

COMMISSION OF INQUIRY (GHANA @ 50)
INSTRUMENT, 2009

WHEREAS the President is satisfied that it is in the public interest that there should be appointed a Commission of Inquiry into the activities of the Ghana @ 50 Secretariat,

NOW THEREFORE in exercise of the powers conferred on the President under clause (1) (a) of article 278 of the Constitution, this Instrument is made this 1st day of June, 2009.

Appointment of Commission

1. There is hereby appointed by this Instrument a Commission of Inquiry.

Composition of membership

2. The members of the Commission are

- (a) Justice Isaac Duose (Court of Appeal) (Chairman),
- (b) Mr. O. T. Prempeh (Former Auditor-General), and
- (c) Ms. Marietta Brew Appiah-Opong (Legal Practitioner).

Secretary to the Commission

3. There shall be a Secretary to the Commission who shall be appointed by the President and who shall perform the functions that the Commission may direct.

Mode of operation of Commission

4. The Commission shall carry out its inquiry in accordance with this Instrument and articles 278, 280 and 281 of the Constitution.

Terms of Reference

5. The terms of reference of the Commission are

- (a) to inquire into and report on allegations of improper use of public and of any other funds;
- (b) to inquire into the use by the Secretariat of any property, movable and immovable;
- (c) to inquire into any other matter which appears to the Commission to be incidental to or reasonably related to the Ghana @ 50 celebrations which in the opinion of the Commission ought to be enquired into; and
- (d) to make recommendations in respect of the findings of fact by the Commission.

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Appearance by lawyer

6. (1) A person whose conduct is the subject of inquiry by the Commission or who is in anyway implicated, concerned in, or has a legitimate interest in a matter under investigation by the Commission is entitled to be represented by a lawyer at the inquiry.

(2) Any other person who considers it desirable that that person should be represented by a lawyer or any other expert may be allowed by the Commission to be represented by a lawyer or that other expert.

Powers of the Commission in respect of proceedings

7. For the purposes of the conduct of its proceedings, the Commission shall have power;

- (a) to require a person to disclose truthfully, information within the knowledge of that person and which is relevant to the proceedings;
- (b) to examine a witness on oath or affirmation and to administer the oath or affirmation;
- (c) to issue subpoenas requiring the attendance of a person before the Commission and require the production of any article, documents or other record relevant to the proceedings;
- (d) to cause a person who refuses to comply with the order or directives of the Commission or acts in any manner contemptuous of the Commission to be charged with contempt of court and for that person to be tried at the High Court; and
- (e) to require a person to fill a form providing the information and within the period specified in the form.

Privilege of witness and indemnity

8. (1) A witness appearing before the Commission is entitled to the same privileges to which a witness before the High Court is entitled.

(2) A person shall not be subject to any civil or criminal proceedings under any enactment by reason of that person's compliance with a requirement of the Commission.

Privileges and immunities of witness and lawyer

9. A witness or lawyer appearing before the Commission is entitled to the same privileges and immunities as a witness or lawyer appearing before the High Court.

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Compellable witness and admission of incriminating evidence

10. (1) Subject to paragraph (2), in any proceedings before the Commission a person called as a witness shall be compelled to produce any document or article and to answer any question as regards the subject matter of the proceedings although the document, article or answer may incriminate that person.

(2) Where a person gives incriminatory evidence under paragraph (1), the evidence shall not be used in any criminal or civil proceedings against that person.

Production of official documents

11. Article 135 of the Constitution which relates to the production of official documents in courts shall apply to proceedings before the Commission as it applies to proceedings before a court.

Expenses in relation to Commission

12. (1) A witness summoned by the Commission is entitled to the allowance that is payable to a witness summoned by the High Court in a criminal trial.

(2) The chairperson and the other members of the Commission and any other person employed in relation to the functions of the Commission may be paid travelling, sitting and other allowances that the President may approve on the recommendations of the Minister responsible for Finance and Economic Planning.

Public officers to assist Commission

13. The Attorney-General shall assign officers to attend to the Commission, to serve summons on witness and to perform other functions related to the Commission that the Commission may direct.

Engagement of consultants

14. The Commission may engage consultants to advise on technical issues.

JOHN EVANS ATTA MILLS
President of the Republic of Ghana

Date of Gazette notification: 5th June, 2009.

Entry into force: