

REPUBLIC  
OF  
SOUTH AFRICA



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VAN  
SUID-AFRIKA

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## GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

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DEPARTMENT OF JUSTICE  
DEPARTEMENT VAN JUSTISIE

**No. R. 416**

**1 April 1999**

**PREVENTION OF ORGANISED CRIME ACT, 1998 (ACT NO. 121 OF 1998)**

**PREVENTION OF ORGANISED CRIME REGULATIONS**

The Minister of Justice has, in terms of section 77 of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), made the regulations in the Schedule.

## SCHEDULE

### Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -

"designated person" means the person referred to in regulation 3, and includes, for the purposes of regulations 4(2) and 5, any official of the subcomponent of that person;

"Master" means the Master, Deputy Master or Assistant Master of the High Court appointed in terms of section 2 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), who has jurisdiction in respect of the matter, property or estate concerned; and

"the Act" means the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998).

### Tariff of fees payable to *curator bonis*

2. (1) A *curator bonis* appointed under the Act is entitled to a fee which must be assessed according to the following tariff:

(a) On income collected during the existence of the curatorship: six per cent;

- (b) on the value of property, other than money, realised on completion of his or her curatorship: two per cent;
  - (c) on the value of money realised on completion of his or her curatorship: one per cent;
  - (d) on the value of property, other than money, subject to a restraint order where no confiscation order is made: two per cent;
  - (e) on the value of money subject to a restraint order where no confiscation order is made: one per cent.
- (2) Despite subregulation (1), the Master may -
- (a) if in any particular case there are special reasons for doing so, reduce or increase any such fee; or
  - (b) if the *curator bonis* has failed to discharge his or her duties or has discharged them in an unsatisfactory manner, disallow any such fee, either wholly or in part.

**Person to whom suspicion regarding proceeds of unlawful activities to be reported**

3. The Commander of the Commercial Crime Investigations Subcomponent of the South African Police Service is hereby designated for the purposes of section 7 of the Act.

**Nature of information and manner in which it is to be reported**

4. (1) A report contemplated in section 7 of the Act must be made in writing and must -

- (a) substantially correspond to Form 1 of the Annexure;
- (b) contain full particulars of -
  - (i) the person making the report;
  - (ii) the person against whom the suspicion has been formed, in so far as such particulars are available;
  - (iii) the transaction or other action whereby the property concerned has come into the possession of the person making the report;
  - (iv) the property concerned;
- (c) set out the grounds on which the suspicion rests;

(d) indicate what documentary or other proof is available in respect of the transaction or other action referred to in paragraph (b)(iii), and of the grounds referred to in paragraph (c); and

(e) be accompanied by copies of documentation directly relevant to the suspicion and the grounds on which it rests.

(2) The report must be handed or faxed to the designated person.

#### **Acknowledgement of receipt of report**

5. The designated person must, on receipt of a report referred to in regulation 4, forthwith acknowledge receipt thereof to the person who made it, on a form substantially corresponding to Form 2 of the Annexure, and must affix the stamp of his or her office thereto.

#### **Procedure at meetings of Committee**

6. (1) A majority of the members of the Committee forms a quorum at any meeting of the Committee.

(2) The decision of the majority of all the members of the Committee present at a meeting thereof is the decision of the Committee and, in the event of an equality of votes on any matter, the chairperson or person designated by the chairperson to attend the meeting in his or her place has a casting vote in addition to his or her deliberative vote.

(3) Reasonable notice of a meeting of the Committee must be given in writing to the members of the Committee and the Committee must cause minutes to be kept of the proceedings of any such meeting.

(4) Except where otherwise provided for in these regulations, the Committee determines its own procedure.

#### **Title and repeal**

7. (1) These regulations are called the **Prevention of Organised Crime Regulations, 1999**, and come into operation on 1 April 1999.

(2) The **Prevention of Organised Crime Regulations, 1999**, published by Government Notice No. R. 86 of 21 January 1999, are hereby repealed.

**ANNEXURE**

**FORM 1**

**REPORT IN TERMS OF SECTION 7 OF THE PREVENTION OF  
ORGANISED CRIME ACT, 1998 (ACT NO. 121 OF 1998)**

**TO: THE COMMANDER OF COMMERCIAL CRIME INVESTIGATIONS OF THE  
SOUTH AFRICAN POLICE SERVICE**

I, .....

(Name)

.....

.....

.....

(Contact address, telephone number and fax number)

.....

.....

.....

(Business/employment address, telephone number and fax number)

in my capacity as .....

of ....., hereby

report as follows:

**(a) Particulars of the person against whom the suspicion has been formed**

Full names: .....

Identity/passport number: .....

Nationality: .....

Occupation: .....

Residential address in the Republic: .....

.....

Business/employment address: .....

.....



Telephone numbers: (i) Work: .....  
(ii) Home: .....

