

COMPANIES REGULATIONS
DRAFT FOR PUBLIC COMMENT 21 DECEMBER 2009

Chapter 7 - Complaints, Applications and Tribunal Hearings : Part E - Tribunal Proceedings

Regulation 162

- (2) A person who terminates their representative's authority to act in any proceedings, and then acts in person or appoints another representative, must notify the recording officer and every other party of that termination, and of the appointment of another representative, if any, and include that representative's particulars, as set out in subrule (1).
- (3) On receipt of a notice in terms of sub-regulation (1) or (2), the address of the representative or the party, as the case may be, will become the address of record for notices to and for service on that party of all documents in the proceedings.
- (4) Despite sub-regulation (3), a person who, before receiving a notice in terms of sub-regulation (1) or (2), has sent a notice to, or effected service on, a party somewhere other than at the address of record will be deemed to have validly served that item, unless the Tribunal orders otherwise.
- (5) A representative in any proceedings who ceases to act for a party must deliver a notice to that effect to that party and every other party concerned.
- (6) A notice delivered in terms of sub-regulation (5) must state the names and addresses of each party who is being notified.
- (7) After receiving a notice referred to in sub-regulation (5), the address of the party formerly represented becomes the address for notices to, and for service on, that party of all documents in the proceedings, unless a new address is furnished for that purpose.

162. Joinder or substitution of parties

- (1) The Tribunal, or the assigned member, as the case may be, may combine any number of persons, whether jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their respective rights to relief depend on the determination of substantially the same question of law or facts.
- (2) If a party to any proceedings has been incorrectly or defectively cited, the Tribunal or the assigned member, as the case may be, on application and on notice to the party concerned, may correct the error or defect and may make an order as to costs.
- (3) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to those proceedings, on application and on notice to every other party, may apply to the Tribunal or the assigned member, as the case may be, for an order substituting that party for an existing party, and the Tribunal or the assigned member, as the case may be, may make an order, including an order as to costs, or give directions as to the further procedure in the proceedings.
- (4) An application to join any person as a party to proceedings, or to be substituted for an existing party, must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of those documents.

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Regulation 163-r164

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- (5) No joinder or substitution in terms of this rule will affect any prior steps taken in the proceedings.

163. Intervenors

- (1) At any time after an initiating document is filed with the Tribunal, any person who has a material interest in the relevant matter may apply to intervene in the Tribunal proceedings by filing a Notice of Motion in form CTR 153, which must
- (a) include a concise statement of the nature of the person's interest in the proceedings, and the matters in respect of which the person will make representations; and
 - (b) be served on every other participant in the proceedings.
- (2) No more than 10 business days after receiving a motion to intervene, a member of the Tribunal assigned by the Chairperson must either
- (a) make an order allowing the applicant to intervene, subject to any limitations
 - (i) necessary to ensure that the proceedings will be orderly and expeditious; or
 - (ii) on the matters with respect to which the person may participate, or the form of their participation; or
 - (b) deny the application, if the member concludes that the interests of the person are not within the scope of the Act, or are already represented by another participant in the proceeding.
- (3) Upon making an order in terms of sub-regulation (2), the assigned member may make an appropriate order as to costs.
- (4) If an application to intervene is granted -
- (a) the recording officer must send to the intervenor a list of all documents filed in the proceedings prior to the day on which the request for leave to intervene was granted; and
 - (b) access by an intervenor to a document filed or received in evidence is subject to any outstanding order of the Tribunal restricting access to the document.

164. Summoning witnesses

- (1) If the Tribunal requires a witness to attend any proceedings to give evidence it may have a summons issued by the recording officer in form CTR 164 for that purpose.
- (2) If a witness is required to produce in evidence any document or thing in the witness's possession, the summons must specify the document or thing to be produced.

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Regulation 165-r167

- (3) After the summons has been issued, it must be served by the sheriff in any manner authorised by Rule 4 of the High Court Regulations.
- (4) A witness who has been required to produce any document or thing at the proceedings must hand it over to the recording officer as soon as possible after service of the summons, unless the witness claims that the document or thing is privileged.

165. Witness fees

- (1) A witness in any proceedings is entitled to be paid in accordance with the tariff of allowances prescribed by the Minister of Justice and published by notice in the Gazette in terms of section 42 of the Supreme Court Act, 1959 (Act 59 of 1959).
- (2) Despite sub-regulation (1), the Tribunal may order that no allowance or only a portion of the prescribed allowances be paid to any witness.

