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PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. 1 OF 2020

By the

President of the Republic of South Africa

AMENDMENT OF REGULATIONS OF THE COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No.8 of 1947), I hereby, with effect from the date of publication of this Proclamation, amend the Regulations of the Commission of Inquiry into allegations of state capture, corruption and fraud in the public sector including organs of state published in the Government Gazette No. 41436 of 9 February 2018 as indicated in the Schedule attached hereto.

Given under my Hand and the Seal of the Republic of South Africa at Johannesburg on this the ...18...... day of December Two Thousand and Nineteen.

PRESIDENT

MINISTER OF THE CABINET

SCHEDULE

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing regulations.

______ Words underlined with a solid line indicate insertions in existing regulations.

Definition

1. In this Proclamation "Regulations" means the regulations of the Judicial Commission of Inquiry into allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State published in the Government Gazette No. 41436 of 9 February 2018.

Amendment of regulation 3 of the Regulations

2. Regulation 3 is amended by the insertion of the following regulation 3A after the said regulation:

<u>3A</u> The <u>remuneration of any person designated by the Chairperson under regulation 3 must be determined in terms of applicable legislation, policies and prescripts relating to the work or service performed by such designated person</u>.

3. Regulation 12 is hereby amended by the substitution for subregulation (2) for the following:

"(2) Any person who –

[(a) **contravenes regulation 9;**

(b) **willfully hinders, resists or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10;**

(c) **contravenes regulation 9**]

<u>(a)</u> <u>appears before the Commission and refuses or fails, on any grounds other than those contemplated in section 3(4) of the Commissions Act,</u>

1947, to answer, or, to answer fully and satisfactorily, any question lawfully put to him or her;

(b) contravenes regulation 9;

(c) willfully hinders, resists or obstructs the Chairperson or any officer in the exercise of any power contemplated in regulation 10 (1) or (2)

is guilty of an offence and liable on conviction -

4. The amendments to the Regulations shall come into effect on the date of publication in the Government Gazette.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vet druk in vierkantige hake dui skrappings uit bestaande regulasies aan.

_______ Woorde met 'n volstreep daaronder dui invoegings in bestaande regulasies aan.

Woordomskrywing

1. In hierdie Proklamasie beteken "Regulasies" die regulasies van die Geregtelike Kommissie van Ondersoek na bewerings van staatskaping, korrupsie en bedrog in die Openbare Sektor met inbegrip van Staatsorgane afgekondig in *Staatskoerant* No. 41436 van 9 Februarie 2018.

Wysiging van regulasie 3 van die Regulasies

2. Regulasie 3 word gewysig deur die volgende regulasies na die gemelde regulasie in te voeg:

"3A Iemand ingevolge regulasie 3 deur die Voorsitter aangewys, is geregtig op gepaste vergoeding of gelde, ooreenkomstig enige toepaslike wetgewing, regulasie of voorgeskrewe tarief, vir bystand in die verrigting van die Kommissie se werksaamhede aan die Kommissie gelewer.

3B Indien 'n persoon kragtens regulasie 3 deur die Voorsitter aangewys 'n afgetrede regter is, moet die Voorsitter die Minister nader om te versoek dat die afgetrede regter 'n diens ingevolge paragraaf *(d)* van die omskrywing van "diens" in die Wet op Besoldiging en Diensvoorwaardes van Regters, 2001 (Wet No. 47 van 2001), lewer deur bystand aan die Kommissie te verskaf soos in die Voorsitter se aanwysing beoog.

3C Indien 'n persoon deur die Voorsitter aangewys 'n regspraktisyn is, kan sy of haar dienste deur die Staatsprokureur verkry word.".

Wysiging van regulasie 12 van die Regulasies

3. Regulasie 12 word hierby gewysig deur subregulasie (2) deur die volgende subregulasie te vervang:

"(2) Enige persoon wat–

"**[(a) opsetlik die Voorsitter, enige lid of enige beampte in die uitvoering van enige bevoegdheid beoog in regulasie 9, belemmer;**

(b) 'n bepaling van regulasie 13, 14, 15, of 16 oortree; of

(c) 'n bepaling van regulasie 17 oortree]

(a) voor die Kommissie verskyn en weier of versuim, op enige gronde behalwe die gronde in artikel 3(4) van die Kommissiewet, 1947, beoog, om enige vraag wat wettig aan hom of haar gestel is, te beantwoord, of ten volle en bevredigend te beantwoord;

(b) regulasie 9 oortree;

(c) die Voorsitter of enige beampte opsetlik hinder, teenstaan of dwarsboom in die uitvoering van enige bevoegdheid in regulasie 10(1) of (2) beoog;

(d) weier of versuim, sonder genoegsame rede, om binne 'n tydperk deur die Voorsitter gegee of enigsins, 'n beëdigde verklaring of bevestiging in navolging van 'n lasgewing kragtens regulasie 10(6) deur die Voorsitter gegee, in te dien; of

(e) 'n bepaling van regulasie 11 oortree,

is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met–

(i) in die geval van 'n misdryf in (a), (c), (d) of (e) bedoel, met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande;

(ii) in die geval van 'n misdryf in (b) bedoel, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

Inwerkingtreding

4. Die wysigings aan die Regulasies word op die datum van afkondiging in die *Staatskoerant*. van krag.