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BUITENGEWONE

OFFISIELLE KOERANT

VAN SUIDWES-AFRIKA

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Proclamation

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

No. AG. 18

1983

COMMISSION OF INQUIRY INTO SECURITY LEGISLATION IN SOUTH WEST AFRICA: APPLICATION OF COMMISSIONS ACT, 1947, AND MAKING OF REGULATIONS

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act 8 of 1947), I hereby declare the provisions of the said Act, with the exception of the provisions of section 4 thereof, to be applicable with reference to the Commission of Inquiry into Security Legislation in South West Africa appointed by me, the appointment of which was made known by Government Notice AG. 159 of 1983, and I hereby make the regulations set out in the Schedule with reference to the said Commission.

W.A. VAN NIEKERK

Administrator-General

Windhoek, 26 October 1983

Proklamasie

van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

No. AG. 18

1983

KOMMISSIE VAN ONDERSOEK NA VEILIGHEIDSWETGEWING IN SUIDWES-AFRIKA: TOEPASSING VAN KOMMISSIEWET, 1947, EN UITVAARDIGING VAN REGULASIES

Kragtens die bevoegdheid my verleen by artikel 1 van die Kommissiewet, 1947 (Wet 8 van 1947), verklaar ek hierby die bepalings van genoemde Wet, met die uitsondering van die bepalings van artikel 4 daarvan, van toepassing met betrekking tot die Kommissie van Ondersoek na Veiligheidswetgeving in Suidwes-Afrika deur my aangestel, waarvan die aanstelling by Goewermentskennisgewing AG. 159 van 1983 bekend gemaak is, en vaardig ek hierby die regulasies in die Bylae vervat met betrekking tot genoemde Kommissie uit.

W.A. VAN NIEKERK

Administrateur-generaal

Windhoek, 26 Oktober 1983

SCHEDULE

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

“Chairman” means the Chairman of the Commission;

“Commission” means the Commission of Inquiry into Security Legislation in South West Africa referred to in Government Notice AG. 159 of 1983;

“document” includes any book, pamphlet, notes and records (including any tape or other mechanical recording of anything and any transcription of any such notes or records, tape or other mechanical recording), list, circular, plan, placard, poster, publication, drawing, photograph or picture;

“inquiry” means the inquiry conducted by the Commission in the execution of its terms of reference;

“member” means any member of the Commission;

“officer” means any person appointed or designated under these regulations to assist the Commission;

“premises” includes any land or any building or structure or any part of any building or structure or any vehicle, vessel, aircraft or other means of transport.

2. The Chairman may, on such conditions as the Administrator-General may determine -

(a) appoint one or more persons to assist the Commission in, or in connection with, the execution of its functions;

(b) designate one or more persons to be present at the inquiry and to present evidence and arguments which have a bearing on the inquiry and to cross-examine witnesses appearing before the Commission subject to the provisions of regulation 7.

3. The Chairman shall determine the procedure to be followed by the Commission.

4. (1) The proceedings of the Commission shall be recorded in such manner as may be determined by the Chairman.

BYLAE

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken -

“beampte” iemand wat kragtens hierdie regulasies aangestel of aangewys is om die Kommissie behulpsaam te wees;

“dokument” ook ’n boek, pamphlet, aantekeninge (insluitende enige band- of ander meganiese opname van enigiets en enige transkripsie van enige sodanige aantekeninge, band- of ander meganiese opname), lys, omsendbrief, plan, plakkaat, aanplakbiljet, publikasie, tekening, foto of prent;

“Kommissie” die in Goewermentskennisgewing AG. 159 van 1983 bedoelde Kommissie van Ondersoek na Veiligheidswetgewing in Suidwes-Afrika;

“lid” enige lid van die Kommissie;

“ondersoek” die ondersoek wat deur die Kommissie ingestel word in die uitvoering van sy opdrag;

“perseel” ook grond of ’n gebou of bouwerk of ’n gedeelte van ’n gebou of bouwerk of ’n voertuig, vaartuig, lugvaartuig of ander vervoermiddel;

“Voorsitter” die Voorsitter van die Kommissie.

