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GENERAL NOTICE

NOTICE 1085 OF 2010

PUBLIC PROTECTOR SOUTH AFRICA

PUBLIC PROTECTOR ACT, 1994 (ACT NO. 23 0F 1994): DRAFT RULES RELATING TO INVESTIGATIONS BY THE PUBLIC PROTECTOR AND INCIDENTAL MATTERS

I Thulisile Nomkhosi Madonsela, the Public Protector of the Republic of South Africa, in terms of section 7(11) of the Public Protector Act, 1994(Act No. 23 of 1994), hereby publish for public comment the draft Rules in the Schedule.

Interested persons are invited to submit within 30 days from the date of publication of this notice, their written comments on these draft rules relating to investigations by the Public Protector and incidental matters.

For the attention of the following persons:

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CHAPTER 1
PURPOSE OF RULES

Purpose of the rules

1. The purpose of these Rules is to determine—

(a) procedures for the lodging of complaints with the Public Protector;

(b) procedures for the resolution of disputes;

(c) service standards applicable to the Public Protector in conducting investigations and resolving disputes;

(d) timelines for the taking of actions dealt with in these Rules;

e) time frames for organs of state to respond to a report or findings of the Public Protector; and

(f) the steps the Public Protector may take if an organ of state fails to adhere to stipulated timelines.

CHAPTER 2
DEFINITIONS

2. In these Rules, any word or expression to which a meaning has been given in the Act, shall have that meaning and, unless the context indicates otherwise—

'Complaint' is a "*complaint*" referred to in section 4(1)(a) of the Act and includes any information provided, allegations made or matter reported to the Public Protector in terms of section 6 of the Public Protector Act 23 of 1994 or in terms of other relevant legislation;

'Complainant' includes any person as referred to in rule 3 of these Rules;

'Constitution" means the Constitution of the Republic of South Africa, 1996;

"day", subject to the specific provisions of any specific statute in terms of which an investigation is conducted, means any day of the week excluding Saturdays, Sundays and public holidays;

"Office of the Public Protector" means—

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(a) the national, provincial and regional offices of the Public Protector; and

(b) any other location determined by the Public Protector;

"organ of state" means—

(a) an organ of state as contemplated in section 239 of the Constitution; and

(b) any institution and entity referred to in section 6(5)(a) of the Act and which is not covered in paragraph *(a)*;

"parties to a dispute" means a complainant and the organ of state or official or employee of the organ of state implicated in the complaint;

"Public Protector" means the person appointed as Public Protector in terms of section 1A of the Act and includes any person to whom he or she has delegated his or her powers in terms of the Act.

"the Act" means the Public Protector Act, 1994 (Act No. 23 of 1994);

CHAPTER 3

REPORTING MATTERS TO AND LODGING COMPLAINTS WITH THE PUBLIC PROTECTOR

Who can report a matter or lodge a complaint?

3. Any matter in which the Public Protector has jurisdiction may be reported to or lodged as a complaint with the Public Protector by any person, which includes –

(1) Any individual, group of persons or organization;

(2) Any organization or person acting on behalf of another person or a minor; or

(3) Any person, group of persons or organization who approaches the Public Protector in terms of the following legislation:

(a) The Constitution;

(b) Public Protector Act;

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(c) Executive Members Ethics,1998;

(d) Prevention and Combating of Corrupt Activities, 2004;

(e) Promotion of Access to Information, 2000;

(f) Protected Disclosure Act, 2000;

(g) Housing Protection Measures Act, 1998;

(h) Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;

(i) Lotteries Act 57 of 1997;

(j) National Environmental Management Act 108 of 1999.

Information required when reporting matter or lodging a complaint

4 In reporting a matter or lodging a complaint in terms of section 6(1) of the Act, the complainant -

(1) must, in addition to the information specified in that section, provide the information referred to in subrules (2), (3), (4) and (5);

(2) must indicate whether the matter is reported personally or on behalf of another person or organisation and, if so, give particulars of the other person or the organisation.

(3)(a) must provide the following personal information:

(i) Full names of the complainant;

(ii) the physical and postal address of the complainant;

(iii) the telephone and facsimile numbers of the complainant and his or her e-mail address, if available; and

(iv) any other information that identifies the complainant.

(b) must provide the Public Protector with a copy of his or her identity document to resolve the complaint, if relevant.

(4)*(a)* must, if the complainant is not a natural person, and in addition to the information referred to in subrule (3)(a), provide the company's registration number, if applicable.

(b) must provide the Public Protector with a copy of any document showing the registration number and official stamp of the juristic person.

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(5) Must provide the following information about the incident or matter reported:

(a) The place of occurrence;

(b) particulars of the employees or officials of the organ of state involved in the incident or matter, if known;

(c) the names and addresses of any person who could provide information relevant to the complaint;

(d) information regarding other mechanisms that he or she has used in an attempt to resolve the complaint;

(e) particulars of any person who were involved in an attempt to resolve the complaint; and

(f) any other relevant information or documents that can be used during the investigation.

What the Public Protector can investigate and resolve

5. The Public Protector investigates -

(1) Any conduct in state affairs or in the public administration in any sphere of government as referred to in section 182(1)(a) of the Constitution;

(2) All acts or omissions or any matter referred to in section 6(4), (5) and (7) of the Public Protector Act including:

(a) Maladministration in connection with the affairs of government at any level;

(b) Abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing a public function;

(c) Improper or dishonest act, or omission or offences referred to in Part 1 to 4, section 17, 20 and 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and

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Combating of Corrupt Activities Act, 2004, with respect to public money;

(d) Improper or unlawful enrichment, or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as a result of an act or omission in the public administration or in connection with the affairs of government at any level or of a person performing a public function;

(e) Act or omission by a person in the employ of government at any level, or a person performing a public function, which results in unlawful or improper prejudice to any other person;

(f) Maladministration in connection with the affairs of any institution in which the State is the majority or controlling shareholder or of any public entity as defined in section 1 of the Public Finance Management Act, 1999;

(g) Abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing a function connected with his or her employment by an institution or entity contemplated in sub-rule (2)(f);

(h) Improper or unlawful enrichment or receipt of any improper advantage, or promise of such enrichment or advantage, by a person as result of an act or omission in connection with the affairs of an institution or entity contemplated in sub-rule (2)(f); or

(i) Act or omission by a person in the employ of an institution or entity contemplated in sub-rule (2)(f), which results in unlawful or improper prejudice to any other person.

