of the recruitment of Road Traffic Inspectorate personnel by the KwaZulu-Natal Department of Transport which resulted in death and physical injury to certain prospective candidates short-listed for, and participating in, a fitness test conducted on 27 and 28 December 2012, with the Terms of Reference as contemplated in paragraph (c) hereof;

(b) appoint Advocate *Thandi Victoria Norman*, the Chairperson, the Honourable Right Reverend *Ruben Phillip*, Advocate *Thandani Sihle Innocent Mthembu*, Mr *Sithembiso Kunene* and Ms *Bongekile Zulu* as members of the Commission;

(c) define the Terms of Reference of the Commission in terms of section 2(1)(b) of the KwaZulu-Natal Commissions Act, 1999, as set out in Part A of the Schedule hereto; and

(d) make the Regulations applicable to the Commission in terms of section 2(1)(c) of the KwaZulu-Natal Commissions Act, 1999, as set out in Part B of the Schedule.

Given under my Hand at Pietermaritzburg this 28th day of February, Two thousand and Thirteen.

DR ZL MKHIZE

Premier of the Province of KwaZulu-Natal

SCHEDULE***Part A*****TERMS OF REFERENCE**

**OF THE
COMMISSION OF ENQUIRY INTO THE RECRUITMENT OF ROAD TRAFFIC
INSPECTORATE PERSONNEL
BY THE
KWAZULU-NATAL DEPARTMENT OF TRANSPORT
ON OR ABOUT
27 AND 28 DECEMBER 2012**

A Commission of Enquiry ("the Commission") is hereby 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 KwaZulu-Natal Commissions Act, 1999 (Act No. 3 of 1999).

1. The Commission is appointed to investigate and report on the recruitment process in the Province which culminated in prospective candidates participating in a fitness test conducted on 27 and 28 December 2012, including but not limited to –

- (a) the direct and indirect causes and reasons for the deaths of, and physical injury to, certain prospective candidates;
- (b) the appropriateness or otherwise of all planning, co-ordination, management and administrative processes undertaken for the recruitment process, in general, and the fitness test, in particular;
- (c) the appropriateness or otherwise of all co-ordination, management and administrative processes and procedures implemented on 27 and 28 December 2012;
- (d) the appropriateness of any contingency planning and arrangements made either prior to or during the event;
- (e) whether or not sufficient medical resources were deployed;
- (f) whether or not sufficient refreshment and ablution facilities were provided;
- (g) whether or not all statutory requirements were adhered to; and
- (h) whether or not the act or omission of any person employed in any sphere of government, either directly or indirectly, through negligence or otherwise, contributed to the death or injury of any person.

2. The Commission must make recommendations –
 - (a) towards reconciliation and possible disciplinary action or criminal prosecution, with a view to assisting in bringing closure to the families and friends of the prospective candidates who lost their lives during, and as a result of, the fitness test conducted on 27 and 28 December 2012; and
 - (b) on any other matter of whatsoever nature that the Commission deems necessary or appropriate.
3. The provisions of the KwaZulu-Natal Commissions Act, 1999, are applicable to the Commission: Provided that the Commission must produce and submit its final detailed report containing a summary of the evidence, its findings and recommendations no later than six months after the date of this Proclamation.
4. The KwaZulu-Natal Department of Transport is responsible for the financing of the Commission. This will include the salary of the Chairperson, fees in respect of the members of the Commission, the Secretariat, other personnel involved in the Commission and the costs associated with the hiring of venues for the hearings.
5. The Commission must submit interim reports and recommendations to the Premier each month prior to the final report being presented to the Premier. The Commission must complete its work within a period of five months from the date of this Proclamation and must submit its final report to the Premier within a period of one month after the date on which the Commission completes its work.
6. Members of the public who are in possession of information which may be relevant to the matters to be enquired into by the Commission and who wish to give evidence before the Commission are invited to contact the Secretary of the Commission to arrange a time and place where they may testify before the Commission. The Secretary can be contacted at the KwaZulu-Natal Department of Transport, 172 Burger Street, Executive Block, 1st Floor, Room 101, telephone number: (033) 355 8088 and fax number: (033) 355 0034.
7. The time and venue for the sittings of the Commission will be announced in due course.
8. The Commission may, in its final report and any interim report it submits, make such recommendations as it deems fit.
9. The Commission may, where appropriate, refer any matter regarding the conduct of any person for prosecution or further investigation to the appropriate agency, department or body.
10. These Terms of Reference may be added to, varied or amended from time to time.

Part B

REGULATIONS

**APPLICABLE TO THE
COMMISSION OF ENQUIRY INTO THE RECRUITMENT OF ROAD TRAFFIC
INSPECTORATE PERSONNEL
BY THE
KWAZULU-NATAL DEPARTMENT OF TRANSPORT
ON OR ABOUT
27 AND 28 DECEMBER 2012**

1. In these Regulations, unless the context otherwise indicates –

“**Chairperson**” means the Chairperson of the Commission of Enquiry into the Recruitment of Road Traffic Inspectorate Personnel in KwaZulu-Natal;

“**Commission**” means the Commission of Enquiry into the Recruitment of Road Traffic Inspectorate Personnel in KwaZulu-Natal;

“**document**” means any book, pamphlet, record, list, circular, plan, placard, poster, publication, drawing, photograph or picture;

“**enquiry**” means the enquiry conducted by the Commission;

“**member**” means a member of the Commission;

“**officer**” means a person in the full-time service of the Provincial Government or State who has been appointed or designated to assist the Commission in the execution of its functions; and

“**premises**” includes any land, building, structure, part of a building or structure, vehicle, conveyance, vessel or aircraft.