2. Die Voorsitter kan op die voorwaardes wat die Administrateur-generaal bepaal -

(a) een of meer persone aanstel om die Kommissie by of in verband met die uitvoering van sy werksaamhede behulpsaam te wees;

(b) een of meer persone aanwys om by die ondersoek aanwesig te wees en getuenis en argumente wat op die ondersoek betrekking het aan te voer en om getuies wat voor die Kommissie verskyn te kruisverhoor onderworpe aan die bepalings van regulasie 7.

3. Die Voorsitter bepaal die prosedure wat deur die Kommissie gevolg word.

4. (1) Die verrigtinge van die Kommissie word genotuleer op die wyse wat die Voorsitter bepaal.

(2) Any person appointed 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 beforehand take an oath or make an affirmation before the Chairman or an officer generally or specifically authorised thereto by the Chairman 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 in shorthand/record by mechanical means the proceedings of the Commission of Inquiry into Security Legislation in South West Africa as ordered by the Chairman of the said Commission;
- (b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the Commission of Inquiry into Security Legislation in South West Africa, made by any person whatsoever, which I am ordered by the Chairman of the said Commission to transcribe."

(3) No shorthand notes or mechanical record of the proceedings of the Commission shall be transcribed except by order of the Chairman.

5. (1) Every person employed or assisting in the execution of the functions of the Commission, including any person appointed to transcribe the proceedings of the Commission which have been taken down in shorthand or recorded by mechanical means, shall preserve, and aid in preserving, secrecy with regard to the functions, proceedings and documents of the Commission and any matter or information which may come to his knowledge in the performance of his duties in connection with the said functions, except in so far as the disclosure of such proceedings, documents, matter or information shall be necessary for the purposes of the Commission's report or in terms of an order of a competent court, and every such person, except a member of the Commission, shall beforehand take an oath or make an affirmation of fidelity and secrecy before the Chairman or an officer generally or specifically authorised thereto by the Chairman in the following form:

"I, A.B., declare under oath/affirm and declare that, except in so far as it may be necessary for the purposes of the report of the Commission of

(2) Iemand wat aangestel is om die verrigtinge van die Kommissie in snelskrif aan te teken of op meganiese wyse op te neem of om sodanige verrigtinge wat aldus aangeteken of opgeneem is, te transkribeer, moet vooraf voor die Voorsitter of 'n beampete deur die Voorsitter in die algemeen of in die besonder daartoe gemagtig, 'n eed of bevestiging in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig en verklaar -

- (a) dat ek getrou en na my beste vermoë die verrigtinge van die Kommissie van Onderzoek na Veiligheidswetgewing in Suidwes-Afrika in snelskrif sal aanteken/op meganiese wyse sal opneem soos deur die Voorsitter van genoemde Kommissie gelas;
- (b) dat ek enige snelskrifaantekeninge/meganiese opname van die verrigtinge van die Kommissie van Onderzoek na Veiligheidswetgewing in Suidwes-Afrika, deur wie ook al gemaak, wat ek op las van die Voorsitter van genoemde Kommissie moet transkribeer, volledig en na my beste vermoë sal transkribeer."

(3) Geen snelskrifaantekeninge of meganiese opname van die verrigtinge van die Kommissie mag getranskribeer word nie behalwe op las van die Voorsitter.

5. (1) Elke persoon wat diens doen of behulpzaam is by die uitvoering van die Kommissie se werksaamhede, met inbegrip van iemand wat aangestel is om die verrigtinge van die Kommissie wat in snelskrif aangeteken of op meganiese wyse opgeneem is, te transkribeer, moet ten aansien van die werksaamhede, verrigtinge en dokumente van die Kommissie en enige aangeleentheid of inligting waarvan hy by die vervulling van sy pligte in verband met bedoelde werksaamhede te wete kom, geheimhouding bewaar en help bewaar, behalwe vir sover bekendmaking van sodanige verrigtinge, dokumente, aangeleentheid of inligting vir doeleindes van die Kommissie se verslag of ingevolge 'n bevel van 'n bevoegde hof nodig is, en elke sodanige persoon, behalwe 'n lid van die Kommissie, moet, vooraf voor die Voorsitter of 'n beampete deur die Voorsitter in die algemeen of in die besonder daartoe gemagtig, 'n eed of bevestiging van getrouheid en geheimhouding in die volgende vorm aflê:

