



Commission for Gender Equality  
A society free from gender oppression and inequality

# THE NATIONAL PROSECUTING AUTHORITY AMENDMENT BILL

*Commission for Gender Equality Comments*

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## 1. Introduction

The Commission for Gender Equality (CGE) wishes to express its gratitude for the opportunity to make written submissions on the publication of the National Identification and Registration Bill, 2023.

The CGE, as an independent statutory body created in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996 (the Constitution), is mandated to promote and protect gender equality in government, civil society, and the private sector.

The Commission for Gender Equality Act 39 of 1996, as amended (the CGE Act), gives the Commission the power to:

- Monitor and evaluate policies and practices of organs of State at any level.
- Monitor and evaluate statutory bodies and functionaries.
- Monitor public bodies and authorities and private businesses, enterprises, and institutions to promote gender equality.
- Make any recommendations that the CGE deems necessary.

The CGE welcomes the opportunity to make inputs into the Bill and shall reiterate the proposed sections under review in the Bill and respond thereto.



## 2. **Background** **Commission for Gender Equality** A society free from gender oppression and inequality

The main purpose of the National Prosecuting Authority Amendment Bill ('the Bill') is to amend the National Prosecuting Authority Act 32 of 1998 to establish an Investigating Directorate within Office of the National Director to investigate and prosecute 'serious, high-profile, or complex corruption or commercial or financial crimes'.

Commercial crime, especially when linked to corruption within the public service, aggravates the systemic and structural inequalities that already exist in South African society. Not only do such crimes have a profound impact on the lives of South Africans, particularly the marginalized, they also have adverse impact on poverty rates, mortality rates, school dropout rates, and can be directly linked to civil unrest.

These kinds of crime have a particularly negative impact on women and gender equality. They undermine women's access to public services such as healthcare and education by compromising their access to quality schools and health facilities. This in turn adversely affects women's social and economic prospects. Ultimately, gender gaps become exacerbated even further, preventing the achievement of equality within this sphere of society.

## 3 **The Commission for Gender Equality's Submissions on Aspects of the Bill**

In light of the above, the CGE's submissions regarding the Bill are set out hereunder.



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### 3.1 Overall Comments

The CGE is in full support of the establishment of an Investigating Directorate as proposed in the Bill.

Due to women's greater interaction with public services, they are disproportionately exposed to corruption at the point of service delivery. In addition to having fewer control over household income, women are doubly disadvantaged since they are less likely to seek alternative sources of healthcare, such as those provided by private healthcare providers, and therefore remain dependent on what may often be a corrupted healthcare system. Commercial crimes such as corruption have a knock-on effect for generations, as women tend to bear the burden caused by these crimes more severely.

Therefore, in addressing commercial crimes linked to corruption, the creation of an Investigating Directorate within the Office of the National Director will have a positive impact on the achievement of gender-equality.

### 3.2 Section 5 of the Amendment Act

Section 5 of the Amendment Act amends section 7 of the NPA Act by establishing an Investigating Directorate within the Office of the National Director. Subclause (a) sets out the nature of crimes that the Directorate can investigate which are in the main 'complex corruption' or commercial or financial crimes. However, the CGE notes that crimes of a sexual nature such



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as trafficking in persons, sexual harassment and rape by high level officials have a particularly adverse and disproportionate impact on women. It would therefore recommend that the possibility of including the investigation of crimes such as trafficking in persons, sexual harassment and rape by high level officials be expressly included within the proposed Directorate's mandate.

### 3.3 *Section 19D of the Amendment Act: Appointment of Investigators*

Section 19D of the Amendment Act deals with the appointment of investigators. The CGE supports the appointment of investigators and notes that the enactment of this section would provide an opportunity to ensure gender parity is maintained regarding the number of women appointed as investigators. The CGE would therefore recommend that in addition to the requirements for appointment set out in section 19D(2) of the Bill, a further subclause be added to the effect that in the appointment of investigators, consideration must be given to gender equity.

## 4. **Conclusion**

The CGE therefore welcomes the Bill. The establishment of a Investigating Directorate within the Office of the National Director of Public Prosecutions will help to investigate and prosecute commercial crimes linked to corruption, the kind of crime that has a particularly adverse impact on the disadvantaged, particularly women. This in turn will have a positive impact on women's access to public services and gender inequality in South Africa.