



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CX—No. 58

NAIROBI, 22nd July, 2008

Price Sh. 50

GAZETTE NOTICE NO. 6543

THE COMMISSIONS OF INQUIRY ACT

(Cap. 102)

THE COMMISSION OF INQUIRY INTO THE SALE OF GRAND REGENCY HOTEL

RULES AND PROCEDURES

WHEREAS in exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, His Excellency the President, by Order dated 10th July, 2008, and published in Gazette Notice No. 6216 of 2008, appointed a Commission to inquire into—

- (a) the circumstances leading to the sale of the Grand Regency Hotel;
- (b) the role played by the various persons mentioned therein and any other person/s in relation to the said sale.

AND WHEREAS the Commission was empowered to take all procedural steps that it may deem necessary, including any other tasks, in fulfilling the foregoing terms of reference and to recommend such legal or administrative measures as may be necessary,

AND WHEREAS the said Gazette Notice mandates the Commission to regulate its own procedure.

NOW THEREFORE the Commission makes the following Rules of Procedure:

1. Nothing in these Rules shall be deemed to limit or otherwise affect all the powers of the Commission necessary for the proper execution of its mandate as set out in the aforementioned Gazette Notice.
2. The Commission shall sit on such days, and times and at such venues as shall be determined by the Commission.
3. Subject to Rule 4 the hearings of the Commission shall be held in public.
4. The Commission may exclude any person or class of persons from all or any part of the Inquiry if satisfied that it is desirable so to do for the following reasons—
 - (a) at the request of any witness, if the request is deemed reasonable; or
 - (b) the preservation of order; or
 - (c) the due conduct of the Inquiry; or
 - (d) the protection of any witness in the inquiry or any person referred to in the course of the inquiry or the property or reputation of such witness or person,

and may, if satisfied that it is desirable for any of the purposes aforesaid so to do, order that no person shall publish the name, address or photograph of any such witness or person or any evidence or information whereby he would or may be identified from.

5. Persons mentioned in the Gazette Notice and any person adversely mentioned during the inquiry shall have the right to be present during all the proceedings that relate to them and shall be entitled to legal representation.

6. The Counsel assisting the Commission shall present evidence relating to all matters under inquiry.

7. The Commission shall serve on each person mentioned in rule 5 hereinabove a hearing notice accompanied where possible by a summary of the relevant evidence and related documents, if any, pertinent to the issues under inquiry at least seven (7) days before the date of hearing.

8. The Commission may, at its sole discretion, summon any person or persons to testify before it on oath or to produce such document/s as the Commission may require, and the person so summoned shall be obliged to attend and to testify on oath and or produce the required document/s and the provisions applying to witnesses summoned by ordinary courts of law shall apply to such person.

9. The Commission shall not be bound by the provisions of the Evidence Act but shall be guided by the ordinary rules of evidence and procedure, including the rules of natural justice.

10. Persons mentioned in rule 5 hereinabove shall have the right to cross-examine any or all witnesses in the inquiry.

11. Persons mentioned in rule 5 hereinabove shall be entitled to call evidence to rebut allegations made against them.

12. Where any person mentioned in rule 5 hereinabove is duly served with a hearing notice and fails to attend in person or by counsel or at all, the Commission shall be entitled to consider the evidence available and make a report and appropriate recommendations.

13. The Commission and Counsel assisting the Commission shall have power to cross-examine any witness called to give evidence.

14. The Commission shall have the power to recall any witness or witnesses.

15. Evidence may be presented in the form of a memorandum, affidavit or other document,

Provided:

- (i) that the persons mentioned in rule 5 hereinabove shall be furnished with copies of any such documentary evidence and may seek leave to address the Commission thereon;
- (ii) that the Commission shall have power to summon the authors of such documentary evidence, if needed, for the purposes of being cross-examined.

16. At the close of the hearing of all evidence before the Commission in respect of the aforesaid terms of reference, Counsel assisting the Commission and the persons mentioned in rule 5 hereinabove shall be entitled to make submissions.

17. The Commission may, from time to time, by notice in the Gazette amend these rules.

Dated the 21st July, 2008.

JUSTICE (RTD.) A. M. COCKAR,
Chairman of the Commission.