(j) Any alleged attempt to do anything which the Public Protector or the Public Protector may investigate or resolve under this Rule.

k) A breach of the code of ethics in terms of section 3 of the Executive Members' Ethics Act 82 of 1998;

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l) A decision or action of the Council, its staff or its agents as referred to in section 22(4) (i) of the Housing Protection Measures Act 95 of 1998;

m) Persistent contraventions of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 in terms of section 25(3) (b);

n) Complaints of unfair discrimination; hate speech; or harassment referred to the Public Protector by the Equality Court in terms of section 25(3)(b); and

0) Complaints or request relating to the operation or adrninistration of the Promotion of Access to Information Act 1 of 2000.

Confidentiality

6. (1) The complainant may, when reporting the complaint or matter or at any stage thereafter, request that his or her personal particulars be kept confidential and not be disclosed to any person outside the Public Protector's office.

(2) If the complainant has requested that his or her particulars be kept confidential and the Public Protector is of the view that these particulars are required in order to resolve the compliant, the Public Protector must, in the manner the Public Protector deems fit—

(a) inform the complainant about the particulars which must be disclosed;

(b) explain to the complainant the reasons therefor; and

(c) request the consent of the complainant to disclose these particulars.

(3) The Public Protector may decline to investigate the complaint or matter if the complainant refuses to consent to the disclosure of the particulars.

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Format of reporting a matter or lodging a complaint

7(1) With a view to making the Public Protector more accessible to all persons, the Public Protector shall accept a complaint not made under oath or affirmation if the complaint or matter reported—

(a) is not of a serious nature which may result in an official or employee being discharged;

(b) may be resolved without investigation;

(c) does not contain allegations relating to the commission of an offence;

(d) does not contain allegations of dishonesty; and

(e) does not contain defamatory information.

(2) The Public Protector may, if a complaint is not made under oath or affirmation and the considerations in sub rule (1) do not apply, request the complainant to submit an affidavit or affirmed declaration confirming that complaint.

(3) A complaint to the Public Protector should preferably be in writing but an oral complaint in person or by telephone may be accepted -

(a) if it is not possible for a person who wishes to report a complaint or a matter to reduce it to writing;

(b) if it is not possible for a complainant to send a written complaint to the Public Protector; or

(c) if complaint concerns an urgent matter making it inadvisable to insist on a written complaint.

(4) *(a)* An oral complaint must be reduced to writing by the Public Protector.

(b) The Public Protector must after an oral complaint has been reduced in writing in terms of paragraph *(a)*, verify the correctness thereof in any manner he or she deems fit.

(c) The Public Protector must make the changes to the written complaint necessary to bring it in line with the indications of the complainant.

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(d) The Public Protector must keep record of the process followed in terms of this rule.

(5) The Public Protector shall, where a complainant has difficulty to communicate or to submit a complaint due to a disability, language barrier or other reason, render the necessary assistance.

(6) *(a)* The complaint may be—

(i) contained in a letter;

(ii) contained in an e-mail;

(iii) contained in a complaints form provided in Annexure A to the Rules.

(b) The complaint must, if it is contained in an e-mail or the complaints form, be completed in full and signed by the complainant.

(7) The complainant may request that he or she be provided with a complaints form which must be available at the office of the Public Protector.

Manner of reporting a matter or lodging a complaint to the Public Protector

8. (1) A written complaint must be addressed to "*The Public Protector*" at the contact details in Annexure A to the Rules.

(2) A written complaint may be submitted to the Public Protector in the following manner—

(a) by handing it in at any of the offices of the Public Protector between 08:00 and 16:00 on any day of the week, in which case the Public Protector must give to complainant proof, in any manner the Public Protector deems fit, of the receipt of the complaint;

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(b) by faxing it to the Office of the Public Protector, in which case the complainant must keep proof that the facscimile was received by the Public Protector;

(c) by registered post, in which case the complainant must keep proof that the complaint has been posted; or

(d) by completing a complaints form on line, in which case the complainant must keep a copy of the completed form.

Place of reporting a matter or lodging a complaint

9. (1) A complaint must preferably be lodged at the office of the Public Protector in the area where the incident or conduct complained of took place.

(2) The Public Protector may decide to transfer a complaint received to any of his or her other offices to be dealt with.

Late referring of a matter or complaint

10 (1) A complainant who wishes to refer a matter or complaint to the Public protector after the expiry of two years from the occurrence of the incident or matter concerned, as referred to in section 6(9) of the Act, must on request of the Public Protector in writing or orally, provide the following information in the manner required by the Public Protector:

(a) The reasons for the delay in reporting the complaint or matter;

(b) indicate whether the refusal to investigate the matter or complaint reported will cause prejudice to the complainant, any other person, a community or the State;

(c) indicate whether or not the complaint has not been resolved;

(d) indicate whether or not a practical remedy for, or solution to, the complaint is available;

(e) indicate any prospects that the outcome will rectify or resolve the complaint;

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(f) any other relevant information that the complainant may regard as special circumstances why the complaint or matter must be entertained.

(2) The complainant may request the Public Protector to assist him or her in providing the information referred to in subrule (1).

CHAPTER 4

PROCESSING OF MATTERS REPORTED TO AND COMPLAINTS LODGED WITH THE PUBLIC PROTECTOR

Procedure followed after reporting a matter or lodging a complaint

11. (1) The Public Protector must upon receipt of a complaint—

(a) open a file for the complaint; and

(b) number the complaint with a consecutive number for the year during which it is received.

(2) The Public Protector must, within 5 days from the date of receipt of the complaint, acknowledge receipt thereof.

(3) The Public Protector may acknowledge receipt of the complaint in any manner he or she deems fit but must keep proof thereof.

(4) The acknowledgement of receipt must contain the reference number allocated to the complaint in terms of subrule (1)(*b*).

(5) The Public Protector must, within 5 days from the date of receipt of the complaint—

(a) determine whether the complaint falls within his or her jurisdiction; and

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(b) if he or she has jurisdiction over the complaint, assign the complaint to a person for investigation.

(6) (a) The investigator to whom a complaint has been assigned for investigation, must within 5 days after having been so assigned, contact the complainant and provide the complainant with his or her contact particulars.

(b) The person referred to in paragraph (a), may contact the complainant in any manner he or she deems fit but must keep proof thereof.

(7) If, on the basis of the complaint received, it is not possible to come to a conclusion regarding the merits of the complaint or to determine an appropriate manner of dealing with the complaint, the Public Protector may conduct a preliminary investigation.

