



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

**A GUIDE TO THE WORK AND FUNCTIONS OF THE
INSTITUTIONS SUPPORTING
DEMOCRACY**

2012

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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

VISION

To build an effective people's Parliament that is responsive to the needs of the people and that is driven by the ideal of realising a better quality of life for all the people of South Africa.

MISSION

As the freely elected representatives of the people of South Africa, our Mission is to represent, and to act as a voice of the people, in fulfilling our Constitutional functions of passing laws and overseeing executive action.



INSTITUTIONS SUPPORTING DEMOCRACY

1. Auditor-General
2. Commission for Gender Equality
3. Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities
4. Electoral Commission
5. Financial and Fiscal Commission
6. Independent Communications Authority of South Africa
7. National Youth Development Agency
8. Pan-South African Language Board
9. Public Protector
10. Public Service Commission
11. South African Human Rights Commission

FOREWORD

Emerging from a racially divided and oppressive past, South Africa crafted a Constitution that is unique and far reaching in its provisions. Amongst others, it established a number of independent and constitutionally protected institutions to strengthen democracy and to promote respect for human rights in our society. It was envisaged that these independent institutions would support constitutional democracy because they would, amongst others:

- help to restore the credibility of the state and its institutions in the eyes of the majority of its citizens;
- ensure that democracy and the values associated with human rights and democracy flourished in the new dispensation;
- ensure the successful re-establishment of, and continued respect for, the rule of law; and
- ensure that the state becomes more open and responsive to the needs of its citizens, and more respectful of their rights.

Rather than creating a single human rights institution, a number of institutions were established to each focus on a particular sector of society where the need for transformation was felt to be the greatest. Chapter Nine of the Constitution accordingly establishes six independent state institutions to strengthen constitutional democracy in South Africa. A number of related institutions were established in terms of other sections of the Constitution and national legislation, each with a specific mandate. These institutions are collectively referred to as Institutions Supporting Democracy or 'ISDs'.

Recognising that many South Africans are poor and marginalised and will not be able to enforce their rights without assistance, these institutions have been empowered to act on behalf of those who would not otherwise gain access to courts or other mechanisms for enforcing their rights. These institutions therefore provide alternative and less costly avenues to resolve disputes arising from the exercise or violation of human rights and to safeguard the rights of marginalised members of our society.

The ISDs strengthen democracy by actively promoting a culture of responsibility, of transparency and accountability, and of responsiveness to human rights; promoting the protection and development of human rights; and monitoring and assessing the implementation and observance of human rights. Some ISDs also conduct research or investigate allegations pertaining to human rights violations and prepare and submit substantive reports to Parliament.

The Office on Institutions Supporting Democracy (OISD) was established after the adoption of a recommendation by the Ad Hoc Committee on the Review of Chapter Nine and Associated Institutions by the National Assembly, one of the two Houses of Parliament. The mandate of the Office is to enhance the capacity of the National Assembly to perform its functions of oversight, accountability and support relevant to ISDs, and to co-ordinate all interaction between the National Assembly and the ISDs.

The OISD compiled this guide in accordance with its mandate to support the ISDs. The purpose of the guide is to explain the mandate and functions of each ISD in a way that is clear and accessible to the majority of the population; to illustrate to the public how each ISD contributes to the attainment of constitutional democracy in South Africa; and finally, to provide information on how the public can access these institutions.

Office on Institutions Supporting Democracy (OISD)
November 2012



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1 INTRODUCTION

1.1 Legal framework for Institutions Supporting Democracy as a collective

The Constitution of the Republic of South Africa, 1996 provides for a constitutional democracy. It includes the Bill of Rights as a cornerstone of democracy in South Africa that enshrines the rights of all people in our country. It also affirms the democratic values of human dignity, equality and freedom.

Section 181 of the Constitution creates a number of independent state institutions to strengthen constitutional democracy in the Republic, namely:

- The Public Protector (PP);
- The South African Human Rights Commission (SAHRC);
- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Commission);
- The Commission for Gender Equality (CGE);
- The Auditor-General (AGSA) and
- The Electoral Commission (IEC).