"Ek, A.B., verklaar onder eed/bevestig en verklaar dat, behalwe vir sover dit vir die doeleindes van die verslag van die Kommissie

Inquiry into Security Legislation in South West Africa, or in terms of an order of a competent court, I shall not communicate to any person any matter or information which may come or may have come to my knowledge at or in connection with the inquiry of the said Commission, or the performance of my duties in connection therewith, and that I shall not suffer or permit any person to obtain access to the proceedings and documents of the said 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 an officer.”.

(2) No person shall, except in so far as it may be necessary in the execution of the terms of reference of the Commission or in terms of an order of a competent court, publish or furnish or communicate to any other person the report of the Commission or a copy or any part thereof or an extract therefrom or any finding, recommendation or information contained therein, unless and until the Administrator-General has made the report available for publication.

6. The Chairman, or any officer generally or specifically authorised thereto by the Chairman in the presence of the Chairman, shall administer an oath to or take an affirmation from any witness appearing before the Commission.

7. (1) Any witness appearing before the Commission may be cross-examined only if the Chairman permits such cross-examination because he deems it necessary in the interests of the functions and inquiry of the Commission.

(2) The Chairman may, when he permits the cross-examination of any witness in terms of sub-regulation (1), limit such cross-examination to such subjects and in such manner as he may deem necessary in the interests of the functions and inquiry of the Commission.

8. (1) Evidence shall be heard *in camera* unless otherwise ordered by the Chairman.

(2) If any person who appears or has appeared before the Commission or who has been summoned to appear before the Commission, so requests, the Chairman may in his discretion order that no person shall publish in any manner whatsoever the name or address of that person or any information likely to reveal his identity.

van Ondersoek na Veiligheidswetgewing in Suidwes-Afrika of ingevolge 'n bevel van 'n bevoegde hof nodig is, ek geen aangeleentheid of inligting waarvan ek by of in verband met die ondersoek van genoemde Kommissie, of die vervulling van my pligte in verband daarmee, te wete kom of gekom het, aan enigiemand sal medeel nie en dat ek niemand sal toelaat of veroorloof om toegang tot die verrigtinge en dokumente van genoemde Kommissie, met inbegrip van enige aantekening, opname of transkripsie van die verrigtinge van genoemde Kommissie, in my besit of bewaring of in die besit of bewaring van genoemde Kommissie of 'n beampete te verkry nie.”.

(2) Niemand mag, behalwe vir sover dit by die uitvoering van die Kommissie se opdrag of ingevolge 'n bevel van 'n bevoegde hof nodig is, die verslag van die Kommissie of 'n afskrif of 'n gedeelte daarvan of enige uittreksel daaruit of bevinding, aanbeveling of inligting daarin vervat, publiseer of aan iemand anders verstrek of medeel tensy en totdat die Administrateur-generaal die verslag vir publikasie beskikbaar gestel het nie.

6. Die Voorsitter, of 'n deur die Voorsitter in die algemeen of in die besonder daartoe gemagtigde beampete in die teenwoordigheid van die Voorsitter, moet 'n getuie wat voor die Kommissie verskyn, 'n eed oplê of van hom 'n bevestiging afneem.

7. (1) 'n Getuie wat voor die Kommissie verskyn, mag slegs gekruisverhoor word indien die Voorsitter sodanige kruisverhoor toelaat omdat hy dit in belang van die werksaamhede en ondersoek van die Kommissie nodig ag.

(2) Die Voorsitter kan, wanneer hy die kruisverhoor van 'n getuie ingevolge subregulasie (1) toelaat, sodanige kruisverhoor beperk tot die onderwerpe en op die wyse wat hy in belang van die werksaamhede en ondersoek van die Kommissie nodig ag.

8. (1) Getuienis word *in camera* aangehoor tensy die Voorsitter anders gelas.

