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OFFICE OF THE PUBLIC PROTECTOR



PUBLIC PROTECTOR
SOUTH AFRICA

**PUBLIC PROTECTOR ACT NO. 23 OF 1994
RULES RELATING TO INVESTIGATIONS BY THE PUBLIC PROTECTOR AND MATTERS
INCIDENTAL THERETO, 2018**

The Public Protector of the Republic of South Africa has, under section 7(11) of the Public Protector Act No. 23 of 1994, made the Rules in the Schedule.

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CHAPTER 1 DEFINITIONS

Definitions

1. 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—

"complainant" means—

- (a) any person who lodges a complaint with the Public Protector; and
- (b) a person affected by any act or omission of a state institution that is under investigation by the Public Protector;

"complaint" means—

- (a) a matter reported to the Public Protector in terms of section 6(1) of the Act;
- (b) a complaint referred to in section 6(4), (5) and (7) of the Act; and
- (c) a matter reported or referred to the Public Protector in terms of other legislation that regulates the mandate of the Public Protector;

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

"day" means a calendar day, unless the last day of a specified period happens to fall on a Sunday or on any public holiday, in which case the time shall be calculated exclusive of that Sunday or public holiday in accordance with section 4 of the Interpretation Act, 1957 (Act No. 53 of 1957);

"office hours"—

- (a) in respect of offices of the Public Protector, means the hours between 08:00 and 16:00 on Monday to Friday, excluding public holidays; and
- (b) in respect of offices designated by the Public Protector, means the hours during which the offices are operating;

"Parties to a dispute" means the complainant and the state institution or an official or employee of the state institution involved in the complaint;

"Public Protector" means the person appointed as Public Protector in terms of section 193 of The Constitution and, depending on the circumstances, any person to whom the Public Protector has delegated powers in terms of the Act;

"state institution" means—

- (a) an institution or person referred to in section 6(4)(a) of the Act; and
- (b) an institution, entity or person referred to in section 6(5)(a) of the Act; and

"the Act" means the Public Protector Act No 23 of 1994

CHAPTER 2 PURPOSE OF RULES

Purpose of Rules

2. The purpose of these Rules is to promote and enhance access to the Public Protector by all persons who are concerned over conduct in state affairs and to facilitate cooperation by organs of state and other relevant persons to enhance the efficiency and effectiveness of investigations by clarifying—

- (a) procedures for the lodging of complaints in terms of section 6(1) of the Act with the Public Protector;
- (b) procedures for conducting investigations and resolving disputes or rectifying any act or omission in terms of section 6(4)(a) and (b) of the Act;
- (c) service standards applicable to the Public Protector in conducting investigations, resolving disputes or rectifying any act or omission;
- (d) time frames for the taking of actions provided for in these Rules;

- (e) time frames for persons and state institutions to respond to the findings of the Public Protector provided for in section 8(1) of the Act or a report referred to in section 8(2)(b) of the Act; and
- (f) the steps the Public Protector may take if a person or state institution fails to comply or adhere to stipulated time frames.

CHAPTER 3

LOGGING COMPLAINT WITH PUBLIC PROTECTOR

Service points where complaint may be lodged

- 3. (1) A person may lodge a complaint at—
 - (a) the national, provincial and regional offices of the Public Protector, but preferably in the area where the incident or conduct complained of, took place;
 - (b) any service point established by the Public Protector, including outreach clinics and outreach events conducted by the Public Protector or any person to whom the Public Protector has delegated powers in terms of the Act; and
 - (c) any other office designated by the Public Protector as a place where complaints may be lodged in terms of section 6 of the Act.
- (2) (a) The Public Protector may transfer a complaint for an investigation from the office where it was lodged to any other office, if he or she deems it fit.
- (b) The Public Protector shall in writing inform the complainant of any transfer in terms of sub-rule (a), within 14 days of the transfer.

Manner of lodging complaint

- 4. (1) A person may lodge a complaint with the Public Protector—
 - (a) orally, over the telephone or in person, during office hours, at any of the offices and service points of the Public Protector or any office designated by the Public Protector
 - (b) by completing the complaints form, contained in Annexure A to these Rules, which shall be available during office hours at the offices of the Public Protector and any office designated by the Public Protector;
 - (c) by completing online the complaints form available on the website of the Public Protector; and
 - (d) in writing, by means of a letter or statement addressed to the Public Protector at the contact details contained in Annexure B to these Rules.
- (2) The Public Protector shall, without charging any fee, assist a complainant to reduce an oral complaint to writing and verify the correctness thereof with the complainant.
- (3) (a) A complainant may lodge a complaint in any of the official languages referred to in section 6 of the Constitution.
- (b) The Public Protector shall ensure that a complaint lodged in any other official language is translated into English as the language of record.
- (4) The Public Protector may, if he or she deems it fit, in any particular matter require that a complaint lodged be made under oath or affirmation.

Information required when lodging complaint

- 5. (1) A complaint referred to in section 6(1) of the Act shall (subject to the provisions of sub-rule 5(4) and (5)) contain the following personal information in addition to the information required in section 6(1)(a) of the Act:
 - (a) The full names of the complainant;
 - (b) the physical and postal address of the complainant;
 - (c) the telephone and facsimile numbers of the complainant and his or her e-mail address, if available; and