(8) *(a)* The Public Protector may advise the complainant that it might be appropriate to complain against an organ of state organ other than the one mentioned in the complaint.

(b) The Public Protector may if the complaint or matter falls within his or her jurisdiction investigate the complaint or matter.

Procedure followed after reporting a matter or lodging a complaint outside the prescribed time period

12. (1) The Public Protector must—

(a) within 3 days after a matter has been reported or a complaint lodged, acknowledge receipt thereof in the manner he or she deems fit;

(b) within 5 days after receipt of the report make a decision whether or not the complaint or matter will be entertained and record the decision in writing; and

(c) within 5 days after making the decision referred to in paragraph *(b)* notify, in writing or any other manner the Public Protector deems fit, the complainant of the decision and the reasons for the decision.

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(2) The Public Protector must, in deciding about the other means of notifying the complainant of the decision and the reasons therefore, take into account any special needs of the complainant.

(3) The Public Protector must in making a decision regarding the late reporting of a complaint or matter, consider–

(a) the information provided by the complainant;

(b) the degree of delay;

(c) whether the outcome of an investigation could rectify a systemic problem in the state;

(d) having regard to the nature of the allegations, the likelihood of being able to investigate the matter due to the delay; and

(e) any other relevant factor that the Public Protector regards as special circumstances.

CHAPTER 5
INVESTIGATION OF COMPLAINT OR MATTER

Format and procedure of investigations

13. (1) Unless otherwise determined by the Public Protector, the format of an investigation may include the following or any combination thereof:

(a) Communication by telephone, email or any other form of correspondence;

(b) meetings with affected parties or persons reasonably believed to have information relevant to the investigation;

(c) appearance of a person before the Public Protector for purposes of obtaining or clarifying information or to produce any document;

(d) a hearing before the Public Protector or a person designated to conduct an investigation or part of an investigation in terms of section 7(3)(b)(i) of the Act in order to receive evidence;

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(e) examining and copying records or documents relevant to the investigation which are in possession or under control of an organ of state; and

(f) a public hearing to obtain public input or comment on a subject of general or broad public concern.

(2) The Public Protector may, in addition to any other means as he or she may deem fit, obtain information for purposes of the investigation in the following ways or any combination thereof:

(a) A statement by an organ of state, at the request of the Public Protector, providing reasons for taking an administrative action;

(b) a statement, providing information relating to a matter inquired about by the Public Protector, by an organ of state or any other person reasonably believed to have information relevant to the matter; and

(c) information obtained by the Public Protector in attending any administrative hearings or proceedings relevant to the investigation.

Format and procedures followed in respect of own initiative investigation

14. (1)The Public Protector may identify on own initiative a matter as referred to in section 7 of the Act, that falls within her/ his jurisdiction.

(2) The procedures in Rule12 apply in respect of an investigation conducted by the Public Protector on own initiative.

Time period for conducting preliminary investigations

15. (1) The Public Protector must conclude a preliminary investigation within 10 days after commencement thereof unless there are circumstances justifying a longer period.

(2) The Public Protector must, if the preliminary investigation cannot be concluded within the period referred to in subrule (1) —

(a) inform the complainant of this fact and of the circumstances justifying a longer period; and

(b) conclude the preliminary investigation within a reasonable period.

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(3) The Public Protector may inform the complainant in terms of subrule (2)*(a)* in any manner he or she deem fit but must keep proof thereof.

Cooperation with the Public Protector

16. (1) In terms of section 181(3) of the Constitution, organs of state are legally obliged to assist the Public Protector and "*protect*" its/ her/ his independence, impartiality, dignity and effectiveness. Organs of State must cooperate with the Public Protector, provide her/him access to their premises and all data in their possession relevant to the investigation in process or the Public Protector's preventive actions. This obligation includes cooperation in regard to responding within stipulated timelines and attending meetings aimed at resolving matters under investigation by the Public Protector.

(2) The Public Protector may, in terms of sections 7(4) of the Act, direct any person to submit an affidavit or affirmed declaration or to appear before him or her to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated. Such a direction or request may be issued by means of a subpoena in terms of section 7(5) of the Act.

Failure to co-operate with the Public Protector

17. (1) The Public Protector shall before—

(a) exercising the power to subpoena a person in terms of section 7(5) of the Act; or

(b) obtaining a warrant in terms of section 7A(2) of the Act,

endeavour to seek the co-operation of an organ of state or official or employee of that organ of state for purposes of investigating the complaint or matter.

(2) Failure to comply, without just cause, with a direction or request under section 7 (4) constitutes a criminal offence in terms of the Act.

(3) Failure to cooperate with the Public Protector may require the initiation of a sanction, offence or other adequate procedure provided for in the Act, and the

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Public Protector may initiate disciplinary procedures against the relevant public administration employees and report on such conduct.

CHAPTER 6
CONDUCTING OF HEARING

Circumstances under which Public Protector conducts hearings

18. The Public Protector may on own initiative or on receipt of a written request by one of the parties, under the circumstances he or she deems fit, including the following, hold a hearing:

(a) If a complaint cannot be resolved by any other means referred to in the Rules and the Public Protector is of the opinion that a hearing will enable her or him to obtain an appropriate resolution of the complaint;

(b) if a hearing will enable the Public Protector to reach an appropriate conclusion regarding the complaint;

(c) if the Public Protector deems it in the public interest to hold a hearing;

(d) if in the Public Protector's opinion the complaint cannot be fairly decided only on the basis of documentary evidence or written statements submitted by the parties or any other person having information relevant to the complaint; or

(e) if a party requesting a hearing supplies reasonable grounds for a hearing.

Procedure when requesting hearing

19. A party requesting a hearing must do so in writing setting out—

(a) the reasons why a hearing is necessary; and

(b) the material issues that the party wishes to raise during the hearing.

Notice of hearing

20. (1) The Public Protector shall give the parties notice of the hearing on a form which substantially corresponds with the form provided for in Annexure F.

(2) The notice shall be given at least 15 days before the date of the hearing unless the parties agree to a shorter period.

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(3) The notice must contain the following information:

(a) The place where the hearing will be held;

(b) the time and date of the hearing;

(c) the aspects in respect of which evidence will be required;

(d) the names of the other persons who will attend the hearing and give evidence;

(e) an invitation to the parties to bring any person who has personal knowledge about the matters in respect of which evidence is to be given, to the hearing;

(f) an indication of the Public Protector's views about allowing the parties to be assisted by legal representatives, and if not explain the reasons;

(g) an indication whether or not a person who will attend the hearing must bring any book or document to the hearing; and

(h) any other information which the Public Protector deems fit.