**(b) Particulars of the transaction or other action whereby the property concerned came into my possession (including date and place thereof)**

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**(c) Particulars of the property in respect of which the suspicion has been formed**

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**(d) Grounds on which the suspicion rests**

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**(e) List of documentation and other proof available in respect of the transaction or other action (paragraph (b)), and the grounds (paragraph (d))**

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(f) **Copies of the following documentation, directly relevant to the suspicion and the grounds on which it rests, are attached:**

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Signed at ..... this ..... day of .....

.....  
(Signature of person making the report)

FORM 2

ACKNOWLEDGEMENT OF RECEIPT IN TERMS OF REGULATION 5 OF THE PREVENTION OF ORGANISED CRIME REGULATIONS, 1999

I, .....  
being the/acting as .....  
designated by regulation 3 of the Prevention of Organised Crime Regulations, 1999,  
hereby acknowledge receipt of the following report(s): .....  
.....  
.....  
made in terms of section 7 of the Prevention of Organised Crime Act, 1998 (Act No. 121  
of 1998), by ..... in his/her capacity as  
..... of ..... on .....

I also acknowledge receipt of copies of the following documentation which accompanied  
the report(s): .....  
.....  
.....  
.....

Signed at ..... this..... day of .....

.....  
(Signature of designated person)

**WET OP DIE VOORKOMING VAN GEORGANISEERDE MISDAAD, 1998  
(WET NO. 121 VAN 1998)**

**REGULASIES BETREFFENDE DIE VOORKOMING VAN  
GEORGANISEERDE MISDAAD**

Die Minister van Justisie het kragtens artikel 77 van die Wet op die Voorkoming van Georganiseerde Misdad, 1998 (Wet No. 121 van 1998), die regulasies in die Bylae uitgevaardig.

**BYLAE**

**Woordomskrywing**

1. In hierdie regulasies het 'n woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken -

"aangewese persoon" die persoon in regulasie 3 bedoel en ook, vir doeleindes van regulasies 4(2) en 5, 'n beampte van die subkomponent van daardie persoon;

"die Wet" die Wet op die Voorkoming van Georganiseerde Misdad, 1998 (Wet No. 121 van 1998); en

"Meester" die Meester, Adjunkmeester of Assistentmeester van die Hoë Hof kragtens artikel 2 van die Boedelwet, 1965 (Wet No. 66 van 1965), aangestel, wat ten opsigte van die betrokke aangeleentheid, eiendom of boedel met regsbevoegdheid bekleed is.

### Geldetarif betaalbaar aan *curator bonis*

2. (1) 'n *Curator bonis* aangestel kragtens die Wet is geregtig op gelde wat ooreenkomstig die volgende tarief bereken moet word:

- (a) Op inkomste ingevorder gedurende die bestaan van die kuratorskap: ses persent;
- (b) op die waarde van eiendom, uitgesonderd geld, gerealiseer by beëindiging van sy of haar kuratorskap: twee persent;
- (c) op die waarde van geld gerealiseer by beëindiging van sy of haar kuratorskap: een persent;
- (d) op die waarde van eiendom, uitgesonderd geld, onderworpe aan 'n inkortingsbevel waar geen inbeslagnemingsbevel verleen word nie: twee persent;

- (e) op die waarde van geld onderworpe aan 'n inkortingsbevel waar geen inbeslagnemingsbevel verleen word nie: een persent.
- (2) Ondanks subregulasie (1) kan die Meester -
- (a) indien daar in 'n bepaalde geval besondere redes bestaan om dit te doen, enige sodanige gelde verlaag of verhoog; of
  - (b) indien die *curator bonis* versuim het om sy of haar pligte na te kom of dit op 'n onbevredigende wyse nagekom het, enige sodanige gelde in die geheel of ten dele weier.

**Persoon by wie verdenking betreffende die opbrengs van onregmatige aktiwiteite aangemeld moet word**

3. Die Bevelvoerder van die Subkomponent: Handelsmisdaadondersoeke van die Suid-Afrikaanse Polisie diens word hierby vir die doeleindes van artikel 7 van die Wet aangewys.

**Aard van inligting en wyse waarop dit aangemeld moet word**

4. (1) 'n Aanmelding bedoel in artikel 7 van die Wet word skriftelik gemaak en moet -
- (a) wesenlik ooreenstem met Vorm 1 van die Aanhangsel;
  - (b) volle besonderhede bevat van -

- (i) die persoon wat die aanmelding maak;
  - (ii) die persoon teen wie die suspisie gevorm is, in sover sodanige besonderhede beskikbaar is;
  - (iii) die transaksie of ander handeling waardeur die betrokke eiendom in die besit gekom het van die persoon wat die aanmelding maak;
  - (iv) die betrokke eiendom;
- (c) die gronde uiteensit waarop die suspisie berus;
- (d) aandui welke dokumentêre of ander bewys beskikbaar is ten opsigte van die transaksie of ander handeling vermeld in paragraaf (b)(iii) en van die gronde vermeld in paragraaf (c); en
- (e) vergesel gaan van afskrifte van dokumentasie wat direk verband hou met die suspisie en die gronde waarop dit berus.