- (d) any other information that identifies the complainant.
- (2) If a complaint is lodged on behalf of another person or organisation, the complaint shall contain the information required in sub-rule (1) in respect of that person or organisation.
- (3) A complaint shall contain the following additional information about the incident or matter concerned:
- (a) The place and date of the occurrence;
 - (b) particulars of the employees or officials of the state institution involved in the incident or matter concerned, if known;
 - (c) the names and addresses of any person who could provide information relevant to the complaint;
 - (d) information regarding other steps that he or she has taken in an attempt to resolve the complaint with the state institution concerned;
 - (e) an indication whether or not the same complaint was lodged with any other institution or authority and, if so, the outcome thereof;
 - (f) particulars of any person who was involved in an attempt to resolve the complaint;
 - (g) the remedial action sought or the outcome sought to be achieved by the investigation; and
 - (h) any other relevant information or documents that may be used during the investigation.
- (4) If a complaint lodged with the Public Protector contains any disclosure of information deemed to be a protected disclosure in terms of section 8(1)(a) of the Protected Disclosures Act, 2000 (Act No. 26 of 2000), the requirements of the said section and the Protected Disclosures Act, 2000, shall apply.
- (5) A complainant wishing to remain anonymous, does not need to include his/ her personal details as provided in sub-rule (1) above as long as sufficient information is provided about the incident or matter concerned as required in sub-rule (3).
- (6) A complaint lodged after two years from the occurrence of the incident or matter concerned, as provided for in section 6(9) of the Act, shall contain the following additional information:
- (a) The reasons for the delay in lodging a complaint;
 - (b) the special circumstances that will inform the Public Protector why the complaint must be investigated; and
 - (c) any other information that might assist the Public Protector in determining the availability of evidence, witnesses or records to facilitate the investigation.

Manner of submitting complaints to Public Protector

6. (1) When the complaints form, contained in Annexure A to these Rules, has been completed or where the complaint is contained in a letter or statement, the complaint must be addressed to the Public Protector at the contact details contained in Annexure B to these Rules.
- (2) A written complaint referred to in sub-rule (1) may be submitted to the Public Protector in the following manner:
- (a) By handing it in during office hours at any of the offices of the Public Protector or any office designated by the Public Protector, in which case the Public Protector shall give to the complainant proof of receipt of the complaint, in any manner the Public Protector deems fit;
 - (b) by faxing it to a designated fax number contained in Annexure B to these Rules, in which case the complainant shall keep proof that the facsimile was successfully dispatched; and
 - (c) by registered post, in which case the complainant shall keep proof that the complaint has been posted.
- (3) The Public Protector shall acknowledge receipt of the complaint within seven days after receipt thereof in any manner he or she deems fit.

Confidentiality of information

7. (1) The Public Protector shall treat the information received as a result of a complaint lodged or an investigation conducted as confidential and shall take reasonable steps to safeguard confidentiality.
- (2) Subject to sub-rule (3), the Public Protector shall disclose information in his or her possession or under his or her control, only to the extent necessary to—
- (a) carry out an effective investigation;
 - (b) resolve a dispute; or
 - (c) rectify an act or omission.
- (3) The Public Protector shall not disclose information about the identity or personal circumstances of the complainant, or information that could lead to the identification of the complainant, without the written permission of the complainant if—
- (a) the complainant requested that his or her personal particulars be kept confidential;
 - (b) the information is protected by the Protected Disclosures Act, 2000 (Act No. 26 of 2000), or any other legislation; or
 - (c) the Public Protector is of the opinion that confidentiality is required to prevent imminent risk or serious harm to any person.
- (4) The Public Protector shall, when the permission of the complainant is required in terms of sub-rule (3), inform the complainant if there is a risk that the complaint cannot be investigated or resolved without such consent.

CHAPTER 4

PROCESSING OF COMPLAINT LODGED WITH PUBLIC PROTECTOR

Delivery of documents and notices

8. (1) A notice or document that is required to be delivered in terms of these Rules is deemed to have been delivered on the intended recipient on the date linked to the method in question, as indicated below:
- (a) **Delivered by hand:** delivered by hand, during the normal business hours, shall be rebuttable presumed to have been delivered by a person duly authorised thereto by the Public Protector and received by the intended recipient at the time and date specified on the Public Protector's Return of Service;
 - (b) **Registered post:** shall be rebuttable presumed to have been received by the intended recipient within 14 days after the date of posting.
 - (c) **Transmitted by fax:** shall be rebuttable presumed to have been received by the addressee on the date of transmission as indicated on the facsimile transmission report;
 - (d) **Transmitted by email:** shall be rebuttable presumed to have been received by the intended recipient on the date of transmission as reflected on the sender's sent email records.
- (2) Where the person to be served keeps his residence or place of business closed and thus prevents the delivery by a person authorised thereto by the Public Protector from serving the process, it shall be sufficient service to affix a copy thereof to the outer or principal door or security gate of such residence or place of business or to place such copy in the post box at such residence or place of business.

- (3) Where such service has been effected in the manner prescribed by Rule 8(1)(a) above, a person authorised thereto by the Public Protector to effect service shall indicate in the return of service of the process:-
 - (a) the name of the person to whom it has been delivered; and
 - (b) the capacity in which such person stands in relation to the person, body corporate or institution affected by the process.
- (4) Where such service has been effected in the manner prescribed by Rule 8(3) above, a person authorised thereto by the Public Protector to effect service shall indicate or specify in the return of service of the exact process followed to serve the notices.
- (5) Unless the service of subpoena by email or fax is objected to by the intended recipient within five (5) days of transmission and there is an acknowledgement of receipt by the intended recipient or his/her personal assistant or secretary, the service shall be deemed to have been effected in accordance with Rules 8(1)(c) and 8(d) above.
- (6) A person authorised by the Public Protector to effect service by hand shall, on demand by the person upon or against whom process is served, exhibit to that person the original of the process.

Procedure followed after lodging complaint

9. (1) The Public Protector shall, within a reasonable period but not later than 30 days after receipt of the complaint, in writing inform the complainant whether or not he or she has accepted the complaint.
- (2) If the Public Protector is unable to comply with the time frame provided in sub-rule (1), he or she shall inform the complainant of the reasons therefore and indicate the period within which the complainant may likely be informed whether or not his or her complaint has been accepted.
- (3) If the Public Protector accepts the complaint, he or she shall within 30 days after receipt of the complaint—
 - (a) decide how the complaint will be dealt with, with reference to the options provided for in section 6 of the Act; and
 - (b) if the matter has been assigned to an investigator, inform the complainant of the investigator's name and contact particulars.
- (4) The Public Protector shall, if a complaint has been lodged against an incorrect state institution—
 - (a) investigate the complaint, if the Public Protector has jurisdiction over the complaint; and
 - (b) inform the complainant of the correct state institution to be investigated.