166. Interpreters and translators

- (1) Before an interpreter may interpret in Tribunal proceedings, the interpreter must take an oath or make an affirmation in the following form before a member of the Tribunal:

"I,
.....(full
name)
swear/ affirm that whenever I am called on to interpret in any proceedings before the Tribunal, I will correctly interpret to the best of my ability from the language I am called on to interpret into one or her of the official languages, and vice versa."

- (2) An oath or affirmation must be taken or made in the manner prescribed for the taking of an oath or the making of an affirmation in the High Court Regulations, read with the changes required by context and a printed copy of the oath or affirmation must be signed by the interpreter.
- (3) Any person admitted and enrolled as a sworn translator of any division of the High Court is deemed to be a sworn translator for the Tribunal.

167. Withdrawals and postponements

- (1) At any time before the Tribunal has determined a matter, the initiating party may withdraw all or part of the matter by -
 - (a) serving a Notice of Withdrawal in form CTR 167 on each party; and
 - (b) filing the Notice of Withdrawal with proof of service.
- (2) If the parties agree to postpone a hearing, the initiating party must notify the recording officer as soon as possible.

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Regulation 168-r170

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- (3) Subject to any provision of the Act to the contrary,
 - (a) a Notice of Withdrawal may include a consent to pay costs; and
 - (b) if no consent to pay costs is contained in a Notice of Withdrawal the other party may apply to the Tribunal by Notice of Motion in form CTR 153 for an appropriate order for costs.

168. Set down of matters

- (1) If a matter has been postponed to a date to be determined in the future, any party to the matter may apply to the recording officer for it to be re-enrolled, but no preference may be given to that matter on the roll, unless the Chairperson decides otherwise.
- (2) The recording officer must allocate a time, date and place for the hearing and send a Notice of Hearing in form CTR 168 to each party.
- (3) If a matter is postponed to a specific date, the recording officer need not send a Notice of Set Down to the parties.

169. Matters struck-off

- (1) The Tribunal member presiding at a hearing may strike a matter off the Roll if the initiating party is not present.
- (2) If a matter is struck off the roll, the matter may not be re-enrolled unless -
 - (a) that party concerned files an affidavit setting out a satisfactory explanation for the failure to attend the hearing; and
 - (b) a member of the Tribunal assigned by the Chairperson, on considering the explanation offered, orders the matter to be re-enrolled.

170. Default orders

- (1) If a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply in accordance with Part 4 – Division E to have the order sought issued against that person by the Tribunal.
- (2) On an application in terms of sub-regulation (1), the Tribunal may make an appropriate order
 - (a) after it has heard any required evidence concerning the motion; and
 - (b) if it is satisfied that the notice or application was adequately served.
- (3) Upon an order being made in terms of sub-regulation (2), the recording officer must serve the order on the person described in subsection (1) and on every other party.

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Regulation 171-r173

171. Conduct of hearings

- (1) If, in the course of proceedings, a person is uncertain as to the practice and procedure to be followed, the member of the Tribunal presiding over a matter
 - (a) may give directions on how to proceed; and
 - (b) for that purpose, if a question arises as to the practice or procedure to be followed in cases not provided for by these Regulations, the member may have regard to the High Court Regulations.
- (2) Subject to these Regulations, the member of the Tribunal presiding over a matter may determine the time and place for the hearing before the Tribunal.
- (3) The Tribunal may condone any technical irregularities arising in any of its proceedings.

172. Record of hearing

The recording officer must compile a record of any proceeding in which a hearing has been held, including

- (a) The initiating document;
- (b) the notice of any hearing;
- (c) any interlocutory orders made by the Tribunal or a member;
- (d) all documentary evidence filed with the Tribunal;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the final decision of the Tribunal and the reasons.

173. Costs and taxation

- (1) Upon making an order, the Tribunal may make an order for costs.
- (2) Where the Tribunal has made an award of costs, the following provisions apply:
 - (a) The fees of one representative may be allowed between party and party, unless the Tribunal authorises the fees of additional representatives.
 - (b) The fees of any additional representative authorised in terms of sub-regulation (1) must not exceed one half of those of the first representative, unless the Tribunal directs otherwise.
 - (c) The costs between party and party allowed in terms of an order of the Tribunal, or any agreement between the parties, must be calculated and taxed by the taxing master at the tariff determined by the order or agreement, but if

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Regulation 173

no tariff has been determined, the tariff applicable in the High Court will apply.