2. The proceedings of the Commission must be recorded in the manner determined by the Chairperson.

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 must, at the outset, take an oath or make an affirmation in the following form:

"I, AB, 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 Enquiry into the Recruitment of Road Traffic Inspectorate Personnel in KwaZulu-Natal in shorthand / by mechanical means as ordered by the Chairperson of the Commission; and

(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 may be transcribed except by order of the Chairperson.

4. Every person employed in the execution of the functions of the Commission, including any person referred to in regulation 3(1), must assist 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, insofar 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 must, 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, AB, declare under oath / affirm and declare that except insofar as it is necessary in the performance of my duties in connection with the functions of the Commission of Enquiry into the Recruitment of Road Traffic Inspectorate Personnel in KwaZulu-Natal 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 enquiry of the said Commission, or allow 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 may communicate to any other person any matter or information which may have come to his or her knowledge in connection with the enquiry of the Commission, or allow or permit any other person to have access to any records of the Commission, except insofar 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.

6. The Chairperson may designate one or more knowledgeable persons to assist the Commission in the performance of its functions, in a capacity other than that of a member.

7. The Chairperson or an officer generally or specially authorised thereto by the Chairperson must 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 Chairperson may, at the request of such a person, direct that no person may disclose in any manner whatsoever the name or address of such person or any information likely to reveal his or her identity.

9. A witness appearing before the Commission may be cross-examined by a person only if the Chairperson permits such cross-examination by such person because the Chairperson deems it necessary in the interest of the functions of the Commission.

10. A witness appearing before the Commission may, in the discretion of the Chairperson and in such manner as may be determined by the Chairperson, be assisted by an advocate or an attorney.

11. An officer, attorney or advocate designated thereto by the Chairperson may be present at the hearing of evidence at the enquiry and may adduce evidence and arguments relating to the enquiry.

12. Whenever the Commission is satisfied upon evidence or information presented to it that the Commission's enquiry 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 must be dealt with by the Commission in such a manner as not to affect adversely such legal proceedings or investigation.

13. The Chairperson, or any member or any officer may, with a warrant, for the purposes of the enquiry, at all reasonable times enter and inspect any premises and demand and seize any document which is on such premises.

- 14.** No person may, without the written permission of the Chairperson –
- (a) disseminate any document submitted to the Commission by any person in connection with the enquiry 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 Chairperson or intercept such document while it is being taken or forwarded to the Chairperson.
- 15.** No person may, except insofar as is 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 for publication before the expiration of a period of 14 days after it has been submitted to the Premier: Provided that the Premier may authorise publication of any such report before the expiration of that period.
- 16.** No person may insult, disparage or belittle the Chairperson or any member of the Commission or prejudice the proceedings or findings of the Commission.
- 17.** 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 5, 8, 14 or 15,
- is guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

ISIMEMEZELO

sikaNdunankulu wesiFundazwe saKwaZulu-Natali

No. 1, 2013

**UKUSUNGULWA KWEKHOMISHANA YOPHENYO MAYELANA NOHLELO
LOKUQASHWA KWAMAPHOYISA OMGWAQO OLWASETSHENZISWA KWAZULU-
NATALI**

Ngokwesigaba 127(2)(e) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika ka 1996 (uMthetho 108 ka 1996), sifundwa nesigaba 2(1) soMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho No. 3 ka 1999), ngalokhu –

- (a) ngiqoka iKhomishana yoPhenyo ezophenya ngodaba oluthinta umphakathi nesiFundazwe sonkana olumayelana nohlelo lokuqashwa kwamaPhoyisa oMgwaqo olwasetshenziswa uMnyango wezokuThutha waKwaZulu-Natali olwaholela ekuphangalaleni nasekulimaleni kwabantu ababebizelwe inhlokokhono, olwalubandakanya nokuthi benze izivivinyo zokuzivocavoca mhla zingama-27 namhla zingama-28 kuZibandlela 2012, ezosebenzela phezu kwamaphuzu ahlongozwe endimeni (c) ngezansi;
- (b) ngiqoka uMmeli wasemaJajini *uThandi Victoria Norman*, uSihlalo, noMhlonishwa uMfundisi *Ruben Phillip*, uMmeli wasemaJajini *uThandani Sihle Innocent Mthembu*, uMnu. *Sithembiso Kunene*, uNksz. *Bongekile Zulu* njengamalungu eKhomishana;
- (c) nginquma amaPhuzu okuzoSetshenzelwa phezu kwawo eKhomishana ngokwesigaba 2(1)(b) soMthetho wamaKhomishana waKwaZulu-Natali, 1999, njengoba kubekwe kwiNgxenye A yoHlelo olungezansi; futhi
- (d) ngisungula iMithethonqubo ezosebenza kwiKhomishana ngokwesigaba 2(1)(c) soMthetho wamaKhomishana waKwaZulu-Natali, 1999, njengoba kubekwe kwiNgxenye B yoHlelo.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zingama-28 kuNhlolanja, oNyakeni weziNkulungwane eziMbili neShumi naNtathu.