Decision of Public Protector relating to late lodging of complaint

10. (1) The Public Protector shall, when making a decision regarding the late lodging of a complaint provided for in section 6(9) of the Act, consider—
 - (a) the information provided by the complainant;
 - (b) the nature of the complaint, the reasons for the complainant's grievance and the redress being sought;
 - (c) the reason given by the complainant for the delay;
 - (d) whether the outcome of an investigation could rectify a systemic problem in the public administration;
 - (e) the likelihood of being able to investigate the matter due to the delay having regard to the nature of the allegations and the availability of information, evidence, witnesses and records; and
 - (f) any other relevant factor that the Public Protector regards as special circumstances.
- (2) The Public Protector shall, if he or she decides not to accept a complaint lodged after two years from the occurrence of the incident or matter concerned, inform the complainant in writing of—
 - (a) the decision;
 - (b) the reasons for the decision; and
 - (c) the remedy available to the complainant in terms of sub-rule (3).

- (3) A complainant who is dissatisfied with the decision of the Public Protector not to accept the late lodging of a complaint may request the Public Protector to reconsider the decision if there is new and relevant information that was not previously available and has a material effect on the decision made.

Refusal of Public Protector to investigate complaint

11. (1) The Public Protector shall, if he or she refuses to investigate a complaint in terms of section 6(3) of the Act, in writing inform the complainant of—
- (a) the decision;
 - (b) the grounds on which the decision is based; including—
 - (i) the situation where the Public Protector has decided that a matter falls outside his or her mandate and remit;
 - (ii) if in the assessment of the complaint it appears to him/ her that, having regard to all the circumstances of the case, any further investigation is unwarranted or unnecessary;
 - (iii) other discretionary reasons to decline the complaint as provided for in the Act, including complaints older than two years or the availability of alternative legal remedies,
 - (iv) where a matter is being or was dealt with by another public body or dispute resolution forum and an investigation by the Public Protector would lead to a duplication of efforts or resources;
 - (v) where a matter might be more appropriately dealt with by another public body or dispute resolution forum;
 - (vi) where the Public Protector has previously adjudicated the complaint or the issues raised therein to finality; and
 - (vii) where a court of law or similar dispute resolution forum has already adjudicated the complaint, the issues raised therein or the relief sought by the complainant; and
 - (c) the remedy available to the complainant in terms of sub-rule (2).
- (2) A complainant who is dissatisfied with the refusal of the Public Protector to investigate a complaint, may request the Public Protector to reconsider the decision if the complainant is able to submit information indicating that he or she has taken reasonable steps to exhaust the remedies referred to in section 6(3)(a) and (b) of the Act.

Advising complainant about appropriate remedies

12. The Public Protector shall, when advising the complainant regarding an appropriate remedy in terms of section 6(4)(b)(ii) of the Act, inform the complainant—
- (a) of the appropriate authority or body that he or she may approach to obtain the remedy or outcome being sought; and
 - (b) that he or she may seek further assistance from the Public Protector, within 30 days after receipt of this notice, if the matter remains unresolved and if the Public Protector has jurisdiction to proceed with an investigation.

Referral of complaint to, or by, public bodies or authorities

13. (1) When the Public Protector refers a matter to an appropriate public body or authority in terms of section 6(4)(c)(ii) of the Act, he or she shall—
- a) in writing inform the complainant thereof and that he or she may seek further assistance from the Public Protector if the matter remains unresolved; and
 - b) request the public body or authority concerned take steps to ensure that the complainant is kept abreast of progress made regarding the complaint.

CHAPTER 5

GENERAL ASPECTS RELATING TO INVESTIGATION OF COMPLAINT LODGED WITH PUBLIC PROTECTOR

Format of investigation

14. The format of an investigation is within the discretion of the Public Protector as envisaged in section 7(1)(b)(i) of the Act, but 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, producing any document or giving evidence in terms of section 7(4)(a) of the Act;
 - (d) obtaining records or documents relevant to the investigation which are in the possession or under control of a state institution; and
 - (e) proceedings before the Public Protector to obtain public input or comments on the subject matter.

Reporting of state institutions to executive authorities or Parliament, as the case may be

15. In addition to the action envisaged in Rules 25 and 26 below, the Public Protector may, if the state institution has not—
- (a) responded promptly, accurately, fully and within the specified time frame to the enquiries of the Public Protector as envisaged in Rule 24(2) below;
 - (b) complied with the Public Protector's directives issued by means of a subpoena in terms of section 7(5) of the Act; or
 - (c) informed the Public Protector of the reasons for any delay or requested an extension of the specified time frame,

report the matter to the executive authority of the state institution or member of the Provincial Executive Council concerned and, if the matter remains unresolved, to Parliament or the relevant Provincial Legislature to seek an intervention on the matter.

Legal assistance during investigation

16. (1) The parties to a dispute may obtain legal assistance for the purposes of the investigation to be conducted in terms of section 7 of the Act, but are obliged to personally provide any information, documents or evidence requested from them by the Public Protector.
- (2) Subject to sections 7(8) and (9) of the Act, parties to a dispute may be assisted by his or her legal representative, who may accompany a party to any proceedings of the Public Protector with the permission of the Public Protector and to the extent determined by the Public Protector.
- (3) The Public Protector shall, in exercising his or her discretion in terms of sub-rule (2), take into consideration the following factors:
- (a) The nature of the information or the evidence to be provided to the Public Protector;
 - (b) the complexity of the matter investigated or any specific aspect thereof;
 - (c) the seriousness of the matter investigated;
 - (d) the extent to which allowing legal representation will affect the timeous conclusion of the investigation or any part thereof; and
 - (e) any other factor which is, in the opinion of the Public Protector, relevant to the investigation.
- (4) Any person appearing before the Public Protector or his/her advocate or an attorney assisting during the examination, may be entitled to peruse such of the documents or records of any evidence in the possession of a member of the office of the Public Protector obtained during an investigation as are reasonably necessary to refresh his or her memory.

