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PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NO. 8 OF 2020

by the

President of the Republic of South Africa

AMENDMENT OF THE REGULATIONS RELATING TO THE JUDICIAL 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 Judicial Commission of Inquiry into the allegations of state capture, corruption and fraud in the Public Sector including Organs of State, as published in Government Gazette No. 41436 of 9 February 2018 and amended in Government Gazette No. 42947 of 10 January 2020, as indicated in the Schedule hereto.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this 30 day of January Two Thousand and Twenty.

President

By Order of the President-in-Cabinet:

Minister of the Cabinet

SCHEDULE

GENERAL EXPLANATORY NOTE:

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

_______ Words or expressions 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 Government Gazette No. 41436 of 9 February 2018 and as amended in Government Gazette No. 42947 of 10 January 2020.

Substitution of regulation 3A of the Regulations in the English text

2. Regulation 3A of the Regulations is hereby substituted for the following regulations in the English text:

"**3A.** A person designated by the Chairperson under regulation 3 shall be entitled to appropriate remuneration or fees, in accordance with any application legislation, regulation or prescribed tariff, for the assistance rendered to the Commission in the performance of its functions.

3B. If a person designated by the Chairperson under regulation 3 is a retired judge, the Chairperson shall approach the Minister to request that the retired judge render a service in terms of paragraph *(d)* of the definition of "service" in the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), by providing the assistance to the Commission contemplated in the Chairperson's designation.

3C. If a person designated by the Chairperson is a legal practitioner, his or her services may be secured through the State Attorney.".

Amendment of regulation 12 of the Regulations

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

"(2) Any person who –

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

Commissions Act, 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);

(d) refuses or fails, without sufficient cause, to submit, within a period fixed by the Chairperson or at all, an affidavit or affirmed declaration pursuant to a directive issued by the Chairperson under regulation 10(6); or

(e) contravenes a provision of regulation 11,

is guilty of an offence and liable on conviction –

(i) in the case of an offence referred to in paragraph *(a)*, *(c)*, *(d)* or *(e)*, to a fine, or to imprisonment for a period not exceeding 12 months; or

(ii) in the case of an offence referred to in paragraph *(b)*, to a fine, or to imprisonment for a period not exceeding six months.".

Short Title and Commencement

4. These Regulations are called the Regulations relating to the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State: Amendment, 2020, and shall come into effect on the date of publication in the Government *Gazette*.

PROKLAMASIE NO. 8 VAN 2020

van die

President van die Republiek van Suid-Afrika

WYSIGING VAN DIE REGULASIES VAN DIE GEREGTELIKE KOMMISSIE VAN ONDERSOEK NA BEWERINGS VAN STAATSKAPING, KORRUPSIE EN BEDROG IN DIE OPENBARE SEKTOR, MET INBEGRIP VAN STAATSORGANE

Kragtens die bevoegdhede by my opgelê ingevolge artikel 1 van die Kommissiewet, 1947 (Wet No. 8 van 1947), met ingang van die datum van die publikasie van hierdie Proklamasie, wysig ek hiermee die Regulasies van die Geregtelike Kommissie van Ondersoek na bewerings van staatskaping, korrupsie en bedrog in die Openbare Sektor, met inbegrip van Staatsorgane, soos gepubliseer in Staatskoerant No. 41436 van 9 Februarie 2018 en gewysig in Staatskoerant No. 42947 van 10 Januarie 2020, soos aangedui in die Bylae hierby.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 30 dag van Januarie Tweeduisend-en-twintig.

President

Op las van die President-in-Kabinet:

Minister van die Kabinet

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vetdruk in vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings 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 en soos gewysig in Staatskoerant No. 42947 van 10 Januarie 2020.

Vervanging van regulasie 3A van die Regulasies in die Engelse teks

2. Regulasie 3A in die Engelse teks word hierby deur die volgende regulasies vervang:

"**3A.** A person designated by the Chairperson under regulation 3 shall be entitled to appropriate remuneration or fees, in accordance with any application legislation, regulation or prescribed tariff, for the assistance rendered to the Commission in the performance of its functions.

3B. If a person designated by the Chairperson under regulation 3 is a retired judge, the Chairperson shall approach the Minister to request that the retired judge render a service in terms of paragraph *(d)* of the definition of "service" in the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), by providing the assistance to the Commission contemplated in the Chairperson's designation.

3C. If a person designated by the Chairperson is a legal practitioner, his or her services may be secured through the State Attorney.".

Wysiging van regulasie 12 van die Regulasies

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

"(2) Enige person wat –

(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;

(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 or versuim, sonder genoegsame rede, om binne 'n tydperk deur die Voorsitter gegee or 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 aan 'n misdryf skudlig en by skuldigbevinding –

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

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

Kort titel en inwerkingtreding

4. Hierdie Regulasies heet die Regulasies van die Geregtelike Kommissie van Ondersoek na Bewerings van Staatskaping, Korrupsie en Bedrog in die Openbare Sektor met inbegrip van Staatsorgane: Wysiging, 2020, en tree by publikasie in die *Staatskoerant* in werking.