(4) *(a)* If the Public Protector is of the view that a party should not be allowed to be assisted by a legal representative, a party who does not agree with this view, must within 5 days after receipt of the notice, indicate in writing why legal representation is necessary.

(b) The Public Protector must, within 5 days after receipt of the response of the party, make a decision about legal representation and inform the party in writing of the decision.

(5) The notice referred to in subrule (1) and any other information to be submitted in terms of this rule, may be submitted to the person concerned in any manner—

(a) having regard to the date of the hearing; and

(b) ensuring that the person receives the notice or information.

(6) The Public Protector must keep proof of receipt of the notice referred to in subrule (1) by a party.

(7) The Public Protector shall give notice to a person, other than a party, required to attend the hearing and subrule (1), (2), (3), (5) and (6) apply with the necessary changes to this notice.

Attendance of hearing by complainant

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21. A party to a complaint must attend the hearing irrespective of whether or not that party is represented.

Failure of party to attend hearing

22. (1) The Public Protector may if a party is absent at a hearing but represented by a legal representative—

(a) continue with the hearing;

(b) postpone the hearing; or

(c) issue a subpoena, in terms of section 7 of the Act, to compel the party to give evidence or to produce a document during the hearing.

(2) The Public Protector shall, if a person, who has been notified to be present at a hearing party, is absent at a hearing, continue with the hearing and issue a subpoena, in terms of section 7 of the Act to compel the person to attend the hearing and to give evidence or to produce a document during the hearing.

Persons allowed to attend hearing

23. The following persons may attend a hearing:

(a) a Person who reported a complaint or matter to the Public Protector in terms of section 6(1) of the Act;

(b) a person required to provide assistance to the Public Protector;

(c) a person authorised to conduct an investigation on behalf of the Public Protector in terms of section 7(3)(b)(i) of the Act;

(d) a person required to give evidence or to disclose the contents of any document or record to the Public Protector; and

(e) any other person having a vested interest in the matter before the hearing:

Provided that the Public Protector may, in terms of section 7(1)(b)(ii) of the Act, in respect of a particular case, direct that any of the above persons may not be present at the hearing.

Nature of hearing

24. (1) A hearing is an informal procedure which is inquisitorial in nature.

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(2) The Public Protector must conduct the hearing in an informal manner.

(3) Any party may through the Public Protector put questions to any witness at the hearing.

(4) The Public Protector or any person designated by him or her may at any stage of a hearing in addition to anything provided for in the Act —

(a) put any question to a witness;

(b) rephrase a question put to a witness by a person or a party;

(c) clarify any uncertainties in respect of any evidence given; and

(d) elicit information from any witness.

Procedure at hearing

25. (1) The Public Protector shall, before the commencement of the hearing, explain—

(a) the purpose of the hearing;

(b) the inquisitorial nature of the hearing; and

(c) the procedures which will be followed,

to the parties and witnesses.

(2) The Public Protector shall commence the hearing by summarising the complaint and the issues to be decided during a hearing.

(3) The Public Protector shall determine the order for the leading of evidence.

(4) The Public Protector shall make a determination about any document or information to be disclosed at the hearing.

(5) The Public Protector shall give directions on any other aspect of the hearing.

(6) The Public Protector may receive evidence from any person at any office of the Public Protector or any other place he or she deems fit.

(7) The Public Protector may receive evidence in any manner he she deems fit, including by teleconference.

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(8) *(a)* The parties must be given a reasonable opportunity to respond to the evidence given at the hearing.

(b) A party may, in responding to the evidence given at the hearing—

(i) give evidence;

(ii) call witnesses to give evidence on his or her behalf;

(iii) hand in documents;

(iv) hand in written submissions;

(v) through his or her legal representative or personally put questions through the Public Protector to a witness; and

(vi) make a statement personally or through his or her legal representative.

(c) The Public Protector will conduct the hearing in a fair and impartial manner.

(9) The Public Protector must take any step necessary to establish the truth and correctness of any statement, submission or evidence given.

(10) The Public Protector may administer an oath or accept an affirmation from any person appearing as a witness if the Public Protector deems it necessary.

(11) *(a)* The Public Protector may take evidence behind closed doors if he or she is of the opinion that it is in the interest of the hearing to do so.

(b) Before deciding on taking evidence behind closed doors, both parties must be allowed a reasonable opportunity to address the Public Protector behind closed doors in this regard.

(c) The Public Protector may give any directions in respect of the disclosure or publication or prohibition thereof of any information or evidence obtained behind closed doors.

(12) *(a)* The parties must be given a reasonably opportunity to make closing statements.

(b) A party may make a statement personally or through his or her legal representative.

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Admissibility of evidence at hearing

26. (1) The rules of evidence shall not apply in respect of a hearing and the Public Protector may ascertain any relevant fact in a manner he or she deems fit.

(2) The Public Protector shall decide whether sufficient evidence has been given in which a finding can be made and to order that no further evidence shall be given.

Conclusion of hearing

27. The Public Protector must conclude the hearing by—

(a) evaluating the evidence submitted at the hearing in conjunction with all other available information and evidence obtained otherwise; and

(b) making a finding on the facts and, if necessary, take remedial action.

CHAPTER 7

REFERRAL OF COMPLAINTS TO OR BY PUBLIC BODIES OR AUTHORITIES

Circumstances under which Public Protector may refer complaints or matters to a public body or authority

28. (1) The Public Protector may, in terms of section 6(4)(*c*) of the Act refer a complaint to an appropriate public body or authority if—

(a) the complainant has not made a reasonable effort to resolve his or her complaint with the state organ complained against;

(b) another public body or authority is already investigating the matter;

(c) the complainant is an officer or employee of the State or a person to whom the Provisions of the Public Service Act, 1994, are applicable, and has not taken all

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reasonable steps to exhaust remedies available to him or her in terms of the Public Service Act,1994;

(d) the complainant has not taken all reasonable steps to exhaust his or her legal remedies in connection with the matter, and such remedies would be more appropriate in the circumstances to address the complaint;

(e) the Public Protector has signed a memorandum of understanding with another institution or state organ in terms of which matters such as the present complaint is to be referred to that institution or state organ to deal with; or

(f) circumstances exist as envisaged in section 6(4)(c) of the Act.

(2) The Public Protector must, if he or she intends referring the complaint or matter to an appropriate public body or authority, inform the parties—

(a) of the intention to refer the matter or complaint;

(b) of the public body or authority to which the complaint or matter is intended to be referred;

(c) of the reasons for the referral; and

(d) of the date on or before which they can respond to the intended referral and the manner in which they can respond.

