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## PROCLAMATIONS • PROKLAMASIES

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### PROCLAMATION NOTICE R. 280 OF 2025

#### **DETERMINATION OF THE SEAT OF THE JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM ARISING FROM SPECIFIC ALLEGATIONS MADE BY LIEUTENANT GENERAL NHLANHLA MKHWANAZI ON 6 JULY 2025**

In terms of regulation 13(1) of the Regulations of the Judicial Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System Arising from Specific Allegations Made by Lieutenant General Nhlanhla Mkhwanazi on 6 July 2025, I determine that the seat of Commission is Pretoria.

**Mbuyiseli Madlanga**  
**COMMISSION CHAIRPERSON**

### PROKLAMASIE KENNISGEWING R. 280 VAN 2025

#### **VASSTELLING VAN SETEL VAN DIE REGTERLIKE KOMMISSIE VAN ONDERSOEK MET BETREKKING TOT KRIMINELE GEDRAG, POLITIESE INMENGING EN KORRUPSIE IN DIE STRAFREGSTELSEL VOORTSPRUITEND UIT BEPAALDE AANTUIGINGS OPENBAAR GEMAAK DEUR LUITENANT-GENERAAL NHLANHLA MKHWANAZI OP 6 JULIE 2025**

Kragtens regulasie 13(1) van die Regulasies van die Regterlike Kommissie van Ondersoek met betrekking tot Kriminele Gedrag, Politiese Inmenging en Korruptsie in die Strafregstelsel voortspruitend uit bepaalde aantuigings openbaar gemaak deur Luitenant-Generaal Nhlanhla Mkhwanazi op 6 Julie 2025, bepaal ek dat die setel van die Kommissie, Pretoria is.

**Mbuyiseli Madlanga**  
**KOMMISSIE VOORSITTER**



## **NOTICE**

### **RULES GOVERNING PROCEEDINGS OF THE JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM ARISING FROM SPECIFIC ALLEGATIONS MADE BY LIEUTENANT GENERAL NHLANHLA MKHWANAZI ON 6 JULY 2025**

I, Mr Justice Mbuyiseli Madlanga, hereby, under Regulation 14(1) of the Regulations of the Judicial Commission of Inquiry into Criminality, Political Interference and Corruption in the Criminal Justice System Arising from Specific Allegations Made by Lieutenant General Nhlanhla Mkhwanazi on 6 July 2025 (the Regulations), issue the Rules attached in the Schedule to this Notice.

**Mbuyiseli Madlanga**  
**COMMISSION CHAIRPERSON**

## SCHEDULE

### RULES GOVERNING PROCEEDINGS OF THE JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM ARISING FROM SPECIFIC ALLEGATIONS MADE PUBLIC BY LIEUTENANT GENERAL NHLANHLA MKHWANAZI ON 6 JULY 2025

#### ARRANGEMENT OF RULES

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#### 1. Definitions

Unless otherwise stated or the context indicates otherwise, in these Rules—

- 1.1. **"Act"** means the Commissions Act, 1947 (Act No. 8 of 1947).
- 1.2. **"Chairperson"** means Justice Mbuyiseli Madlanga, in his capacity as Chairperson of the Commission.
- 1.3. **"Commission"** means the Judicial Commission of Inquiry into Allegations of Criminality, Political Interference and Corruption in the Criminal Justice System Arising from the Specific Allegations Made by Lieutenant General Mkhwanazi on 6 July 2025, as constituted by the President of the Republic of South Africa in terms of Government *Gazette* Notice No. 53048 of 23 July 2025.

- 1.4. **“Commission’s Legal Team”** means the team of lawyers appointed by the Chairperson to assist the Commission in the investigation and with the presentation of evidence and arguments before the Commission in regard to the matters referred to in the Terms of Reference.
- 1.5. **“Constitution”** means the Constitution of the Republic of South Africa, 1996.
- 1.6. **“Evidence”** means facts or information given by a witness before the Commission or presented to the Commission in any other form and includes but is not limited to any document, including in written or in electronic form, affidavit, video, sound recording or oral testimony submitted to the Commission.
- 1.7. **“Legal representative”** means a practising advocate or attorney duly enrolled in terms of the Legal Practice Act, 2014 (Act No. 28 of 2014).
- 1.8. **“Person”** includes both a natural and a juristic person.
- 1.9. **“Personal information”** means all information of a personal and private nature pertaining to an individual including but not limited to private addresses, private telephone numbers, private family information and details of medical conditions.
- 1.10. **“Regulations”** means the Regulations of the Commission published in the Schedule to Proclamation No. 277 published in *Government Gazette* No. 53183 of 2025.
- 1.11. **“Rules”** means these Rules as amended by the Chairperson from time to time.
- 1.12. **“Secretary of the Commission”** or **“Secretary”** means the person appointed by the Chairperson as Secretary of the Commission as provided for in the Regulations.
- 1.13. **“Terms of Reference”** means the terms of reference of the Commission published in the schedule to Proclamation No. 269 of 2025 published in *Government Gazette* No. 53048 of 23 July 2025.