The Constitution provides that these institutions are independent and subject only to the Constitution and the law. In addition, the Constitution also provides for the establishment of a number of other institutions which promote constitutional democracy, including:

- The Financial and Fiscal Commission (FFC);
- The Independent Communications Authority of South Africa (ICASA);
- The Pan South African Language Board (PanSALB); and
- The Public Service Commission (PSC).

National legislation further provides for the establishment of a National Youth Development Agency (NYDA) aimed at creating and promoting coordination in youth development matters.

These institutions are collectively referred to as Institutions Supporting Democracy (ISDs).



1.2 Independence of ISDs

In terms of section 181 of the Constitution, the ISDs are independent and subject only to the Constitution and the law. They are required to be impartial and must exercise their powers and functions without fear, favour or prejudice. No person or organ of state may interfere with their functioning.

Other organs of state have a constitutional obligation to assist and protect these institutions, through legislative measures and other measures, so as to ensure their independence, impartiality, dignity and effectiveness.

1.3 Relationship with Parliament

The ISDs' relationship with Parliament is threefold: First, the ISDs are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year (section 181(5)). Secondly, the ISDs perform a complementary oversight function to that of Parliament, amongst others through the investigations they conduct and the Reports they submit to Parliament. Thirdly, Parliament must assist and protect the ISDs, through legislative and other measures, to ensure their independence, impartiality, dignity and effectiveness (section 181(3)).

1.4 Relationship with government departments

Some enabling statutes, such as the Pan South African Language Board Act, and well as other statutes, assign specific functions and responsibilities in relation to ISDs to respective Ministers, for example the calling for nominations for appointment as Commissioners and Board Members.

Government departments also have a constitutional obligation to assist and protect ISDs to ensure their independence, impartiality, dignity and effectiveness. However, they may not interfere with the functioning of these institutions (section 181).

1.5 Overlapping of ISDs functions

Although each ISD has a specific mandate, there may be instances where a specific matter will fall within the mandates of more than one ISD, specifically in relation to the institutions dealing with human rights violations. Any alleged human rights violation will in essence fall within the mandate of the SAHRC,

while a number of ISDs have a narrower focus. For example, any allegation of sexual or gender discrimination will fall within the mandate of the CGE; language rights violations will fall within the mandate of PanSALB; and any violation of the rights of cultural or religious communities will fall within the mandate of the CRL Commission, while at the same time also falling within the broader mandate of the SAHRC.

The enabling statutes of some ISDs take this possible overlap of mandates into account and provide that in certain instances, matters may be referred to other appropriate bodies. In the case of the CGE, for example, the Act provides that the CGE may at any stage refer any matter to the SAHRC, the PP or any other authority, whichever is appropriate.

While the Public Protector may also investigate certain allegations of human rights violations, for example the right to access of information and the right to just administrative action, the Public Protector specifically focus on allegations relating to state affairs. It does not investigate court decisions and sentences; private individuals; private companies and professionals not employed by government such as doctors or lawyers. An allegation against the aforementioned (excluding courts) will therefore have to be lodged at the SAHRC, or one of the other human rights institutions, depending on the nature of the allegation.

1.6 Cost

The ISDs act on behalf of those who would not otherwise gain access to courts or other mechanisms for enforcing their rights. The ISDs offer the services they render to the public free of charge. The ISDs may also assist complainants free of charge with the submission of a complaint.

It is important to note that the ISDs have discretion whether or not to investigate a matter.

2 AUDITOR-GENERAL OF SOUTH AFRICA (AGSA)

2.1 Establishment and purpose of the AGSA

The Auditor-General of South Africa (AGSA) was established by section 181(1) (e) of the Constitution. An enabling statute, the Public Audit Act, was passed in 2004. The AGSA, as the Supreme Auditing Institution in South Africa, is the external auditor of all national and provincial state departments, municipalities and municipal entities.