(3) The Public Protector must allow the parties a reasonable opportunity to respond to the intended referral.

(4) *(a)* The Public Protector must within 15 days after having decided to refer a matter or complaint to a public body or authority—

(i) refer in writing the matter to the body or authority concerned and attach the recommendations referred to in section 6(4)(c)(ii) of the Act;

(ii) in writing inform the parties of the referral and the contact particulars of the body or authority.

(b) The Public Protector must submit a copy of the recommendations submitted to the body or authority to the parties unless good reasons why this should not be done.

Referral of matter or complaint to Public Protector by other institutions

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29. On receipt of a complaint referred to the Public Protector by an institution or organ of state, the Public Protector must—

(a) accept the complaint if the matter or complaint falls within the jurisdiction of the Public Protector and deal with it in accordance with these Rules;

(b) informs the parties in writing of receipt of the complaint; and

(c) upon conclusion of the complaint or matter, if the Public Protector deems it fit or if the institution or organ of state which referred the matter so requests, in writing inform that institution or body of the outcome of the matter.

Advising complainant about appropriate remedies

30. (1) The Public Protector may advise the complainant to approach an appropriate institution if the Public Protector does not have jurisdiction or if an appropriate remedy is available through that institution.

(2) The Public Protector must investigate the complaint or matter if the Public Protector has jurisdiction in respect thereof and the complainant insists on an investigation by the Public Protector unless the Act in that particular case empowers the Public Protector to refuse to investigate that matter.

CHAPTER 8
JOINT INVESTIGATIONS

Grounds for conducting joint investigations

31. The Public Protector may conduct a joint investigation with another institution or organ of state if—

(a) the mandate of that institution or organ of state overlaps with the mandate of the Public Protector in respect of the resolution of the complaint;

(b) the Public Protector does not have resources, capacity or in-house expertise to resolve the matter without assistance of that institution or state organ;

(c) the nature and the complexity of the matter warrant the assistance of that institution or state organ; or

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(d) a collaboration agreement exists between the Public Protector and the other institution or state organ and the matter falls within the mandate of both, and that institution or state organ agrees to such a joint investigation.

Informing parties of decision to conduct joint investigation

32. (1) The Public Protector must, if he or she intends conducting a joint investigation —

(a) inform the parties—

(i) of the intention to conduct a joint investigation;

(ii) of the particulars of the institution or organ of state which will be involved in the joint investigation;

(iii) of the reasons for the joint investigation; and

(b) invite the parties to respond on or before a specified date, in the manner determined by the Public Protector, on the intended joint investigation.

(2) The Public Protector must, after a decision has been made in respect of the joint investigation, in writing inform the parties involved.

CHAPTER 9
RESOLUTION OF COMPLAINTS AND MATTERS

Method of resolving complaint

33. (1) The Public Protector shall endeavour to resolve a complaint at the earliest possible opportunity in accordance with the manner provided for in section 6 of the Act.

(2) The Public Protector must, within 5 days after having considered the most appropriate method of resolving the dispute, inform the parties in writing—

(a) of the considered method of resolving the complaint;

(b) of the reasons therefor; and

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(c) of their opportunity to make representations, within the time and manner determined by the Public Protector, regarding the considered method of resolving the complaint.

(3) If either party indicates disagreement with the considered method of resolving the complaint, the Public Protector must consider the reasons for disagreement before finally deciding on the method.

(4) The Public Protector shall, if the parties do not respond within the determined time limit, determine the method of resolving the complaint.

General provisions relating to resolving disputes

34. (1) The Public Protector may appoint any person to facilitate conciliation sessions or mediation proceedings.

(2) The Public Protector may resolve a dispute by applying a combination of one or more methods of dispute resolution or by any other means appropriate in the circumstances.

(3) *(a)* If any party failed to attend a conciliation, negotiation or mediation proceedings, or failed to come to an agreement after such proceedings, the Public Protector may resolve the matter in any appropriate method or investigate the complaint, and take any action as set out in these Rules.

(b) In deciding on an appropriate method of resolving the matter upon the failure of a party to attend the proceedings referred to in paragraph *(a)*, the Public Protector must take into account –

(i) whether the party has previously failed to co-operate with the proceedings of the Public Protector;

(ii) any reason given for that party's failure to attend the proceedings or to cooperate;

(iii) whether the proceedings can continue effectively in the absence of that party;

(iv) the impact of the decision of the Public Protector on the other party;

(v) whether or not the party has been properly notified of the date, time and place of the proceedings; and

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(vi) any other relevant factor the Public Protector may deem fit.

(4) The Public Protector may dismiss the complaint if it cannot be resolved without the cooperation of the complainant.

(5) Once the parties reach an agreement after conclusion of the proceedings the Public Protector ensures that such an agreement is reduced to writing and signed by the parties within 3 working days after resolving the issue.

Conditions for joining or substituting parties to proceedings

35. (1) The Public Protector may of own accord or on application in writing by a party or any other person, join or substitute any number of persons or institutions as parties in the proceedings—

(a) if their right to corrective action depends on substantially the same question of law or fact;

(b) if such parties so joined or substituted have a substantial interest in the subject matter of the proceedings,

and may give appropriate directions as to further procedures for the proceedings.

(2) *(a)* An application to join or substitute a person or institution as a party in the proceedings must contain the following information:

(i) The grounds for the application;

(ii) Full particulars of the person or institution concerned

(b) An application to join any person or institution as a party to the proceedings or to substitute an existing party must be accompanied by copies of all documents previously delivered unless the person concerned is already in possession of the documents.

(3) If in any proceedings it becomes necessary to substitute a person or institution for an existing party, any party to the proceedings may apply to the Public Protector for a determination substituting that party for an existing party and the Public Protector may make such a determination or give appropriate directions as to the further procedure in the proceedings.

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(4) Subject to any determination made by the Public Protector in terms of this rule, the joining or substitution of persons or institutions in the proceedings in terms of these Rules does not affect any steps already taken in these proceedings.

Consolidation of complaints

36. The Public Protector may, on own initiative or on application in writing by a party to the proceedings, consolidate two or more complaints and deal with these complaints in the same proceedings.

Determination on disclosure of documents

37. The Public Protector may on own initiative, on request of a party to the proceedings or by agreement of the parties to the proceedings, make a determination on the disclosure of relevant documents.