## **2. Commission to keep the public informed**

The Commission must regularly inform the public of the matters to be covered at its hearings by publishing relevant information on its website or other medium.

## **3. Witnesses presented by the Commission’s Legal Team and implicated persons and their evidence**

- 3.1. The Commission may, by notice, invite any person with information relevant to the Commission's Terms of Reference to appear before the Commission to submit all such relevant information to the Commission in the manner prescribed in these Rules.
- 3.2. Any person may apply to the Chairperson for leave to present evidence on any matter relevant to the Commission's Terms of Reference. Such application must succinctly set out the matters the person intends to testify upon. If a person is granted such leave they must comply with the terms of these Rules and any such condition as the Chairperson may impose.
- 3.3. Save as provided otherwise in these Rules and subject to the Chairperson's directions in regard to any specific witness, the Commission's Legal Team bears the overall responsibility to present the evidence of witnesses to the Commission.
- 3.4. A member of the Commission's Legal Team may put questions to a witness whose evidence is presented to the Commission by such member including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of such witness.
- 3.5. If the Commission's Legal Team intends to present to the Commission a witness whose evidence implicates another person, it must, through the Secretary of the Commission, notify that person ("**person of interest**") in writing within a reasonable time before the witness gives evidence (publicly or in camera) or after the witness has given evidence if prior notice is not feasible, depending on what is reasonable and fair in the circumstances:
  - 3.5.1. that they are a person of interest;
  - 3.5.2. in what way they are implicated and where appropriate furnish them with the witness's statement or relevant portions of the statement;
  - 3.5.3. that the person must prepare and submit to the Commission a statement within five calendar days from the date of such notification (or such time as may, on good cause, be determined by the Chairperson) in respect of the issues identified in terms of rule 3.5.2.
- 3.6. The Chairperson may, at any time, direct any person against whom allegations are made in a witness's statement or evidence to respond in writing to the allegations relating to them in that statement or evidence and / or to answer, in

writing, specific questions put to them arising from the witness's statement or evidence.

3.7. Where a person of interest wishes:

3.7.1. to give evidence; and

3.7.2. to call any witness to give evidence on their behalf,

they must, within five calendar days from the date of notice (or such time as may, on good cause, be determined by the Chairperson), apply in writing to the Commission for leave to do so.

3.8. The application in terms of rule 3.7 must be accompanied by a sworn statement from the person of interest responding to the notice from the Commission or the witness's statement (whichever is applicable) in so far as it implicates them. The statement must make it clear what parts of the notice or the witness's statement are disputed or denied and the grounds upon which those parts are disputed or denied and be supported by all relevant evidence in support of such denial.

3.9. In deciding an application contemplated in rule 3.7, the Chairperson may, in his discretion and on such terms and conditions as he may deem appropriate, grant leave to an implicated person:

3.9.1 to give evidence; and / or

3.9.2 to call a witness to give evidence on their behalf.

3.10. In accordance with Regulation 8(3), there is no automatic right by any person to cross-examine a witness before the Commission. The Chairperson may permit cross-examination and on such terms as he may determine should he deem it necessary and in the best interests of the work of the Commission to do so. Following cross-examination, a member of the Commission's Legal Team may, with the leave of the Chairperson, put questions to the witness that are necessary and in the best interests of the functions of the Commission.

3.11. If the Chairperson grants leave to a person of interest in terms of rule 3.7, a member of the Commission's Legal Team may put questions to any witness who gives evidence pursuant to that ruling, including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of the witness.

3.12. If the Chairperson grants any person leave to cross-examine a witness in terms of rule 3.10, the witness shall be recalled with reasonable notice to the witness.

3.13. Where it was not known before a witness gave evidence that such witness would implicate a person, the Chairperson may make such directions as may be necessary to ensure that such person is not prejudiced, including (but not limited to) the following:

3.13.1. notifying the person that they have been implicated by the witness;

3.13.2. furnishing the person with a transcript of the relevant evidence where appropriate;

3.13.3. inviting the person to prepare a statement within five calendar days from the date of such notice (or such time as may, on good cause, be determined by the Chairperson) in respect of the issues that implicate them; and

3.13.4. affording the person an opportunity to give evidence in the manner provided for in these Rules.