2.2 Functions of the AGSA

The main function of the AGSA is to audit and report on the accounts, financial statements and financial management of all national and provincial government departments and administrations, all municipalities and municipal entities and any other institution required by law to be audited by the AG. In addition, the AGSA may audit and report on the accounts, financial statements and financial management of listed public entities, and any other institution funded from the National Revenue Fund, a Provincial Revenue Fund or by a municipality.

The AGSA may, at a fee:

- perform audit-related services to government departments, other institutions, accounting entities or other bodies; and
- give advice and support to the national and provincial parliaments, outside its normal auditing and reporting functions.

2.3 Investigations conducted by the AGSA

The AGSA may carry out an investigation or special audit of any government department, institution, entity or body if the AGSA considers it to be in the public interest, or on receipt of a complaint or request.

The AGSA may compile a report on any matter within his/her functions and submit it to the relevant interested organ of state.

2.4 How to reach the AGSA

The contact details of the Head Office are as follows:

Physical Address : 300 Middel Street, New Muckleneuk, Pretoria
Postal Address : PO Box 446, Pretoria, 0001
Telephone : (012) 426 8000
Fax : (012) 426 8257
Email : agsa@agsa.co.za
Website : www.agsa.co.za

3 COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES (CRL COMMISSION)

3.1 Establishment and purpose of the CRL Commission

The Commission for the Promotion and the Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Commission) was established by section 181(1)(c) of the Constitution. An enabling Act, the CRL Commission Act, was passed in 2002. The purpose of the Commission is to promote respect for and strengthen the rights of the cultural, religious and linguistic communities and to assist in the realisation of the rights contained in the Bill of Rights. The Commission is also tasked to assist in developing peace, friendship, humanity, tolerance and national unity among these communities; and promote the right of these communities to develop their historically diminished heritage.

3.2 Functions of the CRL Commission

The functions of the Commission are to:

- conduct programmes to promote respect for, and further the protection of the rights of cultural, religious and linguistic communities;
- develop strategies for the full and active participation of these communities in nation-building in South Africa;
- promote youth awareness on the diversity of these communities and their rights;
- educate, lobby, advise and report on any issue concerning the rights of these communities;
- resolve disputes where the cultural, religious and linguistic rights of a community are affected; and
- make suggestions on laws which affect the rights of these communities.

3.3 Investigations conducted by the CRL Commission

As part of its mandate, the Commission may investigate any issues concerning the rights of cultural, religious and linguistic communities.

The Commission may call any person to appear before them to give evidence or to produce a document relating to the investigation.

3.4 How to reach the CRL Commission

The contact details of the Head Office are as follows:

Physical Address : 158 Jan Smuts Avenue, Rosebank, Johannesburg
Postal Address : Private Bag X 90 000, Houghton, 2041
Telephone : (011) 537 7600
Fax : (011) 880 3495
Email : info@crlcommission.org.za
Website : www.crlcommission.org.za

4 COMMISSION FOR GENDER EQUALITY (CGE)

4.1 Establishment and purpose of the CGE

The Commission for Gender Equality (CGE) was established by section 181(1) (d) of the Constitution. An enabling statute, the CGE Act, was passed in 1996. The CGE has a duty to promote respect for gender equality and the protection, development and attainment of gender equality.

4.2 Functions of the CGE

The functions of the CGE are to:

- monitor and evaluate policies and practices of all organs of state at any level; statutory bodies or functionaries; public bodies and authorities; enterprises and institutions to promote gender equality, and make recommendations;
- develop information and education programmes to foster public understanding on matters relating to the promotion of gender equality;
- review laws and policies which affects gender equality and the status of women, and make recommendations, or suggest new laws;
- monitor compliance with international conventions on gender equality that South Africa entered into, and submit reports to Parliament;
- conduct research;
- investigate any gender related issues of its own accord or upon receipt of a complaint; and
- work in close liaison with any organisation that actively promotes gender equality.