Conducting of proceedings

38. (1) The Public Protector shall determine the manner in which the parties will conduct themselves during the proceedings.

(2) Irrespective of—

(a) the method applied to resolve a dispute between the parties; and

(b) the fact that the dispute between the parties have been resolved,

nothing in this Chapter shall prevent the Public Protector to conduct an investigation.

(3) The parties to the proceedings referred to in rule 30(3) may be represented by a legal representative.

(4) A dispute is conciliated, mediated or negotiated in the office of the Public Protector of the province were the complaint or matter arose unless the Public Protector directs otherwise.

(5) The Provincial Representative or the Public Protector determines the venue where the conciliation, mediation or negotiation takes place.

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(6) (a) The Public Protector may dismiss a complaint if the complainant—

(i) fails to participate in the conciliation, mediation or negotiation proceedings; or

(ii) fails to attend any of the proceedings.

(b) The Public Protector must in writing notify both parties of the dismissal and the reasons therefor.

(7) At any time during the proceedings, the Public Protector may postpone or adjourn the proceedings to allow the parties an opportunity to discuss the matter.

Conditions of confidentiality of proceedings

39. (1) Before commencing proceedings referred to in rule 30(3) the Public Protector shall require the parties to sign a confidentiality agreement acknowledging that all statements made during the proceedings as well as any documents prepared and submitted for such proceedings are confidential and inadmissible against another party in any subsequent civil proceedings.

(2) The proceedings and any correspondence pertaining to such proceedings are private and confidential, and none of the parties, nor any other person, may use the contents of any discussions during such proceedings, or such correspondence at any subsequent hearing or proceedings unless the Public Protector and all parties so agree in writing.

Conciliation proceedings

40. (1) The Public Protector may decide on conciliation through correspondence or joint sessions with the parties.

(2) The Public Protector shall give the parties at least 5 days' notice of an intended conciliation, unless the parties agree to a shorter period.

(3) The Public Protector shall determine the issues to be conciliated and informs the parties accordingly.

(4) The Public Protector shall direct the proceedings, develop and propose terms of settlement, and determine an outcome to the issues being conciliated.

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(5) The legal representatives of the parties may only offer advice and guidance to the Public Protector regarding the matters raised during the proceedings.

Negotiation proceedings

41. (1) The Public Protector may, after having found in favour of the complainant on a balance of probabilities that the complainant is being prejudiced by a dispute with an organ of state, or an omission or act of an organ of state, negotiate with the state through a joint session, or where possible through correspondence, or through any other appropriate means.

(2) The Public Protector gives the parties at least 5 days' notice of intended negotiations, unless the parties agree to a shorter period.

Mediation proceedings

42. (1) The Public Protector gives the parties at least 5 days' notice of intended mediation, unless the parties agree to a shorter period.

(2) Prior to mediation proceedings, the Public Protector shall invite the parties to submit their representations including their interests, priorities, needs, wishes and suggested outcomes or solutions sought, and indicates what the limitation of their agreement should be.

(3) The Public Protector shall determine the protocol and procedures for the mediation.

(4) The Public Protector shall facilitate the proceedings and examine and evaluate the presentations of the parties.

(5) If the agreement is not enforceable, impractical, vexatious, unrealistic, or does not bring a clear ending point to the mediation process, or if the performance in the agreement is not specific, measurable, achievable, realistic and time bound, the Public Protector shall determine the matter by any means appropriate in the circumstances.

(6) The Public Protector may determine an appropriate way to resolve a matter if a party no longer want to participate in the mediation.

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(7) A legal representative of a party may participate in generating and developing innovative solutions to the matter being mediated.

CHAPTER 10
CONCLUSION OF COMPLAINTS AND MATTERS

Conclusion of complaints and matters

43. A complaint is concluded under the following circumstances:

(a) After conclusion of a preliminary investigation and if no further action is taken;

(b) if the matter is resolved by means of conciliation, negotiation, or mediation in terms of Chapter 9 of these Rules;

(c) after conclusion of an investigation and if advice is provided in terms of section 6 of the Act or the alleged improper action is corrected;

(d) if a complaint is withdrawn by the complainant and the Public Protector is satisfied that there are no compelling reasons to proceed with the investigation; or

(e) if a complainant fails to co-operate to have a matter resolved or investigated.

Report by Public Protector

44. The Public Protector may report to persons on an investigation in the following ways:

(a) By providing a report to the parties and to any person implicated by a finding in the report; or

(b) in any other manner which the Public Protector deems fit, including—

(i) by sending a letter electronically, or by post or facsimile to the parties and to any person implicated by any finding that may have been made; or

(ii) by informing parties by telephone or in person that a matter has been resolved.

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Notifying parties of outcome of complaint or matter

45. (1) The Public Protector shall in writing notify a complainant an organ of state of the outcome of his or her investigation as soon as possible but within 5 days of the conclusion of the matter or the finalisation of a report.

Making provisional report available

46. (1) A provisional report shall, if a matter is to be concluded by a report, be made available to the complainant or any person or organ of state implicated in any provisional finding.

(2) The person or organ of state implicated in the provisional finding must be given an opportunity to respond to these findings and any remedial action to be taken in the manner and on the date determined by the Public Protector.

Issuing of final report

47. (1) A final report is issued after considering the response of the persons referred in rule 45.

(2) The Public Protector shall, if no response has been received after the date determined by him or her in terms of sub rule (1), finalise the report.

(3) The Public Protector shall, if he or she does not agree with any aspect raised in the response received in terms of subrule (1)—

(a) finalise the report;

(b) indicate in the report the aspects with which he or she does not agree;

(c) indicate in the report the reasons for disagreement; and

(d) attach the response of the person to the final report as an annexure.

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Monitoring of agreement and remedial action to be taken

48. (1) The Public Protector may, if remedial action has to be taken by an organ of state, in writing request the organ of state involved to—

(a) indicate in writing, within the period determined by the Public Protector, whether or not the recommendation is accepted and will be implemented; or

(b) provide the Public Protector within the period determined by the Public Protector, with an action plan on how and within what timelines the recommendation will be implemented.

(2) The Public Protector shall monitor the implementation of—

(a) any remedial action to be taken, which was accepted in terms of subrule (1)*(a)* by the organ of state involved;

(b) an action plan that was provided in terms of subrule (1)(*b*); or

(c) an agreement that was reached between parties to resolve the complaint.

(3) The Public Protector may if a recommendation or action plan is not implemented or the terms of an agreement to resolve the matter is not adhered to—

(a) take the matter up with the relevant minister or member of the executive council; or

(b) refer the matter to the National Assembly or Provincial Legislature,

for assistance.