DKT. ZL MKHIZE

uNdunankulu wesiFundazwe saKwaZulu-Natali

UHLELO***Ingxenye A***

**AMAPHUZU OKUZOSETSHENZELWA PHEZU KWAWO
EKHOMISHANA YOPHENYO
MAYELANA
NOHLELO LOKUQASHWA KWAMAPHOYISA OMGWAQO
OLWASETSHENZISWA
UMNYANGO WEZOKUTHUTHA WAKWAZULU-NATALI
MHLA ZINGAMA-27 NAMHLA ZINGAMA-28 KUZIBANDLELA 2012**

Ngalokhu kuqokwa iKhomishana yoPhenyo (“iKhomishana”) ngokwesigaba 127(2)(e) soMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996, sifundwa nesigaba 2(1)(a) soMthetho wamaKhomishana waKwaZulu-Natali, 1999 (uMthetho No. 3 ka 1999).

1. IKhomishana iqokelwe ukuphenya nokubika mayelana nohlelo lokuqasha esiFundazweni olwalubandakanya ukuthi abantu benze izivivinyo zokuzivocavoca mhla zingama-27 namhla zingama-28 kuZibandlela 2012, okubandakanya phakathi kokunye –

- (a) izizathu nembangela yokuphangalala kwabantu, kanjalo nokulimala kwabantu abathile ababebizelwe inhlolokhono;
- (b) ukuthi sasikhona yini isidingo sazo zonke izinhlelo ezenziwa zokuhlela, zokudidiyela, zokulawula nezokuphatha ngenkathi kunenhlolokhono, ikakhulukazi izivivinyo zokuzivocavoca;
- (c) ukuthi sasikhona yini isidingo sazo zonke izinhlelo nezinqubo zokuhlela, zokulawula nezokuphatha ezasetshenziswa mhla zingama-27 namhla zingama-28 kuZibandlela 2012;
- (d) ukuthi zonke izinhlelo namalungiselelo okwakumele kwenziwe ngaphambi noma ngesikhathi senhlolokhono kwenziwa ngendlela efanele yini;
- (e) ukuthi zazikhona yini izinsiza zezempilo ezanele;
- (f) ukuthi zazihlinzekiwe yini izinsiza zokucima ukoma nezindlu zangasese;
- (g) ukuthi imigomo yomthetho yalandelwa yini; kanye
- (h) nokuthi kungenzeka yini kube isenzo noma iphutha lomuntu oqashwe uhulumeni kunoma iliphi izinga, ngandlela thile, ngobudedengu bakhe, okwaholela ekuphangalaleni noma ekulimaleni kwanoma imuphi umuntu.

2. IKhomishana kumele yenze izincomo –

(a) ngenhloso yokuthi kube nokubuyisana nangenhloso yokuthatha izinyathelo zokuqondisa izigwegwe noma zokwethwesa amacala obugebengu, ukuze kuthotshwe amanxeba imindeneni nabangani babantu abaphangalala ngesikhathi benza izivivinyo zokuzivocavoca mhla zingama-27 namhla zingama-28 kuZibandlela 2012;

(b) nanganoma iluphi udaba iKhomishana elubona lufanele noma lunesidingo.

3. Izinhlizeko zoMthetho wamaKhomishana waKwaZulu-Natali, 1999, ziyasebenza kwiKhomishana: Kuncike ekutheni iKhomishana kumele idalule futhi yethule umbiko ophothuliwe oqukethe ubufakazi, okutholakele kanye nezincomo zingakedluli izinyanga eziyisithupha kusukela osukwini okushicilelwe ngalo lesi Simemezelo.

4. UMnyango wezokuThutha KwaZulu-Natali iwona ozohlinzeka iKhomishana ngezimali. Lokhu kuyobandakanya iholo likaSihlalo, izimali ezizokhokhelwa amalungu eKhomishana, abahlinzeka imisebenzi yobuBhalane, nabanye abasebenzi abayingxenywe yeKhomishana nezindleko ezihambisana nokuqashwa kwezindawo zokuhlala kwezigcawu zeKhomishana.

5. IKhomishana kumele yethule imibiko yesikhashana kanye nezincomo kuNdunankulu njalo ngenyanga ngaphambi kokwethula umbiko wokugcina kuNdunankulu. IKhomishana kumele iphothule umsebenzi wayo ezinyangeni eziyisihlanu kusukela osukwini okushicilelwe ngalo lesi Simemezelo futhi kumele yethule umbiko wokugcina kuNdunankulu ingakapheli inyanga iKhomishana iphothule umsebenzi wayo.

6. Amalungu omphakathi anolwazi olungasiza odabeni oluzobe luphenywa yiKhomishana futhi afisa ukwethula ubufakazi phambi kweKhomishana ayamenywa ukuba axhumane noNobhala weKhomishana ukuze kuhlelwe isikhathi nendawo lapho engethula khona ubufakazi phambi kweKhomishana. UNobhala utholakala eMnyangweni wezokuThutha waKwaZulu-Natali, 172 Burger Street, Executive Block, 1st Floor, Room 101, kule nombolo yocingo: (033) 355 8088 nakule nombolo yefeksi: (033) 355 0034.