- (d) Qualifying fees for expert witnesses may not be recovered as costs between party and party unless otherwise directed by the Tribunal during the proceedings.
- (e) The recording officer may perform the functions and duties of a taxing master or appoint any person as taxing master who in the recording officer's opinion is fit to perform the functions and duties signed to or imposed on a taxing master by these Regulations.
- (f) The taxing master is empowered to tax any bill of costs for services actually rendered in connection with proceedings in the court.
- (g) At the taxation of any bill of costs, the taxing master may call for any book, document, paper or account that in the taxing master's opinion is necessary to determine properly any matter arising from the taxation.
- (h) The taxing master must not proceed to the taxation of any bill of costs unless the taxing master has been satisfied by the party requesting the taxation (if that party is not the party liable to pay the bill) that the party liable to pay the bill has received due notice as to the time and place of the taxation and of that party's entitlement to be present at the taxation.
- (i) Despite sub-regulation (h), notice need not be given to a party -
 - (i) who failed to appear at the hearing either in person or through a representative; or
 - (ii) who consented in writing to the taxation taking place in that party's absence.
- (j) Any decision by a taxing master is subject to the review of the High Court on application.

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Chapter 7 - Complaints, Applications and Tribunal Hearings : Part F – Maximum Administrative Fines and Determination of Turnover

Regulation 174-r175

Part F – Maximum Administrative Fines and Determination of Turnover

174. Maximum administrative fines

The maximum administrative fine, as contemplated in section 175 (5), is R 1 million.

175. Manner of calculating turnover

For all purposes of the Act, the turnover of a company must be calculated in the manner set out in General Notice 253 of 2001 promulgated in terms of section 6 (1) of the Competition Act, 1998.

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Chapter 8 - Regulatory Agencies and Administration : Part A – Regulatory Agency Offices and Functions

Regulation 176

Chapter 8 - Regulatory Agencies and Administration**Part A – Regulatory Agency Offices and Functions****176. Office hours and address of regulatory agencies**

- (1) The responsible officer of a regulatory agency, after consulting the Minister –
 - (a) must publish a notice designating a principal office for that regulatory agency, including in the notice all relevant particulars for public contact with that office; and
 - (b) may at any time publish a notice -
 - (i) designating other offices, and their respective contact particulars; or
 - (ii) change the designated principal office, or any other office, or any relevant contact particulars.
- (2) The offices of a regulatory agency are open to the public every Monday to Friday, excluding public holidays, from 08h30 to 15h30.
- (3) Despite sub-paragraph (2) –
 - (a) in exceptional circumstances a regulatory office may –
 - (i) close to the public if the responsible officer considers it necessary to do so in the interests of safety, security or inability to properly perform its functions; or
 - (ii) accept documents for filing on any day and at any time; and
 - (b) the Commission must accept documents for filing as directed by either the Tribunal or a member of the Tribunal assigned by its chairperson.
- (4) Subject to Regulations 6 and 151, any communication to a regulatory agency, or to a member of the staff of a regulatory agency, may be –
 - (a) Delivered by hand at, or addressed by post to, the regulatory agency's principal office;
 - (b) Communicated by telephone on a number designated in terms of sub-regulation (1);
 - (c) Transmitted by fax on a number designated in terms of sub-regulation (1); or
 - (d) Transmitted by electronic mail to an address designated in terms of sub-regulation (1).

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Chapter 8 - Regulatory Agencies and Administration : Part A - Regulatory Agency Offices and Functions

Regulation 177-r180

177. Condonation of time limits

On good cause shown, the responsible officer of a regulatory agency may condone late performance of an act in respect of which these Regulations prescribe a time limit, other than a time limit that is binding on the regulatory agency itself.

178. Appointment of recording officer and assignment of functions by responsible officer

The responsible officer of a regulatory agency, in writing -

- (a) must designate at least one member of its staff to serve as the recording officer for that regulatory agency; and
- (b) may assign any function or power of that regulatory agency to a member of its staff, either generally or in connection with a particular matter.

179. Issuing documents by regulatory agency

- (1) If the Act or these Regulations require a regulatory agency to issue a document –
 - (a) the document will have been issued by the regulatory agency when it has been signed, and delivered to any person to whom it is addressed; and
 - (b) the document may be signed and delivered at any time of day, despite Regulation 147 (2).
- (2) Regulation 6 (4) does not apply to the delivery of a document issued by a regulatory agency.