4.3 Investigations conducted by the CGE

The CGE may investigate any gender-related issues, including -

- discrimination based on sex or gender;
- discrimination based on pregnancy;
- discrimination based on marital status;

- discrimination based on family responsibilities or being a single parent;
- sexual harassment of any kind; and
- sex or gender based violence.

The CGE may request any person to appear before it or to produce articles or documents; administer an oath or take an affirmation from such a person. Such a person will be required to answer all questions regarding any fact connected with the investigation. The Commission may, on the authority of a warrant, search any person or enter and search any premises on which anything connected with an investigation is or is suspected to be.

4.4 How to reach the CGE

The contact details of the Head Office are as follows:

Physical Address : 2 Kotze Street, Old Women's Jail, East Wing,
Constitutional Hill, Braamfontein, Johannesburg
Postal Address : P.O. Box 32175 Braamfontein 2017
Telephone : (011) 403 7182
Fax : (011) 403 7188
Email : cgeinfo@cge.org.za
Website : www.cge.org.za

5 ELECTORAL COMMISSION (IEC)

5.1 Establishment and purpose of the IEC

Section 181(1)(f) of the Constitution establishes an independent Electoral Commission (IEC) to manage elections within South Africa to ensure that they are free and fair. An enabling statute, the Electoral Commission Act was passed in 1996.

5.2 Functions of the IEC

The main functions of the IEC are to:

- manage elections for national, provincial and local legislative bodies and any referendum;
- to ensure that any election is free and fair, and declare the results within seven days;
- promote conditions conducive to free and fair elections;
- promote knowledge of democratic electoral processes;
- compile and maintain voters' rolls and a register of parties;
- establish and maintain liaison and co-operation with parties;
- undertake and promote research into electoral matters;
- develop electoral expertise and technology in all levels of government;
- continuously review electoral laws and make recommendations in connection therewith;
- promote voter education;
- promote co-operation with and between persons, institutions, governments and administrations for the achievement of its objectives; and
- adjudicate administrative disputes which may arise from the organisation, administration or conducting of elections.

Decisions on an electoral matter taken by the Commission may be reviewed by the Electoral Court. In addition, the Electoral Court, may, amongst other things, hear and determine any matter that relates to the interpretation of any law referred to it by the Commission.

5.3 How to reach the IEC

The contact details of the Head Office are as follows:

Physical address : Election House, Riverside Office Park, 1303 Heuwel Avenue,
Centurion
Postal address : Private Bag X112, Centurion, 0046
Telephone : (012) 622 5700
Fax : (012) 622 5784
Email : webmaster@elections.org.za
Website : www.elections.org.za

6 FINANCIAL AND FISCAL COMMISSION (FFC)

6.1 Establishment and purpose of the FFC

The Financial and Fiscal Commission (FFC) was established by section 220 of the Constitution. An enabling statute, the Financial and Fiscal Commission Act, was passed in 1997.

The primary responsibility of the Commission is to make recommendations to Parliament, provincial legislatures and organised local government on the division of the revenue that has been collected at the national level among the national, provincial and local spheres of government.

Another responsibility of the Commission is to advise Government on the imposition of provincial taxes; the shifting of powers and functions between the three spheres of government; and provincial and municipal applications for loans.

The final and more general responsibility of the Commission is to advise all organs of state (including Parliament, provincial legislatures and organised local government) on financial and fiscal matters, and to promote the development of an efficient, sustainable and fair system of intergovernmental fiscal relations.

6.2 Functions of the FFC

The FFC makes recommendations and gives advice on financial and fiscal matters as prescribed by legislation, at the request of an organ of state, and on its own initiative.