#### **4. Hearings must be held in public**

4.1. Subject to rule 4.2, the hearings of the Commission will be held in public and there must be physical attendance of all parties involved.

4.2. In an appropriate case, the Chairperson may make an order that a hearing be held in camera or via electronic means. In such a case, the Chairperson shall specify in the order those persons who will be permitted to attend the hearing in camera or by some other means.

4.3. At the request of the witness whose evidence is to be heard in camera, or, *mero motu*, the Chairperson must order that nobody may, directly or indirectly, disclose the identity of the witness who is to give evidence in camera.

#### **5. Venue for hearings**

5.1. Subject to rule 5.2, the hearings of the Commission will be held at the Brigitte Mabandla Justice College, 332 Johannes Ramokhoase Street, Pretoria, in the Gauteng Province.

- 5.2. The Chairperson may, in his discretion, direct that a hearing or certain hearings of the Commission will be held at a venue other than the venue referred to in rule 5.1.

## **6. Evidence presented to the Commission**

- 6.1. The Commission may receive any evidence that is relevant to its mandate, including evidence that might otherwise be inadmissible in a court of law.
- 6.2. Anyone who has knowledge of the matters that fall within the Terms of Reference of the Commission may deliver to the Secretary of the Commission at the Commission's address or through electronic means a statement under oath or affidavit setting out information concerning that knowledge and the Secretary of the Commission will hand it over to the Commission's Legal Team for consideration.
- 6.3. Affidavits or statements that are submitted to the Commission should:
- 6.3.1. be formatted in numbered paragraphs; and
  - 6.3.2. include an index and subject matter headings if the statement or affidavit is more than five pages in length.
- 6.4. Where a person seeks to provide expert evidence to the Commission, their evidence must include a summary of relevant qualifications and experience, a summary of the expert's opinion, as well as an explanation of the relevance of the expert's testimony to the work of the Commission. The expert summary must be in a form which is as near as possible to the format applicable in High Court proceedings.
- 6.5. Where the evidence intended to be placed before the Commission has previously been placed before another Commission or tribunal or Court or body, that fact must be disclosed by the person submitting that evidence in order for the Commission to secure the relevant transcript in respect of those proceedings.

## **7. Oral Evidence at the Hearings**

- 7.1. Witnesses will be called to give oral evidence before the Commission at the discretion of the Chairperson.
- 7.2. The Chairperson's decision for a witness to be called will be informed by the likely significance of the evidence in advancing the work of the Commission.



- 7.3 A witness appearing before the Commission may be assisted by a legal representative.

**8. Order of evidence of a witness**

- 8.1. The order or sequence in which witnesses will be called before the Commission will be subject to the discretion of the Chairperson.
- 8.2. In order to ensure an orderly presentation of evidence, the Chairperson may, in his discretion, direct that the cross-examination of a witness by an implicated person or their legal representative must take place after the Commission's Legal Team and the Chairperson have exhausted their respective questions to the witness.

**9. Other witnesses**

- 9.1. If any person considers that a particular witness should be called to give oral evidence, a written request to this effect should be made to the Commission and shall include the reasons for the request and the likely value of the evidence of such witness. Such witness may be called at the discretion of the Chairperson.
- 9.2. A witness may apply to the Chairperson, at least two weeks before they are scheduled to appear at a hearing, to have their evidence taken in camera or through some other electronic means. Such application must be in writing and must give reasons why such an order should be made. The Chairperson will decide that application in his discretion.

**10. Call for documents**

- 10.1. In terms of section 3(1) of the Commissions Act, read with Regulation 10(6), the Chairperson may summon any person to produce a document in their possession or under their control which has a bearing on the matter being investigated.
- 10.2. Any person to whom such a summons to produce a document is directed must, within ten days of receiving the summons, produce the documents requested or submit an affidavit to the Commission explaining why the person cannot produce those documents.
- 10.3. Should a person claim that a document referred to in the summons is subject to legal professional privilege, they must:

- 10.3.1. identify the document in respect of which privilege is claimed; and
- 10.3.2. explain the basis for the claim of privilege in relation to each document.
- 10.4. Should a person claim that a document referred to in the summons is confidential for a reason other than that it is subject to legal professional privilege, such as that it is commercially sensitive or includes personal information, they must produce the document but must specify that the document, or part of it, should not be made public and must make application for the document (or part of it) to be treated as confidential in the investigation of the Commission. The application must be in writing and must set out:
  - 10.4.1. what portions of document are claimed to be confidential; and
  - 10.4.2. why those portions should not be publicly disclosed.
- 10.5. The Chairperson shall consider all claims of confidentiality for documents provided to the Commission and shall rule on whether the document will be treated as confidential.
- 10.6. If the document (or part of it) is determined to be confidential, it will not be included, or will be included only in redacted form to protect the confidentiality, in any of the Commission's publications not referred to, in relevant part, in public hearings.
- 10.7. If the document is determined not to be confidential, it may be referred to in the Commission's publications and at public hearings.
- 10.8. The Commission shall notify the person who made a claim of confidentiality for a document of the Chairperson's determination prior to the document being referred to in a publication or at a public hearing.