7. Isikhathi nendawo yokuhlala kwezigcawu zeKhomishana kuyomenyezelwa ngesikhathi esifanele.

8. IKhomishana, uma seyethula umbiko wayo wokugcina noma umbiko wayo wesikhashana, ingenza lezo zincomo ezibona zifanele.

9. IKhomishana, uma ibona kufanele, ingadlulisela noma iluphi udaba olumayelana nokuziphatha kwanoma imuphi umuntu ukuba luyoshushiswa enkantolo noma kwenziwe olunye uphenyo ngenye i- ejensi, umnyango noma umgwamanda.

10. La maphuzu okuzosetshenzelwa phezu kwawo angengezwa, angashintshwa noma achitshiyelwe izikhathi ngezikhathi.

Ingxenye B**IMITHETHONQUBO****YEKHOMISHANA YOPHENYO****MAYELANA****NOHLELO LOKUQASHWA KWAMAPHOYISA OMGWAQO****OLWASETSHENZISWA****UMNYANGO WEZOKUTHUTHA WAKWAZULU-NATALI****MHLA ZINGAMA-27 NAMHLA ZINGAMA-28 KUZIBANDLELA 2012**

1. Kule Mithethonqubo, ngaphandle uma ingqikithi isho okwehlukile –

“**uSihlalo**” kushiwo uSihlalo weKhomishana yoPhenyo mayelana noHlelo lokuQashwa kwamaPhoyisa oMgwaqo KwaZulu-Natali;

“**iKhomishana**” kushiwo iKhomishana yoPhenyo mayelana noHlelo lokuQashwa kwamaPhoyisa oMgwaqo KwaZulu-Natali;

“**umbhalo**” kushiwo noma iyiphi incwadi, ipheshana, irekhodi, uhlu, isekhula, ipulani, uqwembe, ibhodi, ushicilelo, umdwebo noma isithombe;

“**uphenyo**” kushiwo uphenyo olwenziwe yiKhomishana;

“**ilungu**” kushiwo ilungu leKhomishana;

“**umsebenzi**” kushiwo umuntu osebenza ngokugcwele kuHulumeni wesiFundazwe noma osebenzela uMbuso oqokelwe noma ojutshelwe ukusiza iKhomishana ukwenza imisebenzi yayo;

“**izakhiwo**” kubandakanya noma imuphi umhlaba, isakhiwo, uhlaka, ingxenye yesakhiwo noma yohlaka, imoto, isithuthi, umkhumbi noma ibhanoyi.

2. Imihlangano yeKhomishana kumele iqoshwe ngendlela enqunywe uSihlalo.

- 3.(1) Noma imuphi umuntu oqokelwe noma ojutshelwe ukuba abhale phansi noma aqophe okwenzekayo emihlanganweni yeKhomishana ngesandla noma ngomshini noma abhale

okuqoshiwe kumele, ngaphambi kokuba aqale ukwenza lokho, enze isifungo noma enze isiqinisekiso ngale ndlela:

“Mina, AB, ngiyafunga/ngiyaqinisekisa ukuthi –

(a) ngiyobhala/ngiyooqopha ngokwethembeka nangalo lonke ikhono lami imininingwane edingidwa yiKhomishana yoPhenyo mayelana noHlelo lokuQashwa kwamaPhoyisa oMgwaqo KwaZulu-Natali ngesandla/ngomshini njengalokhu ngiyalelwe uSihlalo weKhomishana; futhi

(b) ngiyobhala okuqoshiwe ngalo lonke ikhono lami okuyimibhalo yezandla/amarekhodi omshini emihlangano yeKhomishana enziwe yimi nanoma imuphi omunye umuntu.”.

(2) Akukho mibhalo yesandla noma yomshini ethinta imihlangano yeKomidi eyoqoshwa phansi ngaphandle komyalelo kaSihlalo.

4. Wonke umuntu oqashwe ukuba enze imisebenzi yeKhomishana, kubandakanya noma imuphi umuntu okukhulunywe ngaye kumthethonqubo 3(1), kumele asize ngokucina ubumfihlo banoma iluphi udaba noma ulwazi angase ahangabezane nalo uma enza imisebenzi yakhe mayelana nemisebenzi ajutshelwe yona, ngaphandle uma ukushicilelwa kwalolo daba noma kwalolo lwazi kudingeka ngokwezinhloso zombiko weKhomishana, futhi bonke labo bantu, ngaphandle kukaSihlalo, kwelungu noma komsebenzi, kumele, ngaphambi kokwenza noma imuphi umsebenzi ophathelene neKhomishana, bathathe isifungo sokwethembeka nobumfihlo phambi kukaSihlalo kanje:

“Mina, AB, ngiyafunga/ngiyaqinisekisa ukuthi ngaphandle uma kunesidingo ukuze ngenze umsebenzi wami ophathelene nemisebenzi yeKhomishana yoPhenyo mayelana noHlelo lokuQashwa kwamaPhoyisa oMgwaqo KwaZulu-Natali noma ngokomyalelo wenkantolo yomthetho, angeke ngazise muntu nganoma iluphi udaba noma ulwazi engingaluthola mayelana nophenyo lwale Khomishana, noma ngivumele noma ngigunyaze noma imuphi umuntu ukuba athole noma imaphi amarekhodi eKhomishana, kubandakanya noma imuphi imbhalo, irekhodi noma ulwazi oluqoshiwe lwemihlangano yale Khomishana olukimi noma olugciniwe noma olusezandleni zeKhomishana noma olugcinwe iKhomishana noma umsebenzi weKhomishana.”.