(2) Indien 'n persoon wat voor die Kommissie verskyn of verskyn het of wat opgeroep is om voor die Kommissie te verskyn, aldus versoek, kan die Voorsitter na goeddunke gelas dat niemand die naam of adres van daardie persoon of enige inligting wat waarskynlik sy identiteit sal openbaar op enige wyse hoegenaamd mag publiseer nie.

9. No person shall, without the written consent of the Chairman, publish in any manner whatsoever or furnish or communicate to any other person any proceedings of the Commission or any document or information furnished to the Commission or evidence given before the Commission, or any part of any such proceedings, document, information or evidence, or suffer or permit any other person to have access to the proceedings and documents of the Commission or any documents or other records which is in the possession or custody of the Commission or any officer or any person referred to in regulation 4(2), except in the performance of his duties in connection with the functions of the Commission or by order of a competent court.

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

11. The Commission, or the Chairman or any member or officer may, for the purposes of the Commission's inquiry at any reasonable time enter and inspect any premises and there carry out any investigation which it or he deems necessary and demand, peruse and seize or copy or make extracts from any document which is or is kept in custody upon such premises.

12. No person shall insult, desparage or belittle the Commission or the Chairman or a member or prejudice, influence or anticipate the proceedings or findings of the Commission.

13. Any person who -

- (a) contravenes or fails to comply with any provision of regulation 12;
- (b) contravenes or fails to comply with any provision of any other regulation than regulation 12;
- (c) contravenes or fails to comply with any order under regulation 8;
- (d) wilfully hinders, resists or obstructs the Chairman, a member or an officer in the exercise of any power referred to in regulation 11;
- (e) fails to comply with, or does anything which is repugnant to, any oath or affirmation taken or made under these regulations;

9. Niemand mag, sonder die skriftelike toestemming van die Voorsitter, enige verrigtinge van die Kommissie of enige dokument of inligting wat aan die Kommissie verstrek is of getuienis wat voor die Kommissie afgelê is, of enige deel van sodanige verrigtinge, dokument, inligting of getuienis op enige wyse hoegenaamd publiseer of aan iemand anders verstrek of medeel nie, of iemand anders toelaat of veroorloof om toegang tot die verrigtinge en dokumente van die Kommissie of enige dokumente of ander stukke wat in die besit of bewaring van die Kommissie of 'n beampete of 'n persoon in regulasie 4(2) bedoel is, te verkry nie behalwe by die uitvoering van sy pligte in verband met die werkzaamhede van die Kommissie of op bevel van 'n bevoegde hof.

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

11. Die Kommissie of die Voorsitter of 'n lid of 'n beampete kan te enige redelike tyd enige perseel vir die doeleindes van die Kommissie se ondersoek betree en inspekteer en aldaar enige ondersoek instel wat hy nodig ag en enige dokument wat op sodanige perseel is of bewaar word, opeis, ondersoek en in beslag neem of kopieer of uittreksels daaruit maak.

12. Niemand mag die Kommissie of die Voorsitter of 'n lid beleidig, neerhaal of verkleineer of die verrigtinge of bevindings van die Kommissie benadeel, beïnvloed of vooruitloop nie.

13. Iemand wat -

- (a) 'n bepaling van regulasie 12 oortree of versuim om daaraan te voldoen;
- (b) 'n bepaling van enige ander regulasie as regulasie 12 oortree of versuim om daaraan te voldoen;
- (c) 'n lasgewing kragtens regulasie 8 oortree of versuuim om daaraan te voldoen;
- (d) die Voorsitter, 'n lid of 'n beampete opsetlik hinder, teengaan of dwarsboom by die uitoefening van 'n in regulasie 11 bedoelde bevoegdheid;
- (e) versuim om te voldoen aan, of enigets doen wat in stryd is met, 'n eed of bevestiging wat hy ingevolge hierdie regulasies afgelê het;

shall be guilty of an offence and liable on conviction -

- (i) in the case of an offence referred to in paragraph (a) to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one year;
- (ii) in the case of an offence referred to in paragraph (b), (c), (d) or (e) to a fine not exceeding R200 or to imprisonment for a period not exceeding six months.

is aan misdryf skuldig en by skuldigbevinding strafbaar -

- (i) in die geval van 'n misdryf in paragraaf (a) bedoel, met 'n boete van hoogstens R1 000 of met gevengenisstraf vir 'n tydperk van hoogstens een jaar;
- (ii) in die geval van 'n misdryf in paragraaf (b), (c), (d) of (e) bedoel, met 'n boete van hoogstens R200 of met gevengenisstraf vir 'n tydperk van hoogstens ses maande.