180. Filing documents

- (1) A regulatory agency -
 - (a) must assign a distinctive number to each initiating document filed with the recording officer of that body;
 - (b) must ensure that every document subsequently filed in respect of a matter is marked with the same distinguishing number;
 - (c) may refuse to accept a document subsequently filed in respect of the same matter that is not properly marked with the assigned distinguishing number;
- (2) Before serving a copy of an initiating document on any person, the initiating party must –
 - (a) obtain a distinguishing number for that document from the recording officer; and
 - (b) note the distinguishing number on every copy of that document.

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Chapter 8 - Regulatory Agencies and Administration : Part A – Regulatory Agency Offices and Functions

Regulation 181-r182

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- (3) A person who files any document with a regulatory agency in terms of the Act or these Regulations must provide to that regulatory agency the person's -
- (a) legal name;
 - (b) address for delivery of documents;
 - (c) telephone number;
 - (d) if available, email address and fax number; and
 - (e) if the person is not an individual, the name of the individual authorised to deal with the regulatory agency on behalf of the person filing the document.

181. Electronic filing and payments

- (1) The responsible officer of a regulatory agency, by notice in the Gazette, may direct that any requirement set out in the Act or these Regulations to file a document or communicate with, or make a payment to, that regulatory agency may or must be satisfied in electronic form, subject to any operational requirements published in terms of sub-regulation (2).
- (2) In the responsible officer of a regulatory agency has published a notice contemplated in sub-regulation (1), the recording officer of that regulatory agency must publish operational requirements setting out the processes and procedures to be followed to effect any filing of a document or communication with, or payment to, that regulatory agency, including, but not limited to –
- (a) Application procedures;
 - (b) Registration procedures;
 - (c) Form and format of records;
 - (d) Manner and form of payment; and
 - (e) Information security requirements;
 - (f) Record retention requirements.
- (3) At any time, a regulatory agency may suspend or terminate any electronic services contemplated in this regulation, without liability for doing so.

182. Fees

- (1) A regulatory agency may not charge a fee to any person for filing a complaint in terms of the Act, except with the approval of the Tribunal.
- (2) The fee for filing a document with a regulatory agency, or requesting any action by a regulatory agency, is as set out in Table CR2 A or B.

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Chapter 8 - Regulatory Agencies and Administration : Part A - Regulatory Agency Offices and Functions

Regulation 183

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- (3) A fee payment will be deemed to be received by a regulatory agency on –
- (a) the date that a cheque or money order in payment of that fee is delivered to the regulatory agency; or
 - (b) the date and at the time that a direct deposit or an electronic transfer of funds in the amount of that fee is credited to the account of the regulatory agency at the financial institution to which is it transferred.

183. Regulatory agency notices

- (1) A regulatory agency must publish any notice required or contemplated by the Act or these regulations –
 - (a) in the Gazette, if expressly required to do so by the Act or these regulations; or
 - (b) on its website, in any other case.
- (2) Whenever a regulatory agency publishes a notice on its website the agency must –
 - (a) also publish an announcement of that notice in the Gazette, setting out the URL for the webpage at which the notice may be viewed in its entirety; and
 - (b) retain that notice on its website and available to the public so long as the information in the notice remains current and valid.
- (3) Whenever a regulatory agency is required, either in terms of the Act or these Regulations, to publish a notice in the Gazette, that notice must contain at least the following information:
 - (a) The name of any person directly affected by the notice.
 - (b) The file number assigned by the regulatory agency to the relevant matter.
 - (c) The provision of the Act or Regulations in terms of which the notice is being issued.
 - (d) A brief and concise description of the nature of the relevant matter.
 - (e) If the notice invites submissions, the last date on which submissions may be received.
 - (f) If the notice reports a decision –
 - (i) a brief and concise description of the nature of the relevant decision;
 - (ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and

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Chapter 8 - Regulatory Agencies and Administration : Part A - Regulatory Agency Offices and Functions

Regulation 184

- (iii) a statement of any right of review of, or appeal from, that decision, including the period during which a review or appeal may be lodged.
- (g) The name, address and contact numbers of the person in the regulatory agency responsible for publishing the notice.