In summary, the main functions of the FFC, as derived from the various Acts,¹ are to:

- act as a consultative body, give advice and make suggestions on financial and fiscal matters to Parliament, provincial legislatures and any other authorities determined by national legislation;
- make suggestions for the fair division of nationally collected revenue (income) among the three spheres of government;

¹ These include the Intergovernmental Fiscal Relations Act No. 97 of 1997 as amended, the Money Bills Amendment Procedures and Related Matters Act No. 9 of 2009, the Municipal Systems Act No. 32 of 2000, as amended, the Provincial Tax Regulation Process Act No. 53 of 2001 as amended, the Municipal Finance Management Act No. 56 of 2003 as amended, the Intergovernmental Relations Framework Act No. 13 of 2005 as amended, the Municipal Fiscal Powers and Functions Act No. 12 of 2007, and the Money Bills Amendment Procedures and Related Matters Act No. 9 of 2009.

- make suggestions regarding any other allocations norms and standards and applicable criteria for various intergovernmental fiscal arrangements;
- produce various reports yearly and distribute them to legislatures; and
- undertake relevant research to be able to provide advice on financial and fiscal matters.

6.3 How to reach the FFC

The contact details of the Head Office are as follows:

Physical address : Second Floor Montrose Place, Waterfall Park,
Bekker Street, Midrand
Postal address : Private Bag X69, Halfway House, Midrand, 1685
Telephone : (011) 207 2300
Fax : (011) 207 2344
Email : info@ffc.gov.za
Website : www.ffc.co.za

7 INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA (ICASA)

7.1 Establishment and purpose of ICASA

The Constitution provides for an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of view broadly representing the South African society. An enabling statute, the Independent Communications Authority of South Africa Act was passed in 2000. In terms of the Electronic Communications Act, 2005, the Independent Communications Authority of South Africa's (ICASA) mandate also extends to the postal services and the electronic communications sectors.

7.2 Functions of ICASA

The main functions of ICASA are to:

- regulate the telecommunications, broadcasting and postal industries in the public interest and ensure affordable services for all South Africans;
- protect consumers from unfair business practices and poor quality services;
- hear and decide on disputes and complaints brought against licensees and controls;
- license broadcasters, signal distributors, provide telecommunication services and postal services;
- grant, renew, amend, transfer and revoke licences;
- make regulations and impose license conditions;
- plan, assign, control, enforce and manage the frequency spectrum;
- ensure international and regional co-operation and the effective distribution of numbers;
- monitor the electronic communications sector to ensure compliance with the law;
- make suggestions on policy matters and changes to the law to promote development in the postal and communications sectors;
- conduct research on all matters affecting the postal and communications sectors;
- inspect equipment used for communications; and
- carry out inquiries on any matter within its authority.

The Postal Services Act of 1998 requires ICASA to license and monitor the South African Post Office on customer care standards and universal service obligations, including the roll-out of street address delivery and providing retail postal services in under-serviced areas.

7.3 Investigations conducted by ICASA

Complaints about services provided by telecommunications, broadcasting, internet and postal licensees can be lodged at ICASA.

7.4 How to reach ICASA

The contact details of the Head Office are as follows:

Physical address : Blocks A,B,C,D, Pinmill Farm, 164 Katherine Street, Sandton
Postal address : Private Bag X 10002, Sandton, 2146
Telephone : (011) 566 3000
Fax : (011) 566 3444
Email : info@icasa.org.za
Website : www.icasa.org.za

8 NATIONAL YOUTH DEVELOPMENT AGENCY (NYDA)

8.1 Establishment and purpose of the NYDA

The National Youth Development Agency Act of 2008 establishes the National Youth Development Agency (NYDA). The NYDA absorbed the National Youth Commission and the Umsobomvu Youth Fund, whose functions are now included under the NYDA. The Agency derives its mandate from the NYDA Act, the National Youth Policy (2009-2014) and the draft Integrated Youth Development Strategy.

The mandate of the NYDA is to advance youth development through guidance and support to initiatives across sectors of society and spheres of government, embark on initiatives that seek to advance the economic development of young people, develop and co-ordinate the implementation of the Integrated Youth Development Plan and Strategy for the country.