(2) Die aanmelding moet aan die aangewese persoon oorhandig of gefaks word.

### **Erkenning van ontvangs van aanmelding**

5. By ontvangs van 'n aanmelding bedoel in regulasie 4, moet die aangewese persoon onverwyld ontvangs daarvan erken aan die persoon wat dit gemaak het, op 'n vorm wat wesenlik ooreenstem met Vorm 2 van die Aanhangsel en moet die stempel van sy of haar kantoor daarop aanbring.



### Prosedure by vergaderings van Komitee

6. (1) `n Meerderheid van die lede van die Komitee vorm `n kworum by enige vergadering van die Komitee.

(2) Die besluit van die meerderheid van al die lede teenwoordig by `n vergadering van die Komitee, is die besluit van die Komitee en, in die geval van `n staking van stemme oor enige aangeleentheid, het die voorsitter of die persoon aangewys deur die voorsitter om `n vergadering in sy of haar plek by te woon, `n beslissende stem benewens sy of haar beraadslagende stem.

(3) Redelike kennis van `n vergadering van die Komitee moet skriftelik aan die lede van die Komitee gegee word en die Komitee moet notules van die verrigtinge van enige sodanige vergadering laat hou.

(4) Behalwe waar andersins in hierdie regulasies voorsiening gemaak word, bepaal die Komitee sy eie prosedure.

### Titel en herroeping

7. (1) Hierdie regulasies heet die **Regulasies betreffende die Voorkoming van Georganiseerde Misdad, 1999**, en tree op 1 April 1999 in werking.

(2) Die Regulasies insake die Voorkoming van Georganiseerde Misdad, 1999, afgekondig by Goewermentskennisgewing No. R. 86 van 21 Januarie 1999 word hierby herroep.

**AANHANGSEL**

**VORM 1**

**AANMELDING INGEVOLGE ARTIKEL 7 VAN DIE WET OP DIE  
VOORKOMING VAN GEORGANISEERDE MISDAAD, 1998 (WET NO. 121  
VAN 1998)**

**AAN: DIE BEVELVOERDER VAN HANDELSMISDAADONDERSOEKE VAN DIE  
SUID-AFRIKAANSE POLISIEDIENS**

Ek, .....

(Naam)

.....

.....

.....

(Kontakadres, telefoonnommer en faksnommer)

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

(Besigheids-/werkadres, -telefoonnommer en -faksnommer)

in my hoedanigheid van .....

van ....., meld

hierby soos volg aan:

**(a) Besonderhede van die persoon teen wie die suspisie gevorm is**

Volle name: .....

Identiteits-/paspoortnommer: .....

Nasionaliteit: .....

Beroep: ! .....

Woonadres binne die Republiek: .....

.....

Besigheids-/werkadres: .....

.....

Telefoonnommers: (i) Werk: .....

(ii) Huis: .....

(b) **Besonderhede van die transaksie of ander handeling waardeur die betrokke eiendom in my besit gekom het (insluitende die datum en plek daarvan)**

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(c) **Besonderhede van die eiendom ten opsigte waarvan die suspisie gevorm is**

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**(d) Gronde waarop die suspisie berus**

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**(e) Lys van dokumentasie en ander beskikbare bewyse ten opsigte van die transaksie of ander handeling (paragraaf (b)), en die gronde (paragraaf (d))**

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(f) **Afskrifte van die volgende dokumentasie, wat direk verband hou met die suspisie en die gronde waarop dit berus, is aangeheg:**

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Geteken te ..... op hede die ..... dag van  
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(Handtekening van persoon wat aanmelding maak)

VORM 2

ERKENNING VAN ONTVANGS INGEVOLGE REGULASIE 5 VAN DIE  
REGULASIES BETREFFENDE DIE VOORKOMING VAN  
GEORGANISEERDE MISDAAD, 1999

Ek, ....., synde  
die/handelende as .....,  
aangewys by regulasie 3 van die Regulasies betreffende die Voorkoming van  
Georganiseerde Misdaad, 1999, erken hierby ontvangs van die volgende aanmelding(s):  
.....  
.....  
gemaak ingevolge artikel 7 van die Wet op die Voorkoming van Georganiseerde  
Misdaad, 1998 (Wet No. 121 van 1998), deur ..... in  
sy/haar hoedanigheid van ..... van .....  
op .....

Ek erken ook ontvangs van afskrifte van die volgende dokumentasie wat die  
aanmelding(s) vergesel het : .....  
.....  
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.....

Geteken te ..... op hede die ..... dag van .....

.....  
(Handtekening van aangewese persoon)

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