Circumstances under which Public Protector will request assistance from state institutions

17. The Public Protector may request assistance with an investigation in terms of section 7 of the Act from a state institution if—
- (a) the mandate of that state institution 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 state institution;
 - (c) the nature and the complexity of the matter warrant the assistance of that state institution; or
 - (d) a collaboration agreement exists between the Public Protector and the other state institution and the matter falls within the mandate of both, and that state institution agrees to such assistance.

Request for assistance by Public Protector

18. The Public Protector shall, if assistance in respect of an investigation is required from another state institution—
- (a) in writing request that institution for assistance; and
 - (b) negotiate with the head of the state institution concerned on the terms and conditions on which assistance is to be rendered.

Informing parties of assistance by state institutions

19. The Public Protector shall in writing inform the parties to a dispute of—
- (a) the state institution that will render assistance;
 - (b) the nature of the assistance to be rendered; and
 - (c) the reasons for approaching the state institution for assistance, once the Public Protector and the state institution have reached an agreement in this regard.

CHAPTER 6

CONDUCTING PRELIMINARY INVESTIGATION

Deciding on preliminary investigation

20. (1) The Public Protector shall, in respect of every complaint, decide whether it is necessary to conduct a preliminary investigation for the purposes of determining the merits of the complaint, allegation or information as provided for in section 7(1)(a) of the Act.
- (2) The Public Protector shall, if he or she decides to conduct a preliminary investigation, inform the complainant within 21 days after the decision.

Concluding preliminary investigation

21. (1) The Public Protector shall conclude a preliminary investigation within 30 days after notification of the complaint in terms of Rule 20(2) above.
- (2) The Public Protector shall, if the preliminary investigation cannot be concluded within the 30 period referred to in sub-rule (1), within 14 days of expiry of this period, in writing—
- (a) inform the complainant of this fact and the reasons for exceeding the timeframe; and
 - (b) of the time that it is likely to take to complete the preliminary investigation.

Procedure after conclusion of preliminary investigation

22. After the conclusion of a preliminary investigation, the Public Protector may—
- (a) decline to further investigate the complaint;
 - (b) decide to conduct an investigation in terms of section 7 of the Act;
 - (c) endeavour to resolve the dispute or rectify the act or omission in terms of section 6(4)(b) of the Act; or
 - (d) deal with the complaint in terms of section 6(4)(c)(ii) of the Act.

CHAPTER 7

COMPLIANCE WITH INFORMATION REQUESTS AND TIMELINES OF PUBLIC PROTECTOR

Responsibility of state institutions to co-operate with Public Protector

23. (1) In accordance with section 181(3) of the Constitution, and for the purposes of dealing with a complaint, assistance by state institutions to ensure the independence, impartiality, dignity and effectiveness of the Public Protector, includes the following:
- (a) Allowing the Public Protector prompt and full access to a state institution or an official or employee of that state institution for purposes of obtaining information;
 - (b) allowing the Public Protector prompt and full access to documents, records, data and material held by a state institution or an official or employee of that state institution;
 - (c) responding in accordance with the timelines, accurately and fully to the enquiries of the Public Protector in every complaint;
 - (d) attending meetings requested by the Public Protector for purposes of an investigation, resolving any dispute, or rectifying any act or omission;
 - (e) complying with a notice or directive issued by the Public Protector in terms of section 7(4) and (5) of the Act and co-operating with any examination by the Public Protector;
 - (f) complying with constitutional responsibilities, particularly section 182(1)(c) of the Constitution, after the Public Protector has made findings and issued a report directing remedial action; and
 - (g) respecting agreements reached through appropriate dispute resolving processes.

Attaining co-operation during investigations

24. (1) When the Public Protector requires information from a state institution for purposes of an investigation, he or she shall in writing—
- (a) inform the state institution of the investigation;
 - (b) advise the state institution if the investigation is conducted in terms of legislation other than the Act; and
 - (c) indicate to the state institution what information is required and the format thereof.
- (2) Where a state institution receives correspondence from the Public Protector, including a request for information, a notice in terms of section 7(9) of the Act or a provisional report, it must submit a written reply or written substantive reply, as the case may be, except where the Public Protector specifies otherwise, within the following time limits:
- (a) A written reply, including an acknowledgement of receipt within three days of the receipt of a request for information;
 - (b) a substantive written reply with the requested information, documents or comments relating to investigations conducted in terms of the Executive Members' Ethics Act, 1998 (Act No. 82 of 1998), within 14 days of the receipt of such a request;
 - (c) a substantive written reply with the requested information, documents or comments relating to investigations conducted in terms of the Act, within 30 days of the receipt of such a request; and
 - (d) a substantive written reply on a notice or a provisional report released to the state institution in terms of section 7(9) of the Act, within 10 days of the receipt of such a notice or report.
- (3) Where the state institution has failed to submit a reply within the timeframes referred to in sub-rule (2), the Public Protector may direct the state institution concerned to submit a substantive reply, which reply must be received not later than seven days from the date of the directive.
- (4) The Public Protector shall address a request for information referred to in sub-rule (1) to—
- (a) the executive authority of the state institution as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (b) the head of the state institution; or
 - (c) a person, official or employee designated by the head of the state institution for the purposes of dealing with requests for information from the Public Protector.

Refusal or failure to co-operate with Public Protector

25. (1) Where an official or employee of a state institution refuses to co-operate with the Public Protector, or fail to comply with a subpoena issued in terms of section 7(5) of the Act, the Public Protector may invoke the provisions of section 9 of the Act and institute proceedings contemplated in section 11 of the Act.
- (2) Where an official or employee of a state institution fails to comply with a directive issued in term of rule 23(1)(e) or otherwise fails to co-operate with the Public Protector, the Public Protector may request the head of that institution to take such action against that official or employee as he or she considers appropriate, with or without a recommendation for corrective or disciplinary action provided for in the legislation, regulations or code regulating the conduct of such an official or employee.