8.2 Functions of the NYDA

The key objectives of the NYDA as captured in the NYDA Act are to:

- develop an Integrated Youth Development Plan and Strategy for South Africa;
- develop guidelines for the implementation of an integrated national youth development policy and make recommendations to the President;
- initiate, design, co-ordinate, evaluate and monitor all programmes aimed at integrating the youth into the economy and society in general;
- guide efforts and facilitate economic participation and empowerment, and achievement of education and training;
- partner and assist organs of state, the private sector and non-governmental organisations and community based organisations on initiatives directed at attainment of employment and skills development;
- initiate programmes directed at poverty alleviation, urban and rural development and the combating of crime, substance abuse and social decay amongst youth;
- establish annual national priority programmes in respect of youth development; and

- promote a uniform approach by all organs of state, the private sector and non-governmental organisations.

The main functions of the NYDA as set out in the NYDA Act are to:

- establish skills and abilities in their operational areas;²
- manage the Umsobomvu Fund and, within its available resources, provide -
 - career guidance services;
 - access to information regarding products and services of the National Youth Fund and create databases of employment opportunities;
 - financial assistance to youth to enable them to further their careers and to small, micro and medium enterprises owned by youth;
 - mentoring services aimed at empowering youths in the economy;
 - bridging programmes for youth to facilitate the transition from school or training to the work environment;
 - training regarding the concepts and principles of entrepreneurship and business for youth;
 - training for unemployed youth to improve their life and professional skills; and
 - opportunities for training, which will promote service to communities and the nation at large.
- consider suggestions and requests concerning youth affairs as it may receive from any source; and
- conduct research as it thinks necessary.

In summary, the main functions as set out by the NYDA are to:

- lobby and advocate for integration and mainstreaming of youth development in all spheres of government, private sector and civil society;
- initiate, implement, facilitate and coordinate youth development programmes;
- monitor and evaluate youth development intervention across the board; and
- mobilise youth for active participation in civil society engagements.

² See section 5(1) of the NYDA Act for a list of its operational areas.

8.3 Investigations conducted by the NYDA

The NYDA may, in order to achieve its objectives, carry out any investigation that it considers necessary.

8.4 How to reach the NYDA

The contact details of the Head Office are as follows:

Physical Address : 11 Broadwalk Avenue, off Church Street, Half Way House
Postal Address : P.O. Box 982, Halfway House, 1685
Telephone : (011) 651 7000
Fax : (086) 766 3492
Email : info@nyda.gov.za
Website : www.nyda.gov.za

9 PAN SOUTH AFRICAN LANGUAGE BOARD (PANSALB)

9.1 Establishment and purpose of the PanSALB

Section 6(5) of the Constitution provides for a Pan South African Language Board (PanSALB) to be established by national legislation for the purpose of promoting and creating conditions for the development and use of all official languages, the Khoi, Nama, and San languages and sign language. The Board must also promote and ensure respect for all other languages commonly used by communities in South Africa. An enabling Act, the Pan South African Language Board Act was passed in 1995.

9.2 Functions of the PanSALB

The main functions of PanSALB are to:

- make suggestions on any laws, practice and policy dealing with language matters at any level of government;
- make suggestions to organs of state for the adoption of measures aimed at the promotion of multilingualism;
- advise on the co-ordination of language planning in South Africa;
- actively promote awareness of multilingualism;
- actively promote the development of previously marginalised languages;
- initiate studies and research aimed at promoting and creating conditions for the development and use of all the official languages in South Africa, the Khoi and San and South African Sign Language;
- initiate studies and research aimed at the promotion of the use of South Africa's language resources;
- monitor the observance of the constitutional provisions regarding the use of language;
- conduct research and prepare publications on the use of language; and
- advise government to provide individuals or groups who are adversely affected by severe violations of language rights with financial and other support.



9.3 Investigations conducted by the PanSALB

The Board may on its own initiative, or on receipt of a written complaint investigate alleged violation of any language right, language policy or language practice. They may call upon any person, body or state organ to appear before it to give evidence and produce any relevant records or documents.