## **11. General**

- 11.1. These Rules are adopted to ensure the efficient functioning of the Commission, and are not intended to be exhaustive.
- 11.2. Any procedural matter arising during the Commission's proceedings that is not explicitly addressed or provided for in these Rules shall be resolved by direction of the Chairperson. Before such direction, the Chairperson shall give due consideration to the rights of all parties to be directly affected by the proposed direction.

- 11.3 Any party wishing to make any application to the Commission which is not otherwise provided for in the Rules must do so on at least seven calendar days' notice in writing to the Commission but the Chairperson may condone non-compliance with this notice period on good cause shown.
- 11.4 The Commission may condone non-compliance with, or extend, any time-frame provided for in these Rules on good cause shown or when it is in the interests of the work of the Commission to do so.
- 11.5 Wherever these Rules make provision for any person to apply to the Commission or to the Chairperson, the application must be a substantive application on affidavit with a notice of motion. The affidavit must, among other things, be succinct and reflect the relevant facts, the order sought and the grounds relied upon in support of such order.
- 11.6 The application must be lodged with the Secretary of the Commission (by delivering it at the Commission's address or through electronic means) who will ensure that the original is brought to the attention of the Chairperson and a copy to the Commission's Legal Team.
- 11.7 The applicant in that application must cite every other person whose rights may be affected by the order sought and serve a copy on that person.
- 11.8 As soon as possible after the Chairperson has become aware of such an application, he must issue such direction or order as to the future conduct of the matter as he may consider appropriate.

## **12. Practice directions**

The Chairperson may issue practice directions from time to time in regard to the proceedings of the Commission.

## **13. Decorum and Manner of address of the Commissioners**

- 13.1. All witnesses, implicated persons and legal representatives appearing at the Commission shall treat all the other parties with respect and maintain the decorum usually associated with formal proceedings of the nature of the Commission. The Chairperson may at his discretion exclude from the proceedings or take any appropriate action against any person who disrupts the hearings of the Commission.
- 13.2. The witnesses and legal representatives appearing before the Commission

shall address the Chairperson of the Commission as “Chairperson” and his co-commissioners as “Commissioner” or “Commissioner followed by Surname”.

- 13.3. All the other witnesses and legal representatives appearing at the Commission shall be addressed as “Mr” or “Ms” followed by their surname, save that a witness may indicate to the Commission their preference on how to be addressed. Where police and other security officials of a particular rank appear before the Commission, they may be addressed by their official rank followed by their surname.

#### **14. Media Coverage**

- 14.1. Unless otherwise directed by the Chairperson in relation to specific witnesses or evidence, the media may broadcast and report on the proceedings of the Commission.
- 14.2. Any media entity wishing to broadcast and report on the Commission’s proceedings must notify the Secretary of the Commission in advance of the hearings to facilitate the necessary accreditation and security arrangements.
- 14.3. It may not be feasible to accommodate all media entities at the Commission’s hearings. The Chairperson may accordingly limit the number of media entities present or impose conditions on media attendance at the Commission’s hearings.
- 14.4. Cameras and microphones must be in place before the hearing commences, and may not be moved during the proceedings.
- 14.5. The audio recording and close-up filming of private discussions amongst Commissioners, the Commission’s Legal Team and legal representatives of witnesses are strictly forbidden.
- 14.6. The Commission reserves the right to exclude from the proceedings any member of the media who does not observe these Rules, or who impairs or threatens the smooth running of the Commission's hearings.
- 14.7. The Commission may livestream its hearings.

**15. Amendment of Rules**

The Chairperson may amend these Rules from time to time.

**16. Effective date of the Rules**

These Rules shall come into operation on the date of publication in the *Government Gazette*.

**17. Citation of the Rules**

These Rules shall be called the Rules of the Judicial Commission of Inquiry into Allegations of Criminality, Political Interference and Corruption in the Criminal Justice System Arising from the Specific Allegations Made by Lieutenant General Nhlanhla Mkhwanazi on 6 July 2025.