Contempt of the Public Protector

26. (1) If the Public Protector is satisfied that a person has acted in a manner that constitutes contempt of the Public Protector as envisaged in terms of section 9(1) of the Act, he or she may report the matter to the South African Police Service or apply to the High Court, by notice of motion supported by an affidavit in terms of the Uniform Rules of Court—
- (a) for an order that the person(s) be declared in contempt of Court/ the Public Protector; and
 - (b) that the Court deals with him or her in terms of section 9(1)(b) of the Act in any manner in which it could have dealt with him or her if he or she had committed contempt in relation to the High Court.
- (2) The condition is that the person—
- (a) has insulted the Public Protector or the Deputy Public Protector;
 - (b) has done an act in connection with an investigation which, if the said investigation had been proceedings in a court of law, would have constituted contempt of court.
- (3) If the Public Protector lodges an application under sub-rule (1), the proceedings shall commence by—
- (a) a notice in terms of the Uniform Rules of Court served upon the person(s) concerned;
 - (b) containing particulars of conduct alleged to constitute contempt of the Public Protector;
 - (c) calling on the person to appear before the court; and
 - (d) to show just cause why he or she should not be punished summarily for the alleged action as contempt of the Public Protector.

CHAPTER 8**CONDUCTING OF PROCEEDINGS BEFORE PUBLIC PROTECTOR****Scope of Chapter**

27. This Chapter covers proceedings before the Public Protector which requires the attendance of one or more persons pertaining to any investigation and dispute resolving process.

Circumstances under which Public Protector conducts proceedings

28. The Public Protector may decide to conduct proceedings under the circumstances he or she deems fit, including the following:

- (a) When prior attempts at resolving a dispute are not feasible, or have failed and the Public Protector is of the opinion that such proceedings will enable him or her to conclude an investigation or obtain an appropriate resolution of the complaint;
- (b) if the Public Protector deems it in the public interest to hold such proceedings; or
- (c) if in the opinion of the Public Protector the complaint cannot be fairly decided only on the basis of documentary evidence or written statements submitted by the parties to a dispute or any other person having information relevant to the investigation or complaint.

Notice of proceedings

29. (1) The Public Protector shall give the parties to a dispute and other person whose attendance before the Public Protector is required, notice of the intended proceedings by means of –
- a) a subpoena in terms of section 7(5) of the Act; or
 - b) a notification on a form which substantially corresponds with the form provided for in Annexure E to these Rules.
- (2) The notice referred to in sub-rule (1) shall be issued at least 14 days before the date of such proceedings, unless the parties and persons concerned agree to a shorter period.
- (3) The notice referred to in sub-rule (1) shall contain the following information:
- (a) The place where the proceedings will be held;
 - (b) the date and time of the proceedings;
 - (c) the aspects in respect of which evidence will be required;
 - (d) the names of the other persons who will attend the proceedings and who will give evidence;
 - (e) an invitation to the parties to the dispute to bring any person who has personal knowledge about the issues in respect of which evidence is to be given at the proceedings;
 - (f) an indication whether or not a person who will attend the proceedings shall bring any document to such proceedings; and
 - (g) any other information which the Public Protector deems fit.
- (4) The notice referred to in sub-rule (1) may be submitted to the person concerned in any manner—
- (a) having regard to the date of the proceedings; and
 - (b) ensuring that the person receives the notice or information.
- (5) The Public Protector shall keep proof of receipt of the notice referred to in sub-rule (1).

Failure to participate in proceedings

30. (1) The Public Protector may, if a party to a dispute is absent at proceedings—
- (a) continue with the proceedings; or
 - (b) postpone the proceedings.
- (2) The Public Protector shall, if a party to a dispute or a person who has been notified to be present at the proceedings, is absent at the proceedings, issue a subpoena in terms of section 7 of the Act, in the form of Annexure C to these Rules, to compel the person to attend such proceedings and to give evidence or to produce a document during the proceedings, if the proceedings cannot be concluded without his or her attendance.
- (3) (a) The Public Protector may dismiss a complaint if the complainant fails to comply with or participate in proceedings in accordance with the provisions of these Rules.
- (b) The Public Protector shall, in writing, notify both parties to a dispute of the dismissal and the reasons therefore.

Persons allowed to attend proceedings

31. (1) The following persons may attend proceedings conducted in terms of Chapter 8 of these Rules:
- (a) A person who reported a complaint to the Public Protector in terms of section 6(1) of the Act;

- (b) the investigator or any person designated by the Public Protector to lead evidence during the proceedings;
 - (c) a person required to provide assistance to the Public Protector;
 - (d) a person authorised to conduct an investigation on behalf of the Public Protector in terms of section 7(3)(b)(i) of the Act;
 - (e) a person required to give evidence or to produce any document or record to the Public Protector;
 - (f) an advocate or attorney who is legally assisting the person appearing before the Public Protector and
 - (f) a person employed by a state institution and authorised to assist the state institution.
- (2) Any person other than the persons referred in sub-rule (1) may attend proceedings with the permission of the Public Protector.

Nature of proceedings

- 32.** (1) The Public Protector shall conduct proceedings pertaining to an investigation in an inquisitorial manner.
- (2) Subject to section 7(9)(b)(ii) of the Act, a party to a dispute may, with the permission of the Public Protector and through the Public Protector put questions to any witness at proceedings pertaining to an investigation.
- (3) In proceedings not instituted by means of a subpoena issued by the Public Prosecutor in accordance with the Act, the parties to a dispute may, in respect of representations made to the Public Protector during the proceedings, ask questions in order to clarify any uncertainties.
- (4) The Public Protector or any person designated by him or her in terms of section 7(3)(b)(i) of the Act may at any stage of the proceedings—
- (a) put any relevant 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; or
 - (d) in any other appropriate manner elicit information from a witness.
- (5) The parties to a dispute must act in good faith and refrain from any actions or conduct that might be construed as offensive or defamatory.

