

SPECIAL ISSUE



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GAZETTE NOTICE No. 14343

THE STATE CORPORATIONS ACT

(Cap. 446)

THE INDUSTRIAL AND COMMERCIAL DEVELOPMENT CORPORATION

APPOINTMENT OF CHAIRMAN

IN EXERCISE of the powers conferred by section (6) (1) (a) of the State Corporations Act, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces, re-appoints—

MARTIN KARIUKI MURAGU

to be the Chairman of the Industrial and Commercial Development Corporation, for a further period of three (3) years with effect from 10th September, 2012.

Dated the 3rd October, 2012.

MWAI KIBAKI,
President.

GAZETTE NOTICE No. 14344

THE CONSTITUTION OF KENYA

THE NATIONAL POLICE SERVICE COMMISSION ACT

(No. 30 of 2011)

APPOINTMENT OF CHAIRPERSON OF THE NATIONAL POLICE SERVICE COMMISSION

IN EXERCISE of the powers conferred by section 6 (8) of the National Police Service Commission Act, 2011, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces, in consultation with the Prime Minister, appoint—

JOHNSTON KAVULUDI

to be the Chairperson of the National Police Service Commission.

Dated the 3rd October, 2012.

MWAI KIBAKI,
President.

GAZETTE NOTICE No. 14345

THE CONSTITUTION OF KENYA

THE NATIONAL POLICE SERVICE COMMISSION ACT

(No. 30 of 2011)

APPOINTMENT OF MEMBERS OF THE NATIONAL POLICE SERVICE COMMISSION

IN EXERCISE of the powers conferred by section 6 (8) of the National Police Service Commission Act, 2011, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces, in consultation with the Prime Minister, appoint—

Ronald L. Musengi,
Esther Chui-Colombini,
Murshid A. Mohamed,
Major Muiu Shadrack Mutia (Dr),
Mary Auma Owuor ,

to be Members of the National Police Service Commission.

Dated the 3rd October, 2012.

MWAI KIBAKI,
President.

GAZETTE NOTICE No. 14346

THE CONSTITUTION OF KENYA

APPOINTMENT OF JUDGES OF THE ENVIRONMENT AND LAND COURT OF KENYA

IN EXERCISE of the powers conferred by Article 166 (1) (b) as read with Article 162 (2) (b) and (3) of the Constitution of Kenya, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces, acting in accordance with the advice of the Judicial Service Commission, appoint—

Omollo Anne Abongo,
Oscar Amugo Angote,
John M. Mutungi,
Boaz Nathan Olao,
Ombwayo Antony Oteng'o,
Antony Kimani Kaniaru,
Lucy Nyambura Gacheru,
Kiprotich Beatrice,
Waithaka Lucy Njoki,
Peter Muchoki Njoroge,

Stephen Murigi Kibunja,
Samuel Ndungu Mukunya,
Samson Odhiambo Okongo,
Munyao Silas,
Gitumbi Mary Muthoni,
Elijah Ogoti Obaga,

as Judges of the Environment and Land Court of Kenya, with effect from 1st October, 2012.

Dated the 3rd October, 2012.

MWAI KIBAKI,
President.

GAZETTE NOTICE NO. 14347

THE COMMISSION OF INQUIRY ACT

(Cap. 102)

COMMISSION OF INQUIRY

RULES AND PROCEDURE

This commission of Inquiry has been convened pursuant to its appointment to inquire into the Ethnic Violence in Tana River, Tana North and Tana Delta Districts, as stated in Gazette Notice Nos. 13554 and 13555 of 2012.

The Commission makes the following rules for the conduct and management of the proceedings of the inquiry under section 9 of the Commissions of Inquiry Act (Cap.102).

General:

(a) The Commission shall be known as the Commission of Inquiry into the Ethnic Violence in Tana River, Tana North and Tana Delta Districts (hereinafter referred to as "The Commission")

(a) Subject to section 9 of the said Act, the commission shall conduct its business through:

- (ii) Meetings of the Commission.
- (iii) Review of documents including:
 - Official reports of any previous investigations into the ethnic violence
 - Any investigation report by any institution or organization into such ethnic violence
 - Commission reports from experts in any relevant areas
- (iv) Receipt and consideration of oral and written submissions by individuals, public and private organizations, media, civil society, and any other parties or persons in public meetings or otherwise.
- (v) Investigations.
- (vi) Hearings at Mombasa and in such other places as the Commission shall determine.
- (vii) Hearings in camera.
- (viii) Research and analysis into relevant aspects relating to the subject of inquiry.
- (ix) Any other means of gathering information; and
- (x) Compilation of a report with recommendations for further action.

(c) The Counsel Assisting the Commission shall assist the Commission in the inquiry by investigating and reporting information to the Commission and by formally presenting evidence and/or arguments to the Commission at hearing by leading the evidence by cross-examining witnesses before the commission.

(d) The Commission may co-opt not more than two persons who in the view of the Commission could facilitate effective execution of its functions on specific issues spelt out in the terms of reference.

(e) The Commission shall appoint such other staff as it shall deem fit for the discharge of its mandate.

(f) The Commission shall meet as often as may be necessary for the dispatch of its business and make its report without undue delay and in any event not later than thirty days from the date of being sworn into office or upon such reasonable extension in writing by the appointing authority.

