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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

ECONOMIC DEVELOPMENT DEPARTMENT

NO. 64

25 JANUARY 2019

THE AMENDED REGULATION 15 OF THE RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION COMMISSION

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 amended Regulation 15 of the Competition Commission rules.

The draft amendment to Regulation 15 of the Competition Commission rules was published for public comments in the Government Gazette No. 42030 on 12 November 2018.

The amended Regulation 15 of the Competition Commission rules shall come into effect on the date of publication of this Government Notice.



EBRAHIM PATEL
MINISTER OF ECONOMIC DEVELOPMENT

DATE: 18 JANUARY 2019.

RULE 15 OF THE COMPETITION COMMISSION RULES**15. Access to information**

- (1) Subject to sub-rule (5), 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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Siraj Rizvi (012) 748-6380 (Siraj.Rizvi@gpw.gov.za)

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