Government Notice

Office of the
ADMINISTRATOR-GENERAL FOR THE
TERRITORY OF SOUTH WEST AFRICA

DEPARTMENT OF JUSTICE

No. AG. 159

1983

APPOINTMENT OF COMMISSION OF INQUIRY INTO SECURITY LEGISLATION IN SOUTH WEST AFRICA

It is hereby notified for general information that His Excellency, the Administrator-General, has appointed a Commission of Inquiry into Security Legislation in South West Africa with the following terms of reference:

In view of the revolutionary onslaught on the territory of South West Africa and the terrorist struggle which is being waged in certain parts of the said territory, to enquire into, and to report on and make recommendations as to the adequacy, fairness and efficacy of legislation pertaining to the internal security of the said territory.

The Commission shall consist of -

The Honourable Mr Justice H.P. van Dyk,
as Chairman;

and

Goewermentskennisgewing

Kantoor van die
ADMINISTRATEUR-GENERAAL VIR DIE
GEBIED SUIDWES-AFRIKA

DEPARTEMENT VAN JUSTISIE

No. AG. 159

1983

AANSTELLING VAN KOMMISSIE VAN ONDERSOEK NA VEILIGHEIDSWET- GEWING IN SUIDWES-AFRIKA

Hierby word vir algemene inligting bekend gemaak dat Sy Eksellensie, die Administrateur-generaal, 'n Kommissie van Ondersoek na Veiligheidswetgewing in Suidwes-Afrika aangestel het met die volgende opdrag:

Om, met die oog op die revolusionêre aanslag op die gebied Suidwes-Afrika en die terroriststryd wat in sekere dele van genoemde gebied gevoer word, ondersoek in te stel na, en verslag en aanbevelings te doen oor, die toereikendheid, billikheid en doeltreffendheid van wetgewing rakende die binnelandse veiligheid van genoemde gebied.

Die Kommissie bestaan uit -

Sy Edele Regter H.P. van Dyk,
as Voorsitter;

Mr. H.J. Taljaard
Adv. J.D. du Bruyn
Adv. G.S. Coetzee
Mr. G.J. Muller,
as members.

Persons and bodies wishing to make representations to, or give evidence before, the Commission are requested to send or submit written memoranda in which those representations or a summary of that evidence is set out to the Secretary, Commission of Inquiry into Security Legislation in South West Africa, Private Bag 13302, Windhoek, 9000, or Room 4, Magistrate's Office, Lüderitz Street, Windhoek, as soon as possible but not later than 31 January 1984. Persons and bodies who also wish to make oral representations to or give oral evidence before the Commission shall give clear indications to that effect in the said memoranda.

Mnr. H.J. Taljaard
Adv. J.D. du Bruyn
Adv. G.S. Coetzee
Mnr. G.J. Muller,
as lede.

Persone en instansies wat vertoë wil rig tot, of getuenis wil aflê voor, die Kommissie word versoek om so spoedig moontlik, maar nie later nie as 31 Januarie 1984, skriftelike memoranda waarin daardie vertoë of 'n samevatting van daardie getuenis uiteengesit word, te stuur aan, of in te dien by, die Sekretaris, Kommissie van Ondersoek na Veiligheidswetgewing in Suidwes-Afrika, Privaatsak 13302, Windhoek, 9000, of Kamer 4, Landdroskantoor, Lüderitzstraat, Windhoek. Persone en instansies wat ook mondeline vertoë tot die Kommissie wil rig of mondeline getuenis voor die Kommissie wil aflê, moet in genoemde memoranda duidelike aanduidings te dien effekte gee.