Procedures before commencement of proceedings

- 33.** (1) The Public Protector shall explain to the parties and witnesses, before the commencement of the proceedings—
- (a) the purpose of the proceedings;
 - (b) the inquisitorial nature of the proceedings; and
 - (c) the procedures which will be followed at the proceedings.
- (2) The proceedings and any correspondence pertaining to such proceedings are 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 proceedings unless the Public Protector and all parties so agree in writing.

Procedures at commencement of proceedings

- 34.** (1) At the commencement of the proceedings, the Public Protector shall summarise the complaint and the issues to be decided during such proceedings and determine the order for the leading of evidence.
- (2) The Public Protector shall make a determination about any submission, declaration, explanation, information, statement, and any other evidence to be disclosed at the proceedings.
- (3) (a) The Public Protector may direct that evidence be taken behind closed doors if he or she is of the opinion that it is in the interest of the proceedings to do so, after having allowed both parties a reasonable opportunity to address the Public Protector behind closed doors.

- (b) The Public Protector may give directions in respect of the disclosure or publication of any information or evidence obtained behind closed doors.
- (4) The Public Protector may give directions on any other aspect of the proceedings to facilitate and promote co-operation by the parties and to ensure that the proceedings are conducted in an expeditious manner.

Procedures during proceedings

35. (1) The Public Protector may hear evidence from any person, in such manner as the Public Protector deems fit, at any office of the Public Protector, the premises of a state institution or any other place determined by the Public Protector.
- (2) The Public Protector may, if he or she deems it necessary, administer an oath or accept an affirmation from any person appearing as a witness.
 - (3) The Public Protector shall take any step he or she deems necessary to establish the truth, correctness and relevance of any submission, declaration, explanation, information, statement or any other evidence.
 - (4) 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.
 - (5) (a) The parties shall, subject to rule 32, be given a reasonable opportunity to respond to the evidence given at the proceedings.
(b) A party may, in responding to the evidence given at the proceedings, provide information or an explanation by giving evidence, calling witnesses and handing in documents and submissions.
(c) The Public Protector may decide whether sufficient evidence has been given to conclude the investigation or resolve the dispute and order that no further evidence shall be given.
 - (6) The parties to the dispute shall be given a reasonable opportunity to make a closing statement and to present, if they so require, further arguments in writing.
 - (7) The Public Protector shall conclude the proceedings by informing the parties to the dispute of further steps to be taken in the investigation or the resolving of the complaint.

Conditions for joining, substituting or adding parties to proceedings

36. (1) The Public Protector may of own accord or on the request in writing by a party or any other person, join, substitute or add any number of persons or state institutions as parties in the proceedings—
- (a) if the outcome of the complaints depends on substantially the same question of law or fact; or
 - (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 request to join, substitute or add a person or institution as a party in the proceedings must contain the following:
 - (a) The grounds for the application;
 - (b) full particulars of the person or state institution concerned; and
 - (c) any additional documents determined by the Public Protector.
 - (3) (a) *The Public Protector may, on request of any party to the proceedings, and if it is in her or his opinion necessary, allow that an existing party be substituted for another.*
(b) The Public Protector may give appropriate directions as to the further procedure in the proceedings.
 - (4) The Public Protector shall on receipt of a request for the joining, substitution or adding of any number of persons or state institutions as parties, in writing inform all affected parties and

persons of the request and give that parties or persons the opportunity to make representations on the issue.

- (5) The joining, substitution or adding of persons or state institutions in the proceedings in terms of these Rules does not affect any steps already taken in these proceedings, except if the Public Protector determines otherwise.

Consolidation of complaints

37. The Public Protector may, of own accord or on a request in writing by a party to a dispute consolidate two or more complaints and deal with these complaints in the same proceedings.

CHAPTER 9

GENERAL ASPECTS IN RESOLVING COMPLAINTS

Complaint resolution processes and techniques

38. (1) The Public Protector shall endeavour to resolve a complaint in accordance with the manner provided for in section 6 of the Act, by initiating processes and techniques to—
- (a) mediate between the parties and to encourage a dialogue to move the parties towards an understanding of each other's position and a mutually acceptable outcome;
 - (b) act as a conciliator between the parties separately, or in joint sessions or proceedings, in an attempt to reach a mutually acceptable outcome; or
 - (c) negotiate with the parties with a view to clarifying or identifying the issues in a dispute, facts or the law, to provide a neutral evaluation or provisional opinion of the matter, or negotiate issues for potential agreement or remedial action to be taken.
- (2) The Public Protector may resolve a complaint by mediation, conciliation, negotiation or any other means appropriate in the circumstances, or any combination thereof.

Facilitation of resolution

39. (1) The Public Protector may, in order to expedite and facilitate the achievement of a mutually acceptable outcome—
- (a) express an opinion on the merits of the complaint or aspects thereof; or
 - (b) advise the parties to the dispute on any appropriate course of action.
- (2) Any dispute resolution sessions or proceedings shall be held at the office of the Public Protector in the province where the complaint or matter arose, unless the Public Protector directs otherwise.

Implementation of resolution

40. (1) Once the parties to a dispute reach an agreement for the resolution of the complaint, the Public Protector shall ensure that such an agreement is reduced to writing and signed by the parties immediately or within seven days after resolving the issue.
- (2) The agreement shall include time frames for compliance and the Public Protector shall monitor the implementation thereof.
- (3) If any of the parties to a dispute fail to honour the agreement or to comply with any of their obligations in terms of the agreement, the Public Protector may—
- (a) proceed with the investigation of the complaint;
 - (b) make a determination on the complaint and report on the matter in terms of section 182(1)(b) of the Constitution; or
 - (c) refuse to deal with the complaint any further.

