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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE

Justice and Constitutional Development, Department of

General Notice

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GENERAL NOTICE

NOTICE 38 OF 2004

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

PROMOTION OF ACCESS TO INFORMATION ACT, 2000 (ACT NO. 2 OF 2000)

INVITATION TO COMMENT ON DRAFT REGULATIONS RELATING TO THE PROMOTION OF ACCESS TO INFORMATION ACT: SECTION 92(4) OF THE PROMOTION OF ACCESS TO INFORMATION ACT [CLAUSE 25 OF THE JUDICIAL MATTERS SECOND AMENDMENT BILL]

Clause 25 of the Judicial Matters Second Amendment Bill of 2003 (the Bill), amends section 92 (4) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)(the Act), by the addition of subsection (4) thereto. In terms of this amendment any regulation made in terms of section 92(1) of the Act may provide that any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.

Draft regulations to give effect to the aforementioned amendment and to amend certain technical errors to the existing Regulations are set out in the attached Schedule for your comments. The draft regulations will be finalised after evaluation of comments received and if possible will be promulgated simultaneously with the commencement of clause 25 of the Bill.

Please submit your comments on or before 6 February 2004 to:

**The Director: Legislative Development
Department of Justice and Constitutional Development
Private Bag X 81
Pretoria
0001**

or

**Room 906 Eastern Tower
Momentum Building
Pretorius Street
Pretoria**

or

Fax to (012) 315 1821

or

E mail to Cvanvuuren@justice.gov.za

SCHEDULE

Definition

1. In this Schedule the "Regulations" means the Regulations published by Government Notice No. 187 of 15 February 2002, as amended by Government Notice No. R. 1244 of 22 September 2003

Insertion of Regulation 3A into the Regulations

2. The Regulations are hereby amended by the insertion after regulation 3 of the following regulation:

"Offences and penalties

3A(1) An information officer of a public body or a head of an office referred to in regulation 4(1)(a)(i)(bb), who -

- (a) fails to comply with a provision of regulation 4(1)(a) or 5(a) of these Regulations respectively; or
 - (b) contravenes regulation 4(3) or 5(b) or (c) of these Regulations respectively, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.
- (2) A head of a private body who -
- (a) fails to comply with a provision of regulation 9(1)(a) or (2)(a) of these Regulations; or
 - (b) contravenes regulation 9(2)(b) or (c) of these Regulations, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years."

Amendment of regulation 4 of the Regulations

3. Subparagraph (i) of paragraph (a) of regulation 4(1) of the Regulations is hereby substituted for the following subparagraph:

"(i) make available a copy of the manual in at least the three official languages in which the manual is compiled as required by section 14 of the Act, to -"

Amendment of regulation 5 of the Regulations

4. The heading of regulation 5 of the Regulations is hereby submitted for the following heading:

"The Human Rights Commission and the head of an office referred to in regulation 4(1)(a)(i)(bb) -"