184. Financial Administration of the Panel

- (1) The funding of the Panel, in terms of an Act of Parliament as provided for in Section 120(c) which is enforceable in terms of the Act, being an Act of Parliament itself, will be partially met from a fee equal to a percentage determined from time to time at the discretion of the Panel of -
 - (a) the annual listing fee charged by the JSE Limited to each listed entity in accordance with the JSE Listings Requirements, which shall be levied on 1 March of each year; and
 - (b) the initial listing fee charged in accordance with the JSE Listings Requirements by the JSE Limited to a company which is listed during a year and is not charged the annual listing fee, such fee being due and payable to the Panel at the time of the listing.
- (2) The Panel shall obtain the necessary information for this purpose from the JSE Limited.
- (3) The fees and levies to be paid to the Panel shall be set by the Panel from time to time and published in the *Gazette*.
- (4) The fees and levies in force from time to time shall be disclosed in Annexure 2 – Table CR 2A.
- (5) The Panel shall open and maintain a bank account.
- (6) The Executive Director's remuneration, allowances, benefits, and conditions of appointment shall be determined by the chairperson of the Panel in consultation with the Minister and with the concurrence of the Minister of Finance.
- (7) The chairperson of the Panel, designated in terms of Section 198 of the Act, in consultation with the Minister and with the concurrence of the Minister of Finance, may determine the remuneration, allowances, benefits, and conditions of appointment of each member of the Panel and the Takeover Special Committee, as the case may be.
- (8) In determining such remuneration, allowances, benefits, and conditions of appointment of each member, the chairperson may take into account the remuneration, allowances, benefits, and conditions of appointment of other similar regulatory bodies.
- (9) The financial affairs of the Panel shall be subject to audit and an annual financial report shall be submitted by it to the Minister and published.

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Regulation 185

185. Form of Annual Report

- (1) The Annual Report to be submitted by a regulatory agency in terms of the Act must be divided into the following Parts:
 - (a) **Statement of Progress**, being a statement setting out the progress during the preceding year towards realization of the purposes of the Act, to the extent applicable to the particular regulatory agency.
 - (b) **The Proceedings of the Regulatory agency**, being a summary report of the regulatory agency's work in relation to its functions.
 - (c) **The External Relations of the Regulatory agency**, being a summary report on the following matters:
 - (i) The regulatory agency's public awareness programs.
 - (ii) Relationships between the regulatory agency and other regulatory authorities.
 - (iii) Relationships between the regulatory agency and foreign agencies.
 - (iv) Research activities undertaken by the regulatory agency and any proposals for law reform published by the regulatory agency.
 - (d) **The Administrative Activities of the Regulatory agency**, being a summary report concerning the regulatory agency's management, staff, infrastructure, and related matters.
 - (e) **The Regulatory agency's Finances**, including any information required in terms of the Public Finance Management Act.

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Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 534

Pretoria, 22 December 2009
Desember

No. 32832

PART 2 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



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Chapter 8 - Regulatory Agencies and Administration : Part B - Access to Regulatory Agency Information and Records

Regulation 186

Part B - Access to Regulatory Agency Information and Records**186. Restricted information**

- (1) For the purpose of this Part, the following five classes of information are restricted:
 - (a) Information that has been determined to be confidential information in terms of section 212;
 - (b) Identity of a complainant, in the following circumstances:
 - (i) A person who provides information in terms of section 159 may request that the Commission treat their identity as restricted information; but that person may be a complainant in the relevant matter only if they subsequently waive the request in writing.
 - (ii) If a person has requested in terms of sub-paragraph (i) that the Commission treat their identity as restricted information –
 - (aa) The Commission must accept that request; and
 - (bb) That information is restricted unless the person subsequently waives the request in writing.
 - (c) Information that has been received by the Commission in a particular matter, other than that referred to in paragraphs (a) and (b), as follows:
 - (i) The Description of Conduct attached to a complaint, and any other information received by the Commission during its investigation of the complaint, is restricted information until the Commission issues a referral or notice of non-referral in respect of that complaint, but a completed form CoR 139.1 is not restricted information.
 - (d) A document -
 - (i) that contains -
 - (aa) an internal communication between officials of the Commission, or between one or more such officials and their advisors;
 - (bb) an opinion, advice, report or recommendation obtained or prepared by or for the Commission;
 - (cc) an account of a consultation, discussion or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed on the Commission by law; or

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Regulation 187

- (ii) the disclosure of which could reasonably be expected to frustrate the deliberative process of the Commission by inhibiting the candid -
 - (aa) communication of an opinion, advice, report or recommendation; or
 - (bb) conduct of a consultation, discussion or deliberation; or
- (iii) the disclosure of which could, by premature disclosure of a policy or contemplated policy, reasonably be expected to frustrate the success of that policy.
- (e) Any other document to which a public body would be required or entitled to restrict access in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

187. Access to information

- (1) 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 Regulation; or
 - (ii) an order of the Tribunal, or a 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 CTR 149 in respect of that complaint.
- (3) In addition to the provisions of sub-regulation (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 person to whom the confidential information belongs;
 - (c) a person who requires it for a purpose mentioned in the Act; or

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Regulation 187

- (d) any other person, with the written consent of the person to whom the information belongs.
- (4) When the Commission submits a Complaint Referral to the Tribunal, or supplies any other information to the Tribunal, or the Minister, the Commission must identify any information included in its submission –
 - (a) in respect of which a claim has been made in terms of Section 212 that has not yet been determined by the Tribunal; or
 - (b) that has been finally determined to be confidential information.

