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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

ECONOMIC DEVELOPMENT DEPARTMENT

NO. 1227

12 NOVEMBER 2018

AMENDMENT TO REGULATION 15 OF THE RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION COMMISSION**INVITATION FOR THE PUBLIC TO COMMENT ON THE AMENDMENT TO REGULATION 15 OF THE COMPETITION COMMISSION RULES**

I, Ebrahim Patel, Minister of Economic Development, hereby publish in terms of section 21(4) of the Competition Act, 1998 (Act No. 89 of 1998), the draft amendment to Regulation 15 of the Competition Commission rules for public comment.

Interested persons must submit written comments on the proposed amendment to Regulation 15 of the Competition Commission rules not later than thirty (30) days from the date of publication of this notice to:

The Director General
Economic Development Department
Private Bag X 149
Pretoria
0001

For attention: Ms T Mushi (ministry@economic.gov.za)



EBRAHIM PATEL
MINISTER OF ECONOMIC DEVELOPMENT
DATE: 7 NOVEMBER 2018

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

AMENDMENT TO RULE 15 OF THE COMPETITION COMMISSION RULES**Amendment of rule 15 of the Competition Commission Rules**

Rule 15 is hereby amended as follows —

15. Access to information

- (1) Subject to sub-rule (5), any **[Any]** person, upon payment of the prescribed fee, may inspect or copy any Commission record—
 - (a) if it is not restricted information; or
 - (b) if it is restricted information, to the extent permitted, and subject to any conditions imposed, by
 - (i) this Rule; or
 - (ii) an order of the Tribunal, or the Court.
- (2) In a particular complaint the Commission may release otherwise restricted information, other than confidential information, relating to a

possible agreement of terms of an appropriate order, or the consent of a complainant for an order to include an award of damages, to—

- (a) The respondent; or
 - (b) Any person who has filed Form CT 3 in respect of that complaint.
- (3) In addition to the provisions of sub-rule (1) and (2), the Commission may release restricted information to, or permit access to it by, only the following persons:
- (a) the person who provided that information to the Commission;
 - (b) the firm to whom the confidential information belongs;
 - (c) a person who requires it for a purpose mentioned in section 69 (2)(a) or (b);
 - (d) a person mentioned in section 69 (2)(c);
 - (e) the Minister, if the information concerns a merger;
 - (f) the Minister of Finance, if the information concerns a merger referred to in section 18 (2); or
 - (g) any other person, with the written consent of the firm to whom the information belongs.
- (4) When the Commission submits a Complaint Referral to the Tribunal, makes a recommendation to the Tribunal in respect of a large merger, or supplies any other information to the Tribunal, the Minister, or the Minister of Finance, the Commission must identify any information included in its submission—

- (a) in respect of which a claim has been made in terms of Section 44, that has not yet been determined by the Tribunal; or
 - (b) that has been finally determined to be confidential information.
- (5) Sub-rule (1) does not apply to a record if—
 - (a) that record is requested—
 - (i) for the purpose of proceedings in criminal or civil proceedings or proceedings before an administrative body, including the Competition Tribunal; and
 - (ii) after the commencement of the proceedings referred to sub-paragraph (i); and
 - (b) the production of or access to that record for the purpose referred to in paragraph (a) is provided for in, or may be determined in terms of, any other law or the rules of any court or administrative body, including the rules of the Competition Tribunal.
- (6) Any record obtained in a manner that contravenes sub-rule (5) is not admissible as evidence in the proceedings referred to in that sub-rule unless the court or administrative body, as the case may be, determines that the exclusion of the record in question would, in its opinion, be detrimental to the interests of justice.

ECONOMIC DEVELOPMENT DEPARTMENT

EXPLANATORY NOTE:

RATIONALE FOR THE AMENDMENTS

The rationale for the amendments is to bring Rule 15 in line with section 7 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) (PAIA) as the policy considerations underlying section 7 of PAIA justifies the introduction of similar qualifications in Rule 15.

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To confirm the legitimacy of purchase orders, please contact:

Anna-Marie du Toit (012) 748-6292 (Anna-Marie.DuToit@gpw.gov.za) and

Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