CHAPTER 11
GENERAL PROVISIONS

Cooperation with Public Protector

49. The Public Protector may, having regard to section 181(2) to (5) of the Constitution, decide to make use of the powers provided for in the Act if an organ of state or other person does not cooperate voluntarily with the Public Protector.

Issuing of subpoena and obtaining a warrant

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50. The Public Protector shall, if she/ he deems it necessary, or if a person refuses to cooperate with him or her or does not respond to a second reminder sent out by the Public Protector within the due date provided in that reminder—

(a) issue a subpoena in terms of section 7(5) of the Act; or

(b) obtain a warrant in terms of section 7A(2) of the Act.

Recording of proceedings and investigations

51. (1) Any proceedings in terms of this Act and any discussions held, oral submissions made or evidence given as part of an investigation, whether before the Public Protector or any staff member of the Public Protector, shall be recorded by the Public Protector in any manner he or she deems fit.

(2) The Public Protector must, before the commencement of any recording, inform the persons present of the fact that a recording will be made and of the manner of recording.

Language used during proceedings and investigations

52. (1) All proceedings in terms of the Act, including investigations, will be conducted in English, unless a complainant requests that the proceedings be conducted in another official language.

(2) A party who needs the services of an interpreter during any proceedings in terms of the Act, must give reasonable notice to the Public Protector who must make the necessary arrangements.

Costs

53. (1) A party who wishes to make use of the services of an attorney or advocate in terms of section 6(8) of the Act, shall be responsible for the costs involved in securing these services.

(2) The Public Protector may not make any cost order.

Failure to comply with Rules

54. The Public Protector may, on the conditions he or she may deem fit,

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condone, on good cause shown by the person concerned, any failure by any person to comply with these Rules or, take any measures within his or her powers under the Act to exact accountability.

Repeal or amendment of Rules

55. These Rules remain in force until repealed or amended by the Public Protector by publication in the *Gazette*.

Contact particulars of Public Protector and customer service

56. (1) Enquiries about the services of or any complaint or matter reported to in terms of section 6 of the Act, can be made from any person at the contact details listed in Annexure A to the Rules.

(2) A complainant may, if he or she is dissatisfied with the handling of his or her complaint, approach the Customer Care Service at the Head Office of the Public Protector in Pretoria.

Short title and commencement

57. These Rules are called the Public Protector Rules and shall come into operation on ...

ANNEXURES

A. Contact details of the Public Protector

B. Complaints form

C. Subpoena

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CONTACT DETAILS OF PUBLIC PROTECTOR SOUTH AFRICA

National Office

Head Office

Postal Address:	Office of the Public Protector Private Bag X677 Pretoria 0001
Physical Address:	175 Lunnon Street Hillcrest Office Park 0083
Tel:	(012) 366 7000
Fax:	(012) 362 3473
Toll Free:	0800 11 20 40
Fax2email	086 575 3292

PROVINCIAL OFFICES

Gauteng

Physical Address:	Constitutional Hill Women's Jail 2 Kotze Steet Cnr Kotze and Joubert Streets Johannesburg
Postal Address:	P O Box 32738 Braamfontein 2017
Tel:	(011) 339 3737/2047
Fax:	(011) 339 2858

Mpumalanga

Physical Address:	Pinnacle Building Suite 101 1 Parkin Street Nelspruit
Postal Address:	P O Box 3373 Nelspruit 1200
Tel:	(013) 752 8543
Fax:	(013) 752 7883

North West

Physical Address:	Public Protector's Chambers C/o Martin & Robinson Streets Mafikeng
Postal Address:	P O Box 512 Mafikeng 2745
Tel:	(018) 381 1060/1/2
Fax:	(018) 381 2066

Western Cape

Physical Address:	4th Floor 51 Wale Street/Bree Street Cape Town
Postal Address:	P.O. Box 712 Cape Town 8000
Tel:	(021) 423 8644
Fax:	(021) 423 8708

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Kwa-Zulu Natal

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Postal Address:	P O Box 4267 Durban 4000
Tel:	(031) 307 5300/5250/5251
Fax:	(031) 307 2424

Limpopo

Physical Address:	Unit 2301, Wyndom Park 23 Rabe Street Polokwane
Postal Address:	P O Box 4533 Polokwane 0070
Tel:	(015) 295 5956
Fax:	(015) 295 2870

Free State

Physical Address:	Suit Office 2nd Floor Standard Bank House 15 West Burger Street Bloemfontein
Postal Address:	P O Box 383 Bloemfontein 9300
Tel:	(051) 448 6172
Fax:	(051) 448 6070

Northern Cape

Physical Address:	4 Sydney Street Pretmax Building 2nd & 3rd Floor Kimberley 8300
Postal Address:	P O Box 1505 Kimberley 8300
Tel:	(053) 831 7766/8325381/2
Fax:	(053) 832 3404

Eastern Cape

Physical Address:	Unathi House Independent Avenue, Bisho Behind Pick'n Pay
Postal Address:	P O Box 1400 Bisho 5605
Tel:	(040) 635 1286/7/1145/1126
Fax:	(040) 635 1291

REGIONAL OFFICES

George

Physical Address:	1st Floor, South Wing Bataleur Park Cnr of Cathedral and Cradock Street GEORGE 6529
Postal Address:	P O Box 9481 GEORGE

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	6530
Tel:	(044) 874 2887/904
Fax:	(044) 874 5922

Kuruman

Physical Address:	1 Rose Avenue Shop 1 Kuruman 8460
Postal Address:	P O Box 79 Mothibistad 8474
Tel:	(053) 712 1762/2347
Fax:	(040) 712 2417
Physical Address:	Central House 2nd Floor, Room 334 Mabopane
Postal Address:	PO Box 3165 Rosslyn 0200
Tel:	(012) 702 5458/4330
Fax:	(012) 702 8127

Rustenburg

Physical Address:	Suite No 12 Old SARS Building 135 Klopper Streets Rustenburg
Postal Address:	P O Box 371 Tlhabane 0309
Tel:	(014) 592 9023/6
Fax:	(014) 592 9031

Siyabuswa

Physical Address:	Old Parliament Building Job Skosana Street Siyabuswa 0472
Postal Address:	P O Box 2391 Siyabuswa 0472
Tel:	(013) 973 0033/6
Fax:	(013) 973 0029

Upington

Physical Address:	Umbra Building 55-59 Mark Street Upinton 8800
Tel:	(054) 338 5740
Fax:	(053) 331 0036