9.4 How to reach the PanSALB

The contact details of the Head Office are as follows:

Physical Address : Provisus Building, 523 Church Street, Arcadia, 0007
Postal Address : Private Bag X08, Arcadia, 0007
Telephone : (012) 341 9638/9551
Fax : (012) 341 5938
Email : communication@pansalb.org.za
Website : www.pansalb.org.za

10 PUBLIC PROTECTOR (OPP)

10.1 Establishment and purpose of the OPP

Section 181(1)(a) of the Constitution provides for the establishment of the Public Protector. An enabling statute, the Public Protector Act No of 23 1994, was passed in 1994. The mandate of the Office of the Public Protector (OPP) is to investigate any conduct in state affairs, or in the public administration in any sphere of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action.

The Public Protector must be accessible to all persons and communities and must offer its services free of charge.

10.2 Functions of the OPP

The main functions of the OPP are to:³

- investigate any alleged or attempted maladministration, abuse of power, improper or dishonest acts, improper or unlawful enrichment and acts which results in unlawful or improper prejudice, in the affairs of government or by a government employee or an institution in which the State is a major shareholder;
- resolve disputes by any appropriate means, and give advise regarding appropriate remedies;
- bring matters to the relevant prosecuting authority, if of the opinion that an offence has been committed;
- resolve disputes relating to the operation or administration of the Promotion of Access to Information Act of 2000;
- advise on and investigate any violations of the Executive Members Ethics Act of 1994;
- refer matters to other relevant bodies where appropriate; and

³ The OPP also derives its mandate from the following statutes: the Executive Members' Ethics Act 82 of 1998; Executive Ethics Code; Prevention and Combating of Corrupt Activities Act 12 of 2004; Promotion of Access to Information Act 2 of 2000; Electoral Commission Act 51 of 1996; Protected Disclosures Act 26 of 2000; National Archives and Record Service Act 43 of 1996; National Energy Act 40 of 2004; Housing Protections Measures Act 95 of 1998; Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000; Public Finance Management Act 1 of 1999; Lotteries Act 57 of 1997; Special Investigation Units and Special Tribunals Act 74 of 1996; and National Environmental Management Act 108 of 1998.

- in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 assist the State, where necessary, to promote equality.

10.3 Investigations conducted by the OPP

The Public Protector may conduct investigations on his/her own initiative or on receipt of a complaint. However, the Public Protector may not investigate court decisions and sentences; private individuals; private companies and professionals not employed by government, such as doctors or lawyers.

The Public Protector may investigate improper prejudice experienced as a result of, amongst others:

- abuse of power;
- unfair, discourteous or other improper conduct;
- undue delay;
- decisions taken by the authorities;
- maladministration;
- dishonesty or improper dealing with respect to public money;
- improper enrichment;
- receipt of improper advantage;
- impropriety;
- unauthorised destruction of national archives and records;
- conflict management measures in respect of environmental laws; and
- equality rights violations.

Unless the Public Protector permits it in special circumstances, any complaint must be reported within two years after the incident or matter occurred.

10.4 How to reach the OPP

The contact details of the Head Office are as follows:

Physical Address : 175 Lunnon Street, Hillcrest Office Park, 0083
Postal Address : Private Bag X677, Pretoria, 0001
Telephone : (012) 366 7000 / 0800 11 20 40 (Toll Free)
Fax : (012) 362 3473
Email : info@pprotect.org
Website: www.pprotect.org

11 PUBLIC SERVICE COMMISSION (PSC)

11.1 Establishment and purpose of the PSC

The Public Service Commission (PSC) was established by section 196 of the Constitution. An enabling statute, the Public Service Commission Act, was passed in 1997. The PSC has the power to investigate, monitor and evaluate the organisation and administration of the public service. This mandate also involves the evaluation of achievements, or the lack of achievement, of government programmes. The PSC also has a duty to promote measures that would ensure effective and efficient performance within the public service and to promote values and principles of public administration throughout the public service.