5. Akekho umuntu oyoxoxa nomunye umuntu nganoma iluphi udaba noma ulwazi alutholile mayelana nophenyo lweKhomishana, noma avumele noma agunyaze omunye umuntu ukuba athole noma imaphi amarekhodi eKhomishana, ngaphandle uma kudingeka ukuze

enze umsebenzi wakhe ngokuhambisana nemisebenzi yeKhomishana noma uma eyalelwe yinkantolo yomthetho.

6. USihlalo angaqoka umuntu noma abantu abanolwazi olunzulu abazosiza iKhomishana ukwenza imisebenzi yayo, ngaphandle kokuthi babe ngamalungu eKhomishana.

7. USihlalo noma umsebenzi ogunyaziwe noma ogunyazwe ngokukhethekile uSihlalo kumele ayalele ukuba noma imuphi ufakazi ovela phambi kweKhomishana enze isifungo noma isiqinisekiso.

8. Uma, ngesikhathi kukhona umuntu owethula ubufakazi phambi kweKhomishana, amalungu omphakathi engavunyelwe ukuba yingxenywe emhlanganweni weKhomishana, uSihlalo, uma kucela lowo muntu, angayalela ukuba kungabi khona muntu odalula nganoma iyiphi indlela igama noma ikheli noma imininingwane yalowo muntu.

9. Ufakazi ovela phambi kweKhomishana angaphekwa ngemibuzo omunye umuntu kuphela uma uSihlalo egunyaza lokho ngenxa yokuthi uSihlalo ubona kunesidingo ukuze kufezeke izinhloso zemisebenzi yeKhomishana.

10. Ufakazi ovela phambi kweKhomishana angasizwa ummeli wasemajajini noma ummeli, ngokubona kukaSihlalo nangendlela enganqunywa uSihlalo.

11. Umsebenzi, ummeli noma ummeli wasemajajini oqokwe uSihlalo angaba khona uma sekulalelwa ubufakazi esigcawini futhi angethula ubufakazi abambe neqhaza kwizimpikiswano ezimayelana nophenyo.

12. Uma iKhomishana inelisekile, ngobufakazi noma ngolwazi olwethulwe kuyo, ukuthi uphenyo lweKhomishana kungenzeka luphazamise ngandlela thile olunye uphenyo noma amanye amacala akhona, afakiwe noma asazothethwa, afakwe ngokwanoma imuphi umthetho, ubufakazi obuthinta lawo macala noma lolo phenyo kumele iKhomishana ibusebenzise ngandlela engeke iphazamise lawo macala noma lolo phenyo.

13. Ngokwezinhloso zophenyo, uSihlalo, nanoma iliphi ilungu noma umsebenzi angangena futhi ahlole noma isiphi isakhiwo noma afune noma athathe noma imuphi umbhalo okuleso sakhiwo ngesikhathi esifanele, uma kunencwadi emgunyazayo.

14. Akekho umuntu, ngaphandle kwemvume ebhalwe phansi kaSihlalo –

(a) ongasabalalisa noma imuphi umbhalo olethwe kwiKhomishana yinoma imuphi umuntu mayelana nophenyo noma ashicilele okuqukethwe noma ingxenye yokuqukethwe yilowo mbhalo; noma

(b) ongafunda noma imuphi umbhalo, kubandakanya noma isiphi isitatimende, esibhekiswe kuSihlalo noma avimbele ukuthathwa noma ukuhanjiswa kwalowo mbhalo kuSihlalo.

15. Akekho umuntu, ngaphandle uma kunesidingo ukuze kufezekiswe amaPhuzu okuzoSetshenzelwa phezu kwawo eKhomishana, ongashicilela noma anikeze omunye umuntu umbiko nanoma imuphi umbiko wesikhashana weKhomishana noma ikhophi noma ingxenye yawo noma ulwazi mayelana nokucutshungulwa kobufakazi yiKhomishana ukuze kushicilelwe ngaphambi kokuphela kwezinsuku eziyi-14 uthunyelwe kuNdunankulu: Kuncike ekutheni uNdunankulu angagunyaza ukushicilelwa kwanoma imuphi phakathi kwaleyo mibiko ngaphambi kokuphela kwaleso sikhathi.

16. Akekho umuntu ongahlambalaza, ongachwensa noma ongeya uSihlalo nanoma iliphi ilungu leKhomishana noma aphazamise imihlangano noma imiphumela yeKhomishana.

17. Noma imuphi umuntu –

(a) ngenhloso othikameza, ovimbela noma ophazamisa uSihlalo, noma iliphi ilungu noma umsebenzi ngenkathi enza umsebenzi wakhe ohlongozwe kumthethonqubo 13; noma

(b) owephula inhlinzeko yoMthethonqubo 5, 8, 14 noma 15,

uyothweswa icala futhi agwetshwe ukukhokha inhlawulo noma ukubhadla ejele isikhathi esingeqile ezinyangeni eziyi-12.