CHAPTER 10 CONCLUSION OF COMPLAINT

Conclusion of complaint

- 41.** A complaint is concluded under the following circumstances:
- (a) If the matter is resolved by means of mediation, conciliation or negotiation provided for in section 6(4)(b)(i) of the Act, and a settlement agreement has been signed by both parties and the terms thereof are implemented;
 - (b) When the Public Protector reports his or her findings, point of view or directions in respect of an investigation to the complainant and the state institution concerned in terms of section 8(1) of the Act; or
 - (c) When the Public Protector submits a report to Parliament on the findings of a particular investigation in terms of section 8(2)(b) of the Act and section 182(1)(c) of the Constitution.

Affording opportunity to complainant to make representations before finalising complaint

- 42.** (1) When the Public Protector intends concluding a complaint by means of a closing report provided for in rule 41(b), the complainant shall be informed in writing accordingly and be given an opportunity to make representations in connection with the intended closure of the complaint within 14 days of delivery of the notification.
- (2) The Public Protector may, if the complainant has not responded within the prescribed time frame of 14 days, proceed with the closing of the file.

Adverse findings of Public Protector

- 43.** (1) The Public Protector shall, if it appears that any person or state institution is implicated in a complaint being investigated, before reporting on or publishing any adverse findings pertaining to that person, in writing inform the person or organ of state accordingly and give the person or state institution a reasonable opportunity subject to the timeframes specified in rule 24(2), to bring any evidence or information having the potential to influence the findings of the Public Protector, to her or his attention.
- (2) Where the Public Protector intends to conclude a matter by means of a report to the National Assembly in accordance with rule 41(c), he or she must notify the affected person or state institution of his or her intended findings on issues investigated in order to provide the recipients thereof and any person implicated therein an opportunity to respond to such findings within the timeframes specified in rule 24(2).

Monitoring of agreement and remedial action to be taken

- 44.** (1) The Public Protector shall, if remedial action has to be taken in terms of section 182(1)(c) of the Constitution by a state institution, determine a time frame within which the state institution must provide him or her with an action plan on how and within what timelines the remedial action will be implemented.
- (2) The Public Protector shall monitor the implementation of—
- (a) any remedial action taken by the state institution involved in accordance with an action plan that was provided in terms of sub-rule (1); or
 - (b) an agreement that was reached between parties to resolve the complaint.
- (3) The Public Protector may, if remedial action is not complied with within the relevant time frame or the terms of an agreement to resolve the matter are 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 in terms of section 8(2)(b)(iii) of the Act, read with sections 181(3), 42(3) and 55(2) of the Constitution; or
- (c) proceed with contempt proceedings against the person who failed and/or refused and/or neglected to comply with the remedial action.

Grounds for requesting internal review for decision to close an investigation or refuse to investigate a complaint

- 45.** (1) Complainants who are dissatisfied with a decision of any official of the Office of the Public Protector or the Public Protector to close or refuse the investigation of a complaint, may, except where the Public Protector has released a final report in terms of 182(1)(b) of the Constitution, 1996 and Sections 8(1) of the Act, request an internal review of that decision if—
- (a) the complainant is of the opinion that a decision is wrong because it was made based on incomplete or inaccurate evidence or information that contained inaccurate facts, and he or she can show this using readily available information; or
 - (b) there is new and relevant information that was not previously available and has a material effect on the decision made.
- (2) A request for an internal review of a decision must be made in writing on a form that is available from any of the offices of the Public Protector, within ninety (90) days of being informed of the decision.
- (3) The review will be considered by the Public Protector or his/her delegated official.
- (4) The person adjudicating the review application shall consider:
- a) the process adopted by the investigating team and whether it was fair and adequate to address all the complaint issues raised with the Public Protector,
 - b) the merit of the investigating team's conclusions, and
 - c) whether the decision was properly explained to the complainant(s).
- (4) After reviewing the matter the Public Protector may:
- a) uphold the original decision;
 - b) change the original decision; or
 - c) send the matter back to the original or another investigating team for further investigation or a better explanation.
- (5) Should the complainant still not be satisfied with the decision of the Public Protector, he or she may, within thirty (30) days of receipt of the decision, approach any competent court with jurisdiction to review the decision to close the investigation or refuse to investigate a complaint.

CHAPTER 11

GENERAL PROVISIONS

Recording of proceedings and investigation

- 46.** (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 shall, 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 investigation

47. (1) Investigations and proceedings in terms of the Act and these Rules may be conducted in any of the official languages referred to in section 6 of the Constitution.
- (2) The official language of record for the investigation or the proceedings shall be in English.
- (3) A party who requires the services of an interpreter during any stage of the proceedings in terms of the Act shall give reasonable notice to the Public Protector who shall make the necessary arrangements.

Contact particulars of Public Protector and Customer Care Service

48. A person who is dissatisfied with the services of the Office of the Public Protector or the manner in which his or her complaint has been handled by the Office of the Public Protector may approach the Customer Care Service at the Head Office of the Public Protector in Pretoria at the addresses provided in Annexure B to these Rules.

Short title and commencement

49. These Rules are called the *Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018*, and shall come into operation on2018.



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

—
 NATIONAL OFFICE

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

Annexure A

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: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>
Received by.....	Undecided
	Request for urgency: <input type="checkbox"/> Yes <input type="checkbox"/> No

1. PERSONAL DETAILS

Full Names and Surname:.....

Title.....Gender.....ID
Number

Pension / Persal Number (if relevant)

Residential Address:

.....

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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.....
.....
.....

