



PROVINCE OF THE EASTERN CAPE

IPHONDO LEMPUMA KOLONI

PROVINSIE OOS-KAAP

Provincial Gazette Igazethi Yephondo Provinsiale Koerant

Selling price • Verkoopprys: **R1,50**
Other countries • Buitelands: **R1,95**

Vol. 1

BISHO/
KING WILLIAM'S TOWN, 14 SEPTEMBER 1994

No. 5
(Extraordinary)

PROVINCIAL NOTICE

OFFICE OF THE PREMIER

PROVINCE OF THE EASTERN CAPE

No. 3

14 September 1994

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:—

No. 3 of 1994(E.C.): Provincial Commissions Act, 1994(Eastern Cape).

ACT

To make provision for conferring certain powers on commissions appointed by the Premier for the purpose of investigating matters of public concern; and to provide for matters incidental thereto.

(Signed and assented to by the Premier on 14 September 1994)

BE IT ENACTED by the Provincial Legislature of the Province of the Eastern Cape, as follows:—

Application of this Act with reference to commissions appointed by the Premier

1. (1) Whenever the Premier has, in terms of section 147(1)(d) of the Republic of South Africa Constitution, 1993 (Act No. 200 of 1993), appointed a commission (hereinafter referred to as a "commission") for the purpose of investigating a matter of public concern, he may by proclamation in the *Provincial Gazette*—

- (a) declare the provisions of this Act or of any other law to be applicable with reference to such commission, subject to such modifications and exceptions as he or she may specify in such proclamation;
- (b) make regulations with reference to such commission—
 - (i) conferring additional powers on the commission;
 - (ii) providing for the manner of holding, or the procedure to be followed in the course, of investigation or for the preservation of secrecy;
 - (iii) which he or she may deem necessary or expedient to prevent the commission or a member of the commission from being insulted, disparaged or belittled or to prevent the proceedings or findings of the commission from being prejudiced, influenced or anticipated;
 - (iv) providing generally for all matters which he considers it necessary or expedient to prescribe for the purposes of the investigation.

(2) Any regulation made under paragraph (b) of subsection (1) may provide for penalties for any contravention thereof or failure to comply therewith, by way of—

- (a) in the case of a regulation referred to in subparagraph (i), (ii) or (iv) of the said paragraph, a fine not exceeding R2 000 or imprisonment for a period not exceeding six months;

(b) in the case of a regulation referred to in subparagraph (iii) of the said paragraph, a fine not exceeding R4 000 or imprisonment for a period not exceeding 12 months.

(3) Notwithstanding anything to the contrary in any other law, a magistrate's court shall have jurisdiction to impose any penalty prescribed by any such regulation.

Commission's sittings

2. A commission may sit at any place in the Province of the Eastern Cape for the purpose of hearing evidence or addresses or of deliberating.

Commission's powers as to witnesses

3. (1) For the purpose of ascertaining any matter relating to the subject of its investigations, a commission shall in the Province have the powers which a Provincial Division of the Supreme Court of the Republic of South Africa has within the Province to summon witnesses, to cause an oath or affirmation to be administered to a witness, to examine a witness, and to call for the production of books, documents and objects.

(2) A summons for the attendance of a witness or for the production of any book, document or object before a commission shall be signed and issued by the secretary of the commission in a form prescribed by the chairperson of the commission and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial in a superior court at the place where the attendance or production is to take place.

(3) If required to do so by the chairperson of a commission a witness shall, before giving evidence, take an oath or make an affirmation, which oath or affirmation shall be administered by the chairperson of the commission or such official of the commission as the chairperson may designate.

(4) Any person who has been summoned to attend any sitting of a commission as a witness or who has given evidence before a commission shall be entitled to the same witness fees from public funds, as if he or she had been summoned to attend or had given evidence at a criminal trial in a superior court held at the place of such sitting, and, in connection with the giving of any evidence or the production of any book or document before a commission, the law relating to privilege as applicable to a witness giving evidence or summoned to produce a book or document in such a court, shall apply.

Sittings to be public

4. All the evidence and addresses heard by a commission shall be heard in public: Provided that the chairperson of the commission may, in his or her discretion, exclude from the place where such evidence is to be given or such address is to be delivered any class of persons or all persons whose presence at the hearing of such evidence or address is, in his or her opinion, not necessary or desirable.

Hindering or obstructing commission

5. Any person who wilfully interrupts the proceedings of a commission or who wilfully hinders or obstructs a commission in the performance of its functions shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Offences by witnesses

6. (1) Any person summoned to attend and give evidence or to produce any book, document or object before a commission who, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until he or she is excused by the chairperson of the commission from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he or she has been required by the chairperson of the commission to do so or, having been sworn or having made affirmation, fails to answer fully and satisfactorily any question lawfully put to him or her, or fails to produce any book, document or object in his or her possession or custody or under his or her control, which he or she has been summoned to produce, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(2) Any person who, after having been sworn or having made affirmation, gives false evidence before a commission on any matter, knowing such evidence to be false or not believing it to be true, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 rand or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.

Short title

7. This Act shall be called the Provincial Commissions Act, 1994 (Eastern Cape).