PROKLAMASIE*deur die****Premier van die Provinsie van KwaZulu-Natal*****No. 1, 2013****INSTELLING VAN KOMMISSIE VAN ONDERSOEK NA DIE WERWING VAN PADVERKEERSINSPEKTORAATPERSONEEL IN KWAZULU-NATAL**

Ingevolge artikel 127(2)(e) van die Grondwet van die Republiek van Suid-Afrika van 1996, (Wet 108 van 1996), saamgelees met artikel 2(1) van die KwaZulu-Natal Wet op Kommissies, 1999 (Wet No. 3 van 1999) –

(a) stel ek hiermee 'n Kommissie van Onderzoek aan om aangeleenthede van openbare en Provinsiale belang te ondersoek wat voortspruit uit die werwing van Padverkeersinspektoraatpersoneel deur die KwaZulu-Natal Departement van Vervoer wat tot gevolg gehad het die dood en die fisiese besering van sekere voornemende kandidate gekortlys vir, en deelname aan, 'n fiksheidstoets wat op 27 en 28 Desember 2012 afgelê is, met die Verwysingsterme soos bedoel in paragraaf (c) hiervan;

(b) stel ek hiermee Advokaat *Thandi Victoria Norman*, Voorsitter, die Edelagbare Hoogerwaard *Ruben Phillip*, Advokaat *Thandani Sihle Innocent Mthembu*, Mnr. *Sithembiso Kunene* en Me. *Bongekile Zulu* aan as lede van die Kommissie;

(c) omskryf ek hiermee die Verwysingsterme van die Kommissie ingevolge artikel 2(1)(b) van die KwaZulu-Natal Wet op Kommissies, 1999, soos uiteengesit in Deel A van die Bylae hieraan; en

(d) maak ek hiermee die Regulasies van toepassing op die Kommissie ingevolge artikel 2(1)(c) van die KwaZulu-Natal Wet op Kommissies, 1999, soos uiteengesit in Deel B van die Bylae.

Gegee onder my Hand te Pietermaritzburg hierdie 28ste dag van Februarie, Twee-duisend-en-dertien.

DR ZL MKHIZE

Premier van die Provinsie van KwaZulu-Natal

BYLAE***Deel A*****VERWYSINGSTERME**

**VAN DIE
KOMMISSIE VAN ONDERSOEK NA DIE WERWING VAN
PADVERKEERSINSPEKTORAATPERSONEEL
DEUR DIE
KWAZULU-NATAL DEPARTEMENT VAN VERVOER
OP OF ONGEVEER
27 EN 28 DESEMBER 2012**

'n Kommissie van Onderzoek ("die Kommissie") word hiermee aangestel ingevolge artikel 127(2)(e) van die Grondwet van die Republiek van Suid-Afrika, 1996, saamgelees met artikel 2(1)(a) van die KwaZulu-Natal Wet op Kommissies, 1999 (Wet No. 3 van 1999).

1. Die Kommissie word aangestel om ondersoek in te stel na en verslag te lewer op die werwingsproses in die Provinsie wat gelei het tot die deelname van voornemende kandidate aan 'n fiksheidstoets wat op 27 en 28 Desember 2012 afgelê is, ingesluit, maar nie beperk nie, tot –

- (a) die direkte en indirekte oorsake en redes vir die sterftes en fisiese besering van sekere voornemende kandidate;
- (b) die geskiktheid, of andersins, van alle beplanning, koördinering, bestuurs- en administratiewe prosesse onderneem vir die werwingsproses in die algemeen, en die fiksheidstoets in die besonder;
- (c) die geskiktheid, of andersins, van alle koördinasie, bestuurs- en administratiewe prosesse en prosedures geïmplementeer op 27 en 28 Desember 2012;
- (d) die toepaslikheid van enige gebeurlikheidsbeplanning en reëlins gemaak hetsy voor of tydens die geleentheid;
- (e) hetsy of nie voldoende mediese hulpmiddels ontplooi is;
- (f) hetsy of nie voldoende verversings- en ablusiegeriewe voorsien is;
- (g) hetsy of nie alle statutêre vereistes nagekom is;
- (h) hetsy of nie die handeling of versuim van enige persoon in diens van enige regeringsfeer, hetsy direk of indirek, deur nalatigheid of andersins, bygedra het tot die dood of besering van enige persoon.

2. Die Kommissie moet aanbevelings maak –
 - (a) wat sal bydra tot versoening en moontlike dissiplinêre optrede of kriminele vervolging, met die oog daarop om families en vriende van die voornemende kandidate wat hul lewens verloor het tydens, en as gevolg van, die fiksheidstoets wat op 27 en 28 Desember 2012 afgelê is, by te staan ten einde genesing te bekom; en
 - (b) ten opsigte van enige ander aangeleentheid van welke aard ookal wat die Kommissie nodig of toepaslik ag.

3. Die bepalings van die KwaZulu-Natal Wet op Kommissies, 1999, is van toepassing op die Kommissie: Met dien verstande dat die Kommissie sy finale breedvoerige verslag, wat 'n opsomming van die bewysstukke, sy bevindings en aanbevelings bevat, nie later nie as ses maande na die datum van hierdie Proklamasie moet oplewer en voorlê.