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)*

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 HAND DELIVERS TO:

*The Office of the Public Protector
Private Bag X677
Pretoria 0001*

*Public Protector House, Hillcrest Office
Park
175 Lunnon Road,
Hillcrest, Pretoria, 0001*



Annexure B to the Public Protector Rules

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 and regional offices of the Public Protector

Gauteng

Physical Address:	Lara's Place 187 Bree Street Corner Bree and Rissik Street Johannesburg 2000
Postal Address:	P O Box 32738 Braamfontein 2017
Telephone Numbers:	(011) 492 2807 (011) 492 2493 (011) 492 2821 (011) 492 2825 (011) 492 2801 (011) 492 2806
Fax:	(011) 492 2365

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

Kwa-Zulu Natal

Physical Address: 22nd Floor
Suite 2114,
Commercial City Building
Durban

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 5712

(015) 295 5699

(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 6185

(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 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

Mthatha

Physical Address:	No. 6 Knorf Street Fortgale Mthatha 5099
Postal Address:	PO Box 7208 Mthatha 5099
Tel:	(047) 531 3773/4/5
Fax:	(047) 531 3776

Rustenburg

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

Musina

Physical Address:	Viyas Centre 1 Hans van der Merwe Avenue Musina 0900
Postal Address:	P O Box 1600 Musina 0900
Tel:	(071) 4610483
Fax:	0865352353

Upington

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

Klerksdorp

Physical Address:	P C Pelsers Building 8 th Floor Cnr Anderson and Voortrekker Street Klerksdorp 2571
Tel:	073 5759652

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

Pietermaritzburg

Physical Address:	Assupol Building 1 st Floor 221 Pietermaritzburg Street Pietermaritzburg 3200
Tel:	(033) 3460718
Fax:	(033) 346 0802



PUBLIC PROTECTOR
MOSIRELETSI WA BATHO • MOSIRELETSI WA BATHO
MUSIRHELELI WA VANHU • MUTSIRELEDZI WA VHATHU
OPENBARE BESKERMER • UMKHUSELI WABANTU • UMPIKELI WABANTU

NATIONAL OFFICE
PRIVATE BAG X 677 PRETORIA 0001 • HILCREST OFFICE PARK, 175 LUNNON STREET, HILCREST, 0083
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Annexure C to the Public Protector Rules

Reference: 7/2 –...

SUBPOENA IN TERMS OF SECTION 7(4) AND (5) OF THE PUBLIC PROTECTOR ACT, 1994, AND THE RULES RELATING TO INVESTIGATIONS BY THE PUBLIC PROTECTOR AND MATTERS INCIDENTAL THERETO, 2018

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, with the permission of the Public Protector and to the extent determined by the Public Protector in terms of Rule 16 of the *Rules relating to Investigations by the Public Protector and Matters incidental thereto, 2018*, and that you shall be entitled to peruse such documents or records as are reasonably necessary to refresh your memory.

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

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.



PUBLIC PROTECTOR
MOSIRELETSI WA BATHO • MOSIRELETSI WA BATHO
MUSIRHELELI WA VANHU • MUTSIRELEDZI WA VHATHU
OPENBARE BESKERMER • UMKHUSELI WABANTU • UMWIKELI WABANTU

NATIONAL OFFICE

PRIVATE BAG X 677 PRETORIA 0001 • HILCREST OFFICE PARK, 175 LUNNON STREET, HILCREST, 0083

TEL: (012) 366 7000 • FAX: (012) 362 3473

ANNEXURE D to the Public Protector Rules

Reference: 7/2 –...

[name of person authorised]

[address of person authorised]

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

TO: [name of person authorised]

You are hereby authorised to serve a subpoena in terms of section 7(5) of the Public Protector Act, 1994, and commanded to serve the attached subpoena on:

NAME: [name]

[designation]

ADDRESS: [physical address]

and to direct him/her to appear before the Public Protector in terms of section 7(4)(a) of the Public Protector Act, 1994, **on [date] at [time] at [room], Office of the Public Protector, Hillcrest Office Park, 175 Lunnon Street, Hillcrest, Pretoria** to provide the Public Protector with the information set out in the attached subpoena,

and to provide the Public Protector with a return of service.

Please inform [name of person being subpoenaed] that 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.

**PUBLIC PROTECTOR
OF THE REPUBLIC OF SOUTH AFRICA**
Date: _____

Return of service

I, the undersigned, certify that I have served this subpoena on the person concerned by delivering the original thereof *to her/him personally or*.....

at: [address of service]

TIME:.....

DATE:.....

.....

SIGNATURE OF RECIPIENT

.....

SIGNATURE OF AUTHORISED PERSON

[name]

[name]

[designation/capacity]



Annexure E to

7/2 –

Control document

NOTICE TO PARTIES TO ATTEND A HEARING BY THE PUBLIC PROTECTOR IN TERMS OF THE PUBLIC PROTECTOR ACT, 1994 AND RULES RELATING TO INVESTIGATIONS BY THE PUBLIC PROTECTOR AND MATTERS INCIDENTAL THERETO, 2018

ON/ RELATING TO (SUBJECT)

.....

NOTICE

Pursuant to receiving/ identifying allegations or suspicions of, notice is hereby given that the Public protector will hold an Investigative Hearing on (date)

The Public Protector is issuing this notice in terms of Rule 29 of the *Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018*,to inform -

..... (the parties)

.....

.....

that their presence is required in terms of section 7 of the Public Protector Act for the purposes of attending a public hearing on and 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.

The hearing will be conducted in terms of Chapter 8 of the *Rules Relating to Investigations by the Public Protector and Matters Incidental thereto, 2018* (the Public Protector Rules).

In terms of Rule 31 of the Public Protector Rules the Public Protector has determined that the following parties are allowed to attend the hearing:

.....Complainant

.....Witnesses

-Representatives of Institution(s) concerned
-Legal representatives of the parties
- Persons directly affected by the matter which is the subject of the hearing

DATES:

The hearing will be held on ,,,, , 20..., from..... a.m. to (EST).

ADDRESSES:

The hearing will be at the

FOR FURTHER INFORMATION CONTACT:

Details of investigator / contact person

.....

PUBLIC PROTECTOR

SOUTH AFRICA

Date:

Return of service:

I (full names)..... confirm receipt of the notice issued by the Public Protector to attend an investigative hearing on..... at

Signature

Date: