

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 949

14 SEPTEMBER 2018

PROTECTED DISCLOSURES ACT, 2000 (ACT NO. 26 OF 2000) REGULATIONS RELATING TO PROTECTED DISCLOSURES, 2018

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services, have under section 10 of the Protected Disclosures Act, 2000 (Act No. 26 of 2000) and, after consultation with the Minister for the Public Service and Administration, made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise indicates—
"the Act" means the Protected Disclosures Act, 2000 (Act No. 26 of 2000).

Protected disclosures to certain persons or bodies

2. (1) A disclosure contemplated in section 1 of the Act, can, in addition to the persons and bodies listed in section 8(1)(a), (aA), (aB), (aC), (aD) and (b) of the Act, also be made to the persons or bodies listed in Column 1 of Annexure A to these Regulations, in respect of the description of the matters ordinarily dealt with by the persons or bodies as set out in Column 2 of Annexure A to these Regulations.

(2) The practical guidelines contemplated in section 10(4) of the Act, must include the name and contact details of the person or person designated by a body to whom a protected disclosure can be made.

(3) If an employee or worker intends to make a disclosure of an impropriety which is based upon the same facts to two or more persons or bodies referred to in subregulation (1), he or she must inform each person or body to whom such a disclosure is made of that fact.

(4) Upon receipt of a disclosure contemplated in section 1 of the Act, the body or person who received the disclosure must, ascertain from the employee or worker making the disclosure whether a disclosure based on the same facts has been made to any other person or body and if so that person or body must inform the other person or body accordingly.

(5) If a disclosure contemplated in section 1 of the Act, which is based upon the same facts, is made to two or more persons or bodies, the persons or bodies concerned must take all reasonable steps to ascertain which person or body is going to conduct the investigation and inform the worker or employee, where possible, accordingly.

Short title

3. These regulations are called the Regulations Relating to Protected Disclosures, 2018.

ANNEXURE A

| COLUMN 1 Person/body to whom or which disclosure can be made | COLUMN 2 Description of matters ordinarily dealt with by person/body |
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| Anti-Intimidation and Ethical Practices Forum | Any alleged irregular or improper conduct or impropriety as observed by professionals in their work environment. |
| Chairpersons of Municipal Councils | Any alleged irregular or improper conduct or impropriety which has a bearing on a Municipal |

| COLUMN 1 Person/body to whom or which disclosure can be made | COLUMN 2 Description of matters ordinarily dealt with by person/body |
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| Competition Commission | Council. Any alleged irregular or improper conduct or impropriety with regard to the promotion and maintenance of competition in South Africa, including the control and evaluation of mergers, the investigation and prosecution of price fixing, fixing of trading conditions, market allocation, collusive tendering, restricted vertical practices and abuse of dominant positions. |
| Council for Debt Collectors | Any alleged irregular or improper conduct or impropriety with regard to the collection of debts. |
| Electoral Commission of South Africa | Any alleged irregular or improper conduct or impropriety with regard to free and fair elections of national, provincial and municipal legislative bodies. |
| Estate Agency Affairs Board | Any alleged irregular or improper conduct or impropriety with regards to the conduct of an estate agent regarding trust monies, and irregular transactions that are being conducted. |
| Executive Authority, as contemplated in the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No. 10 of 2009) | Any alleged irregular or improper conduct or impropriety which has a bearing on Parliament. |
| Financial and Fiscal Commission | Any alleged irregular or improper conduct or impropriety with regard to— (a) the equitable division of revenue raised nationally among the national, provincial and local spheres of government; (b) the determinations of each province's equitable share of the provincial share of that revenue; and (c) any other allocations to provinces, local government or municipalities from the national government's share of that revenue and any condition on which those allocations may be made. |
| Financial Intelligence Centre | Any alleged irregular or improper conduct or impropriety with regard to money laundering activities or the financing of terrorist and related activities. |
| Financial Sector Conduct Authority and the Prudential Authority | Any alleged irregular or improper conduct or impropriety with regard to financial institutions and the provision of financial services. |
| Independent Communications Authority of South Africa | Any alleged irregular or improper conduct or impropriety with regard to— (a) broadcasting in the public interest; (b) electronic communications in the public interest; and (c) postal matters in the public interest. |
| Independent Police Investigative Directorate | Any alleged irregular or improper conduct or impropriety by a member of the South African Police Service. |

| COLUMN 1 Person/body to whom or which disclosure can be made | COLUMN 2 Description of matters ordinarily dealt with by person/body |
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| Independent Regulatory Board for Auditors | Any alleged irregular or improper conduct or impropriety with regard to audits performed by registered auditors. |
| Information Regulator | Any alleged unlawful collection, retention, dissemination or use of personal information by public and private bodies. |
| International Trade Administration Commission of South Africa | Any alleged irregular or improper conduct or impropriety with regard to the import or export of goods and customs duties. |
| Judicial Inspectorate for Correctional Services | Any alleged irregular or improper conduct or impropriety with regard to the treatment of inmates in correctional centres and the conditions in correctional centres. |
| Judicial Service Commission | Any alleged irregular or improper conduct or impropriety by a judge of a superior court. |
| Magistrates Commission | Any alleged irregular or improper conduct or impropriety by a magistrate. |
| National Consumer Commission | Any alleged irregular or improper conduct or impropriety with regard to the social and economic welfare of consumers. |
| National Energy Regulator of South Africa | Any alleged irregular or improper conduct or impropriety with regard to the regulation of electricity, piped gas and petroleum pipeline industries. |
| National Gambling Board | Any alleged irregular or improper conduct or impropriety with regard to matters relating to casinos, racing, gambling and wagering. |
| National Prosecuting Authority | Any alleged irregular or improper conduct or impropriety with regard to the institution and execution of prosecutions. |
| Office of the Chief Justice | Any alleged irregular or improper conduct or impropriety with regard to the judicial arm of the government. |
| Pension Fund Adjudicator | Any alleged irregular or improper conduct or impropriety with regard to pensions or pension funds. |
| Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit | Any alleged irregular or improper conduct or impropriety with regard to corruption related misconduct cases in the Public Administration. |
| Special Investigating Unit | Any alleged irregular or improper conduct or impropriety with regard to the affairs of any State institution. |
| South African Board for Sheriffs | Any alleged irregular or improper conduct or impropriety by a sheriff. |
| South African Council for Educators | Any alleged irregular or improper conduct or impropriety by educators, lecturers or management staff of colleges appointed— (a) in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998); (b) in terms of the South African Schools Act, 1996 (Act No. 84 of 1996); |

| COLUMN 1 Person/body to whom or which disclosure can be made | COLUMN 2 Description of matters ordinarily dealt with by person/body |
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| | <ul style="list-style-type: none"> (c) in terms of the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006); (d) in terms of the Public Service Act, 1994 (Proclamation 103 of 1994); (e) at an independent school; or (f) at an adult learning centre. |
| South African Health Professions Council | Any alleged irregular or improper conduct or impropriety with regard to the health professions. |
| South African Legal Practice Council (when it is established) | Any alleged irregular or improper conduct or impropriety by a legal practitioner. |
| South African Nuclear Energy Corporation Ltd/ National Nuclear Regulator | Any alleged irregular or improper conduct or impropriety with regard to nuclear energy and radiation sciences and technology. |
| South African Qualifications Authority | Any alleged irregular or improper conduct or impropriety with regard to education and training. |
| South African Revenue Service | Any alleged irregular or improper conduct or impropriety with regard to tax and customs-related matters. |