Vryburg

Physical Address:	Old Mutual Building 55 Market Street Vryburg 8600
Postal Address:	P O Box 891 Vryburg 8000
Tel:	(053) 927 2221
Fax:	(053) 927 2509

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Phuthaditjhaba

Physical Address:	Mampoi Street Shop No 1 Naledi Mall PHUTHADITJHABA 9866
Postal Address:	P O Box 5677 PHUTHADITJHABA 9866
Tel:	(058) 713 2974 (058) 713 2975
Fax:	(058) 713 2976

Newcastle

Physical Address:	No 58, Corner Allen & Scott Street Newcastle
Postal Address:	P.O.Box 1169 Newcastle
Tel:	(034) 326 3450
Fax:	(034) 326 3470

Mabopane

Physical Address:	2nd Floor, Room 334 Central House Mabopane
Postal Address:	P.O.Box 3165 Rosslyn 0200
Tel:	(012) 702 5458/ 4330
Fax:	(012) 702 8127

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PUBLIC PROTECTOR
SOUTH AFRICA

PUBLIC PROTECTOR
MOSIRELETSI WA BATHO ● MOSIRELETSI WA BATHO
MUSIRHELELI WA VANHU ● MUTSIRELEDZI WA TSHITSHAVHA
OPENBARE BESKERMER ● UMKHUSELI WABANTU ● UMVIKELI WABANTU

NATIONAL OFFICE
PRIVATE BAG X677 PRETORIA 0001● HILLCREST OFFICE PARK, 175 LUNNON ROAD, PRETORIA
TEL: (012) 366 7000● Fax: (012) 366 3473

PUBLIC PROTECTOR COMPLAINT FORM
RE: COMPLAINT IN TERMS OF SECTION 6(1)(a) PUBLIC PROTECTOR ACT, 1994

FOR OFFICE USE	
File Number.....	Institution(s):.....
BP Number.....	Subject:.....
Date received.....	Jurisdiction: ☐ Yes ☐ No ☐ Undecided
Received by.....	Request for urgency: ☐ Yes ☐ No

1. PERSONAL DETAILS

Full Names and Surname:.....

Title.....**Gender**.....**ID Number** | | | | | | | | | | | | | |

Pension / Persal Number (if relevant)

Residential Address: .....

.....

Postal Address: .....

.....

City:.....**Province:**.....**Postal Code**.....

Telephone Phone No: ..... ☐ Home ☐ Work ☐ Cell ☐ Other
(include area code)

Alternate Phone No: ..... ☐ Home ☐ Work ☐ Cell ☐ Other
(include area code)

Fax No: ..... **Email Address:**.....
(include area code)

If this complaint is for someone else, please provide their details:

Name..... **ID Number**.....

Tel No..... **Cell No** .....**Gender**.....

Address.....

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2. YOUR COMPLAINT

2.1 How did you hear about the Office of the Public Protector?

☐ Radio ☐ Newspaper ☐ Poster ☐ Friend ☐ TV ☐ Other

2.2 When did you first become aware of the problem:

Date.....Month.....year.....

If it is more than 2 years since you first became aware of the problem, please give reasons why you did not complain to the Office of Public Protector earlier.

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2.3 Which government agency is involved? *(Please identify by specific name)*

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2.4 Whom have you dealt with at the government agency?
(List any names, titles, Tel numbers or addresses and state when last did you contact them)

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2.5 Did you write to them/ did you receive any correspondence in writing?

☐ Yes ☐ No *(if yes please attach copies)*

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2.6 Please summarize your complaint.

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2.7 Please tell us about the steps you have taken to try and resolve this matter
(Please indicate any file or reference numbers and relevant dates)

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2.8 Did you report this matter to any other government agency? (E.g. Police, ICD, the Presidential Hotline, etc) ☐ **Yes** ☐ **No**

If yes, what was the result?

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2.9. Why do you believe the government agency's actions are unfair or improper?

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2.10 Describe how you would like the Office of the Public Protector to help you.

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2.11 If you consider the matter urgent, explain why.

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3. *COMMENTS BY THE INVESTIGATOR (IF ANY) (FOR OFFICE USE)*

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Complainant' signature: _____ **Date:** _____

SEND YOUR COMPLAINT FORM TO: OR
The Office of the Public Protector
Private Bag X677
Pretoria 0001

HAND DELIVERS TO:
Public Protector House, Hillcrest Office Park
175 Lunnon Road,
Hillcrest, Pretoria, 0001

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PUBLIC PROTECTOR
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

Reference: 7/2 –...

SUBPOENA IN TERMS OF SECTION 7(4) AND (5) OF THE PUBLIC PROTECTOR ACT, 1994

TO: [Name]
[Designation]
[Address]

The Public Protector is currently conducting an investigation into the complaint of [complainant's name] relating to the alleged [summary of the allegations].

The investigation is conducted in terms of the provisions of Chapter 9 of the Constitution of the RSA,1996 and the Public Protector Act, 1994.

In terms of section 7(4)(a) of the Public Protector Act, 1994 the Public Protector may direct any person to submit an affidavit or affirmed declaration or to appear before the Public Protector to give evidence or to produce any document in his or her possession or under his or her control which has a bearing on the matter being investigated, and may examine such person.

You are directed to appear before the Public Protector in terms of section 7(4)(a) of the Public Protector Act, 1994 for purposes of the above-mentioned investigation **on [date] at [time]. The venue is: [room], Office of the Public Protector, Hillcrest Office Park, 175 Lunnon Street, Hillcrest, PRETORIA.**

Please note that you will *inter alia* be required to give evidence on the following issues:
[list issues].

Please note further that you will be required to produce supporting documents in your possession or under your control which has a bearing on the matter being investigated, including:
[list documents].

Section 7(8) of the Public Protector Act, 1994 provides that you may be assisted during the examination by an advocate or attorney, and that you shall be entitled to peruse such documents or records as are reasonably necessary to refresh your memory.

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Should you have any enquiries, you can contact: [name of contact] at telephone number [...] or fax number [...].

_____
ADV T N MADOLNSELA
PUBLIC PROTECTOR
OF THE REPUBLIC OF SOUTH AFRICA

Date: _____

Warning:

Section 11 of the Public Protector Act, 1994 provides that any person that, without just cause, refuses or fails to comply with this direction shall be guilty of an offence and on conviction be liable to a fine not exceeding R40 000 or to imprisonment for a period not exceeding 12 months or to both such a fine and such imprisonment.

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