11.2 Functions of the PSC

The main functions of the PSC are to:

- promote the constitutionally prescribed values and principles governing public administration in the public service, set out in section 195 of the Constitution;
- investigate, monitor and evaluate the organisation and administration, and the personnel practices of the public service;
- propose measures to ensure effective and efficient performance within the public service;
- give directions aimed at ensuring that personnel procedures relating to recruitment, transfers promotions and dismissals comply with the constitutionally prescribed values and principles; and
- report in respect of its activities and the performance of its functions, including any finding it may make and directions and advice it may give, and to provide an evaluation of the extent to which the constitutionally prescribed values and principles are complied with.

11.3 Investigations conducted by the PSC

The investigations conducted by the PSC may include the following:

- maladministration and corruption;
- service delivery standards;

- dishonesty or improper dealings with regards to public money; and
- the behaviour, competency, diligence and attitude of employees within the public administration.

11.4 How to reach the PSC

The contact details of the Head Office are as follows:

Physical address : Commission House, cnr. Hamilton & Ziervogel Street, Pretoria,

Postal address : Private Bag X121, Pretoria, 0083

Telephone : (012) 352 1000

Fax : (012) 325 8382

Email : info@opsc.gov.za

Website : www.psc.gov.za

12 SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

12.1 Establishment and purpose of the SAHRC

Section 181(1)(b) of the Constitution establishes a South African Human Rights Commission (SAHRC). An enabling statute, the South African Human Rights Commission Act, was passed in 1994. The mandate of the SAHRC is to:

- promote respect for human rights and a culture of human rights;
- promote the protection, development and achievement of human rights; and
- monitor and the observance of human rights in the Republic.

12.2 Functions of the SAHRC

The additional functions of the SAHRC are to:

- develop and conduct information programmes;
- advance common policies and practices and to promote cooperation in relation to the handling of complaints in cases of overlapping jurisdiction;
- consider suggestions and requests concerning fundamental rights as it may receive from any source;
- carry out studies concerning fundamental rights;
- annually request relevant organs of state to provide it with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights, concerning housing, health care, food, water, social security, education and the environment;
- take steps to secure appropriate redress where human rights have been violated;
- bring proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons; and
- promote the achievement of equality, in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 (PEPUDA).

12.3 Investigations conducted by the SAHRC

The SAHRC may conduct any investigation on receipt of a complaint or of its own accord, into any alleged violation of, or a threat to a fundamental right.

Chapter 2 of the Constitution contains the Bill of Rights, which enshrines the rights of all people in our country. A few examples of human rights are the right to equality; the right to human dignity; the right to freedom of expression; the right to privacy; and the right to health care, food, water and social security.

12.4 How to reach the SAHRC

The contact details of the Head Office are as follows:

Physical address : Braampark Forum 3, 33 Hoofd Street, Braamfontein
Postal Address : P.O. Box X2700, Houghton, 2041
Telephone : (011) 877 3600
Fax : (011) 403 0668
Email : info@sahrc.org.za
Website : www.sahrc.org.za

13 CONCLUSION

The OISD has a mandate to support both the National Assembly and the ISDs. This publication was produced with the aim to increase public awareness of the ISDs and their respective mandates and functions, as contained in the Constitution and relevant statutes.

It is hoped that the information contained in this booklet will be of assistance to all the citizens of South Africa in gaining a greater understanding of the existence, importance and functions of the Institutions Supporting Democracy.

14 PREPARED BY:**The Office on Institutions Supporting Democracy (OISD)**

National Assembly

PO Box 15

Cape Town

8000

Tel : 021 403 3680

Fax : 021 403 3953

E-mail : oisd@parliament.gov.za

www.parliament.gov.za

The information in this publication is intended for general guidance and does not necessarily cover every statutory provision. A list of statutes is included at the back of this document, for further reference. All ISDs were afforded an opportunity to comment on the contents of this document.



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