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Chapter 8 - Regulatory Agencies and Administration : Part B – Exercise of Commission's Exemption and other Functions

Regulation 188-r189

Part B – Exercise of Commission's Exemption and other Functions**188. Procedures relating to requests for exemption in terms of Section 9**

- (1) Upon receiving a request for exemption referred by the Minister in terms of section 9, the Commission, by issuing Form CoR 188 to the requester, may require the requester to provide the necessary particulars before the request will be considered, if the application does not specify sufficient particulars of -
 - (a) the specific company or categories of state owned companies for whom the exemption is sought;
 - (b) the specific provisions of the Act from which exemption is sought; or
 - (c) the specific relevant alternative legislation contemplated in section 9(2).
- (2) If the requester-
 - (a) does not respond to the Commission within 40 business days after being served with form ,CoR 188 the request will be deemed to have been abandoned.
 - (b) responds to the Commission, but does not, to the satisfaction of the Commission, meet the requirements set out in form CoR 188 as issued, the Commission, by issuing a new form CoR 188 to the requester, may again stipulate any further information, or clarification, required before the application will be considered, and the provisions of this sub-regulation (2) apply afresh to any such new Form CoR 188.
- (3) If a request is deemed to have been abandoned in terms of sub-regulation (2), the Commission may close its file on that application by giving notice of that fact to the Minister, but without providing any further advice to the Minister as contemplated in section 9 (3).
- (4) After receiving adequate information to begin consideration of a request, the Commission –
 - (a) must publish in the Gazette the notice of the request, and –
 - (b) may request further information from any person who submits a representation in response to a notice published in terms of paragraph (a).

189. Procedures related to withdrawing exemptions

- (1) An exemption granted by the Minister in terms of section 9 is valid until withdrawn by the Minister in accordance with this section.
- (2) The Commission -

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Regulation 190

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- (a) must monitor any national legislation that forms the basis on which an exemption is granted in terms of section 9 (2); and
 - (b) may recommend to the Minister that an exemption be withdrawn if the national legislation contemplated in section 9 (2), and on the basis of which the exemption was granted, has subsequently been amended or repealed to the extent that the grounds for the exemption no longer exist.
- (3) If the Commission is contemplating making a recommendation to the Minister in terms of sub-regulation (2)(b), the Commission must so notify the Minister, the Minister of Public Enterprises, or the Minister responsible for Local Government Affairs, as the case may require, and the company concerned, in writing, of the possible intention to do so, as well as publishing a notice of that intention in the Gazette.
- (4) The Commission may request further information from any person who submits a representation in response to a notice given or published in terms of sub-regulation (3).
- (5) After considering any submissions or other information received in relation to the proposed withdrawal of exemption, the Commission must advise the Minister whether or not to withdraw the exemption.

190. Content and standards for Commission registers

- (1) The Commission must keep any register required in terms of the Act in an official language of the Republic, in a manner sufficient to provide an adequate information base to -
- (a) enable the Commission to satisfy all reporting requirements applicable to it, in terms of the Act or any other applicable law;
 - (b) provide simple and efficient access to the public to information required to exercise any right in terms of the Act, or any other applicable law; and
- (2) The registers required to be kept by the Act must be kept in such a manner as -
- (a) to provide adequate precautions against -
 - (i) theft, loss or intentional or accidental damage or destruction; and
 - (ii) falsification; and
 - (b) to facilitate the discovery and correction of any error or falsification.
- (3) If the Commission keeps any register partially or completely in electronic form, the commission must –
- (a) provide adequate precautions against loss of the records as a result of damage to, or failure of, the media on which the records are kept; and

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- (b) ensure that information in the register is capable of being retrieved to a readable and printable form, including by converting the records from legacy to later storage media, or software, to the extent necessary from time to time.
- (4) The commission may determine the specific form of any register, and the particular manner in which information is recorded in or compiled from any register.