4. Die KwaZulu-Natal Departement van Vervoer is verantwoordelik vir die finansiëring van die Kommissie. Dit sluit in die salaris van die Voorsitter, fooie ten opsigte van die lede van die Kommissie, die Sekretariaat, ander persone betrokke by die Kommissie en die koste verbonde aan die huur van lokale vir die verhore.

5. Die Kommissie moet elke maand tussentydse verslae en aanbevelings by die Premier indien voordat die finale verslag aan die Premier voorgelê word. Die Kommissie moet sy werksaamhede voltooi binne 'n tydperk van vyf maande vanaf die datum van hierdie Proklamasie en moet die finale verslag aan die Premier voorlê binne 'n tydperk van een maand na die datum waarop die Kommissie sy werksaamhede voltooi het.

6. Lede van die publiek wat in besit is van inligting wat van toepassing mag wees op die aangeleenthede wat deur die Kommissie ondersoek moet word en wat verlang om getuienis af te lê voor die Kommissie word uitgenooi om die Sekretaris van die Kommissie te kontak ten einde 'n tyd en plek te reël waar hulle voor die Kommissie kan getuig. Die Sekretaris kan gekontak word by die KwaZulu-Natal Departement van Vervoer, Burgerstraat 172, Uitvoerende Blok, 1ste Vloer, Kamer 101, telefoonnommer: (033) 355 8088 en faksnommer: (033) 355 0034.

7. Die tyd en plek vir die sittings van die Kommissie sal mettertyd aangekondig word.

8. Die Kommissie kan, in sy finale verslag en enige tussentydse verslag ingedien deur die

Kommissie, aanbevelings maak na sy goeddunke.

9. Die Kommissie kan, waar toepaslik, enige aangeleentheid met betrekking tot die gedrag van enige persoon verwys na die toepaslike agentskap, departement of liggaam vir vervolging.

10. Daar kan, van tyd tot tyd, byvoegings, veranderings of wysings tot hierdie Verwysingsterme gemaak word.

Deel B**REGULASIES****VAN TOEPASSING OP DIE
KOMMISSIE VAN ONDERSOEK NA DIE WERWING VAN
PADVERKEERSINSPEKTORAATPERSONEEL
DEUR DIE
KWAZULU-NATAL DEPARTEMENT VAN VERVOER
OP OF ONGEVEER
27 EN 28 DESEMBER 2012**

1. In hierdie Regulasies, tensy uit die samehang anders blyk, beteken –

“**beampte**” ’n persoon voltyds in diens van die Provinsiale Regering of Staat aangestel of aangewys om die Kommissie by te staan in die uitvoer van sy werksaamhede;

“**dokument**” enige boek, pamflet, rekord, lys, omsendbrief, plan, aanplakbiljet, plakkaat, publikasie, tekening, foto of prent;

“**Kommissie**” die Kommissie van Onderzoek na die Werwing van Padverkeersinspektoraatpersoneel in KwaZulu-Natal;

“**lid**” ’n lid van die Kommissie;

“**perseel**” die insluiting van enige grond, gebou, struktuur, deel van ’n gebou of struktuur, voertuig, vervoermiddel, vaartuig of lugvaartuig;

“**ondersoek**” die ondersoek uitgevoer deur die Kommissie; en

“**Voorsitter**” die Voorsitter van die Kommissie van Onderzoek na die Werwing van Padverkeersinspektoraatpersoneel in KwaZulu-Natal.

2. Die verrigtinge van die Kommissie moet opgeneem word op die wyse bepaal deur die Voorsitter.

3.(1) Enige persoon aangestel of aangewys om die verrigtinge van die Kommissie aan te teken

of op te neem in snelskrif of op meganiëse wyse of om sodanige verrigtinge wat aldus aangeteken of opgeneem is te transkribeer moet, voor die aanvang, 'n eed of 'n plegtige verklaring aflê in die volgende vorm:

“Ek, AB, verklaar onder eed / bevestig en verklaar –

(a) dat ek getrou en na die beste van my vermoë die verrigtinge van die Kommissie van Onderzoek na die Werwing van Padverkeersinspektoraatpersoneel in KwaZulu-Natal in snelskrif / deur meganiëse middel soos beveel deur die Voorsitter van die Kommissie sal aanteken / opneem; en

(b) dat ek volledig en na die beste van my vermoë enige snelskrifnotas / meganiëse opname van die verrigtinge van die vermelde Kommissie gemaak deur my of deur enige ander persoon sal transkribeer.”.

(2) Geen snelskrifnotas of meganiëse opname van die verrigtinge van die Kommissie kan getranskribeer word nie tensy so beveel deur die Voorsitter.