(g) Meetings of the Commission shall be held on such date and at such time and place as the commission shall decide.

(h) Unless otherwise provided by or under any law, all instruments made by and decisions of the Commission shall be signified under the hand of the Chairperson and/or the Secretary.

(i) The Commission may direct that the public shall not be admitted to all or any specified part of the proceedings of the inquiry.

(j) The Commission shall cause minutes of all proceedings of meetings of the Commission to be kept in a book for that purpose.

(k) Except as provided by the Act, the Commission shall regulate its own proceedings.

Hearings:

Save as may otherwise be determined by the Commission, meetings of the commission for the purposes of conducting hearings shall take place between 9.00 a.m. to 4.00 p.m. from Monday to Friday.

(l) Subject to the Commissions of Inquiry Act, the conduct of and procedure to be followed at the hearing shall be under the control and direction of the Commission.

(m) Hearings shall be held in public, but the Commission may exclude any person or class of persons from all or any part of the proceedings to the inquiry if satisfied that it is desirable to do so:

- (i) For the preservation of order at the proceedings; or
- (ii) For the due conduct of the inquiry; or
- (iii) For the protection of the person, property or reputation of any witness in the inquiry or any person referred to in the course of the proceedings thereof.

(n) The Commission may, if satisfied that it is desirable for any of the purposes mentioned above, order that no person shall publish the name, address or photograph of any such witness or person or any evidence or photograph identifying such witness or person.

(o) Any person who is in any way implicated or involved in any matter under inquiry shall be entitled to:

- (i) Before being called as a witness, to be informed of any allegations made against him and the substance of the evidence in support of such allegations.
- (ii) To an adequate opportunity to prepare his own defense;
- (iii) To be legally represented at the inquiry at his own expense.
- (iv) To have his evidence led by his legal representative if any.
- (v) To cross-examine or have his legal representative test by cross-examination the evidence of any witness who implicates him.

(p) The Commission may call for any further evidence on any point relating to any matter before it and may require any witness for further examination.

(q) The Commission may summon any person or persons to testify on oath and may call for the production of any reports, books, plans, material and documents that the commissioners may require.

(r) All government entities, agencies and officials and all witnesses shall co-operate fully with the Commission and shall make available all documents and/or reports and witnesses relevant to the mandate of the commission.

- (s) Witnesses who testify will give their evidence at a hearing under oath or upon affirmation unless otherwise ordered by the Commission in its discretion.
- (t) The commission may issue or serve a hearing notice or summons upon its witness in any manner it deems fit, before he testifies and a witness may be called more than once.
- (u) A person may be granted full or partial standing as a party by the Commission if the commission is satisfied that the person is directly and substantially affected by the subject matter of the hearing.
- (v) A person may be granted standing as an intervener by the Commission if the Commission is satisfied that the person represents clearly ascertainable interest and perspectives essential to the Commission's mandate, which the Commission considers ought to be separately represented, at the hearing, in which the event the intervener may participate in a manner to be determined by the Commission.
- (w) Any person wishing to be granted standing must apply in writing and include the following information:
- (i) Name, address, telephone, fax numbers and e-mail addresses of the person.
 - (ii) Whether the person seeks standing as a party or as an intervener for all or a portion of the mandate of the hearing.
 - (iii) The basis for the application.
 - (iv) The names of the lawyer (if any) representing the person, together with the lawyer's address, telephone number, e-mail address and fax number.
- (x) The Commission will determine any special conditions under which a person may participate and those parts of a hearing in which a person granted a standing may participate.
- (y) The Commission may direct that a number of applicants share in a single grant for standing.
- (z) Parties and interveners shall advise the Commission of the names, addresses and telephone numbers of all witnesses they wish to have called and provide summaries of the information the witnesses have.
- (aa) The Commission may receive any evidence or information which it considers to be helpful in fulfilling its mandate whether or not such evidence or information would be admissible in a court of law.
- (bb) In the ordinary course of its proceedings the Commission shall call and cause to be questioned witnesses who testify at the hearing.
- (cc) Counsel for a party may apply to the Commission to lead a particular witness' evidence in chief. If the counsel is granted the right to do so, examination shall be confined to the normal rules governing the examination of one's own witness in court proceedings, unless otherwise directed by the commission.
- (dd) Parties may be afforded an opportunity to cross-examine the witness to the extent of their interests. The order of cross-examination will be determined by the Commission.
- (ee) After cross-examination, counsel for a witness may then re-examine the witness.
- (ff) The Commission may refuse to call any witness if it is satisfied that the evidence of such a witness is of insufficient relevance to the Commission's mandate.
- (gg) The Commission shall deal with a breach of these rules as it deems fit including, but not restricted to, revoking the standing of a party, and imposing restrictions on the further participation in or attendance at (including exclusion from) the hearings by any party, intervener, counsel, individual or member of the media.
- (hh) Upon the completion of the report of the commission it shall be transmitted under the hand of the Chairperson of the Commission to the President of the Republic of Kenya and The Commander-in-Chief of the Kenya Defence Forces without undue delay.
- (ii) The Commission may, at any time, amend these rules and procedures.

Dated the 2nd October, 2012.

LADY JUSTICE GRACE NZIOKA,
Chairperson of the Commission of Inquiry.