4. Elke werknemer betrokke by die uitvoer van die werksaamhede van die Kommissie, ingesluit enige persoon verwys na in regulasie 3(1), moet meehelp om geheimhouding te bewaar met betrekking tot enige aangeleentheid of inligting wat tot sy of haar wete mag kom in die verrigting van sy of haar pligte in verband met die vermelde werksaamhede behalwe, in soverre as wat die publikasie van sodanige aangeleentheid of inligting nodig is vir die doeleindes van die verslag van die Kommissie, en elke sodanige persoon, met uitsondering van die Voorsitter, enige lid of enige beampte, moet, voor enige plig in verband met die Kommissie verrig word, voor die Voorsitter 'n eed van getrouheid of geheimhouding neem en onderteken in die volgende vorm:

“Ek, A.B., verklaar onder eed / verklaar plegtig en verklaar dat, behalwe in soverre dit nodig is vir die uitvoer van my pligte in verband met die werksaamhede van die Kommissie van Onderzoek na die Werwing van Padverkeersinspektoraatpersoneel in KwaZulu-Natal of deur bevel van 'n bevoegde hof, ek nie aan enige persoon enige aangeleentheid of inligting wat tot my wete mag kom in verband met die ondersoek van die vermelde Kommissie sal kommunikeer nie, of sal toelaat of duld dat enige persoon toegang tot enige rekords van die Kommissie sal hê nie, ingesluit enige aantekening, opname of transkripsie van die verrigtinge van die vermelde Kommissie in my besit of bewaring of in die besit of bewaring van die vermelde Kommissie of enige beampte.”.

5. Geen persoon mag aan enige ander persoon enige aangeleentheid of inligting, wat tot sy of haar wete mag gekom het, in verband met die ondersoek van die Kommissie kommunikeer nie, of toelaat of duld dat enige ander persoon toegang tot enige rekords van die Kommissie sal hê

nie, behalwe in soverre dit nodig is in die verrigting van sy of haar pligte in verband met die werksverrigtinge van die Kommissie of deur 'n bevel van 'n bevoegde hof.

6. Die Voorsitter kan een of meer kundige persone aanwys om die Kommissie by te staan in die verrigting van sy werksaamhede, in 'n hoedanigheid anders as dié van 'n lid.

7. Die Voorsitter of 'n beampte in die algemeen of in die besonder daartoe gemagtig deur die Voorsitter moet 'n eed afneem van, of 'n plegtige verklaring aanvaar deur, enige getuie wat voor die Kommissie verskyn.

8. Indien, ten tye van enige persoon se getuienisaflegging voor die Kommissie, lede van die algemene publiek uitgesluit is of was van bywoning van die verrigtinge van die Kommissie, kan die Voorsitter, op versoek van sodanige persoon, gelas dat geen persoon op hoegenaamd enige wyse die naam of adres van sodanige persoon, of enige inligting wat moontlik sy of haar identiteit kan onthul, bekend mag maak nie.

9. 'n Getuie wat voor die Kommissie verskyn kan onder kruisverhoor geneem word deur 'n persoon slegs indien die Voorsitter sodanige kruisverhoor deur sodanige persoon toelaat omdat die Voorsitter dit nodig ag in die belang van die werksaamhede van die Kommissie.

10. 'n Getuie wat voor die Kommissie verskyn kan, na goeddunke van die Voorsitter en op sodanige wyse soos bepaal kan word deur die Voorsitter, bygestaan word deur 'n advokaat of 'n prokureur.

11. 'n Beampte, prokureur of advokaat aangewys daartoe deur die Voorsitter kan teenwoordig wees by die aanhoor van getuienis by die ondersoek en kan getuienis en argumente met betrekking tot die ondersoek aanvoer.

12. Wanneer die Kommissie tevrede is by die voorlegging van getuienis of inligting aan hom dat die Kommissie se ondersoek enige bestaande, ingestelde of hangende regsdinge of enige ondersoek ingestel ingevolge enige wet nadelig kan beïnvloed, moet getuienis wat tersaaklik is tot sodanige regsdinge of ondersoek deur die Kommissie op sodanige wyse hanteer word dat dit nie sodanige geregtelike verrigtinge of ondersoek nadelig beïnvloed nie.

13. Die Voorsitter, of enige lid of enige beampte kan, met 'n lasbrief en vir die doeleindes van die ondersoek, te alle redelike tye enige perseel betree en inspekteer en aandrang en beslag lê op enige dokument wat op sodanige perseel is.

14. Geen persoon mag sonder die skriftelike toestemming van die Voorsitter –

(a) enige dokument voorgelê aan die Kommissie deur enige persoon in verband met die ondersoek versprei of die inhoud of enige gedeelte van die inhoud van sodanige dokument publiseer nie; of

(b) enige dokument deurlees nie, insluitend enige verklaring wat bestem is om voorgelê te word aan die Voorsitter of sodanige dokument te onderskep nie, terwyl dit na die Voorsitter geneem of aangestuur word.

15. Geen persoon mag, behalwe in soverre dit nodig is in die uitvoer van die Verwysingsterme van die Kommissie, die verslag of enige tussentydse verslag van die Kommissie of 'n kopie of 'n gedeelte daarvan of inligting rakende die oorweging van getuienis deur die Kommissie publiseer of aan enige ander persoon voorsien vir publikasie voor die verstryking van 'n tydperk van 14 dae nadat dit aan die Premier voorgelê is nie: Met dien verstande dat die Premier publikasie van enige sodanige verslag voor die verstryking van daardie tydperk kan magtig.

16. Geen persoon mag die Voorsitter of enige lid van die Kommissie beledig, verneder of verkleineer of die verrigtinge of bevindinge van die Kommissie benadeel nie.

17. Enige persoon wat –

(a) opsetlik die Voorsitter, enige lid of enige beampte verhinder, teenstaan of dwarsboom in die uitoefening van enige bevoegdheid bedoel in regulasie 13; of

(b) 'n bepaling van regulasie 5, 8, 14 of 15 oortree,

is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf wat nie 12 maande oorskry nie.
