

DRAFT

GOVERNMENT NOTICE

NATIONAL TREASURY

No. R.

2026

PUBLIC PROCUREMENT TRIBUNAL REGULATIONS, 2026

The Minister of Finance has, under section 63 of the Public Procurement Act, 2024 (Act No. 28 of 2024 and with effect from XX, made the regulations set out in the Schedule.

FOR PUBLIC CONSULTATION TO S63(3) OF ACT

SCHEDULE

PUBLIC PROCUREMENT TRIBUNAL REGULATIONS, 2026

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FOR PUBLIC CONSULTATION TO S63(3) OF ACT

1. Short title and commencement

These Regulations are called the Public Procurement Tribunal Regulations, 2026, and take effect on XX.

2. Definitions

In these Regulations any word or expression bears the meaning that is assigned in the Act, unless the context indicates otherwise –

"the Act" means the Public Procurement Act, 2024 (Act No. 28 of 2024) and its regulations, codes of conduct, instructions and notices made or issued in terms of it.

3. Tribunal fee

[section 63(1)(a)(xiv) of the Act]

A bidder or a debarred person who submits an application for review contemplated in section 47(1) or 48(1) of the Act must pay-

- (a) a fee of R500, which is not refundable;
- (b) that fee into the designated account of the Tribunal via electronic funds transfer.

4. Security vetting of members of Tribunal

[section 63(1)(a)(iii)(aa) of the Act]

- (1) A candidate for appointment in terms of section 37(1) of the Act that meets the requirements contemplated in sections 37(2) and 38(1), or re-appointment in terms of section 41(2), must undergo a mandatory security vetting process before being appointed or re-appointed as a member of the Tribunal.
- (2) The security vetting process must verify that –
 - (a) the person nominated as a candidate in terms of section 38(2) of the Act –
 - (i) has no past convictions that may compromise the integrity of the Tribunal;
 - (ii) is a citizen or a permanent resident of the Republic;
 - (iii) is in good financial standing with no past involvement in financial mismanagement; and
 - (iv) has no potential conflicts of interest, affiliations, or activities that may hinder the person's ability to perform the duties as a member of the Tribunal;

- (b) the person's employment references and qualifications are correct.
- (3) The Minister may require a member of the Tribunal to undergo mandatory security vetting process contemplated in subregulation (2) during that member's term of office.
- (4) The Minister –
 - (a) may not reappoint a member of the Tribunal if that member does not receive the necessary security clearance;
 - (b) must refer a member's failure to receive the necessary clearance in terms of subregulation (3) to the Independent Inquiry contemplated in section 41(4)(c) of the Act.

5. Appointment of Tribunal members

[sections 37(1) and 63(1)(b)(vii) of the Act]

- (1) The Minister must appoint an independent panel to make recommendations for appointment to the Tribunal.
- (2) The independent panel must be composed of –
 - (a) a retired judge as chairperson;
 - (b) the Director-General: National Treasury;
 - (c) the Director-General: Justice and Constitutional Development; and
 - (d) the Public Procurement Officer.
- (3) On the appointment of the independent panel referred to in subregulation (1) –
 - (a) the panel must determine the criteria for shortlisting;
 - (b) National Treasury must, from those candidates that have been successfully vetted under regulation 4 –
 - (i) evaluate the candidates in terms of the criteria;
 - (ii) shortlist them; and
 - (iii) provide the panel with a list of the shortlisted candidates, the reasons for shortlisting them and the results of the vetting;
 - (c) the panel must –

- (i) interview the shortlisted candidates with a view to determining whether they are fit and proper and possess the necessary skills, expertise and knowledge; and
 - (ii) recommend candidates for appointment by the Minister in terms of section 37(1).
- (4) Information obtained during the security vetting process must be treated as confidential.

6. Code of conduct

[Section 9(1) of the Act]

Members of the Tribunal must sign, upon appointment, the declaration in, and adhere to, the Code of Conduct in **ANNEXURE 1**.

7. Contravention of code of conduct

[Sections 9(2) and 41(4)(c) of the Act]

The Minister may terminate the appointment of a member of the Tribunal for a contravention of the code of conduct in accordance with section 41(4)(c) of the Act.

FOR PUBLIC CONSULTATION TO S63(3) OF ACT

ANNEXURE 1
CODE OF CONDUCT FOR MEMBERS OF TRIBUNAL

1. Application of code

A member of the Tribunal is subject to this Code of Conduct and is required to comply with this Code.

2. Legal compliance

A member of the Tribunal must –

- (a) comply with all applicable laws, including the Public Procurement Act, 2024 (Act No. 28 of 2024) (“the Act”), the Constitution of the Republic of South Africa, 1996 and any other relevant legislation; and
- (b) abide by the principles of fairness, equity, transparency, competitiveness, and cost-effectiveness as required by section 217 of the Constitution.

3. Performance of duties

A member of the Tribunal must –

- (a) faithfully and loyally exercise the powers and perform the functions conferred by the Act;
- (b) act with honesty, impartiality, independence, and due diligence in the execution of their duties;
- (c) conduct their responsibilities fairly, without fear, favour, bias, or prejudice;
- (d) not act out of fear of criticism, personal interest, or external pressure;
- (e) be available and committed to attend to the work of the Tribunal as required;
- (f) discharge their duties professionally, with integrity, efficiency, and to the best of their ability;
- (g) act in good faith and with the degree of care, skill, and diligence that may reasonably be expected of a person performing similar functions;
- (h) not interfere with or impede the authority or functions of an accounting officer, accounting authority, or any procuring institution, unless permitted by the Act or the Tribunal Rules made in terms of section 46 of the Act;
- (i) ensure that decisions are reasoned, lawful, and based solely on the evidence and arguments presented;

- (j) refrain from engaging in any activity that may compromise the independence or credibility of the Tribunal; and
- (k) avoid any conduct that may bring the Tribunal into disrepute or undermine its authority.

4. Ethical conduct

A member of the Tribunal must –

- (a) uphold the highest standards of ethical conduct, integrity, and accountability to maintain public confidence in the Tribunal;
- (b) not seek, accept, or receive, directly or indirectly, any gratification as defined in section 1 of the Prevention and Combatting of Corrupt Activities Act, 2004 (Act No. 12 of 2004) that may influence or be perceived to influence their decisions or actions;
- (c) exercise independent judgment in all matters before the Tribunal, free from external influence or personal interest;
- (d) not use their position or any information obtained in the course of their duties to improperly benefit themselves or others, or to cause harm or prejudice;
- (e) encourage and respect the free expression of views and opinions of other members, and foster a culture of collegiality and mutual respect;
- (f) not interfere with or exert undue influence on any person involved in procurement processes;
- (g) not engage in any unlawful or inappropriate communication with parties or their representatives in relation to a matter before the Tribunal;
- (h) be patient, courteous, and respectful to all parties, representatives, and witnesses, and promote such conduct among all participants in proceedings; and
- (i) disclose any actual, potential, or perceived conflict of interest in accordance with section 40 of the Act, and recuse themselves where appropriate.

5. Confidentiality and disclosure of information

A member of the Tribunal must –

- (a) make decisions timeously and communicate them officially in accordance with the Act and applicable rules;
- (b) not disclose any confidential information obtained in the course of their duties, except as required by law or authorised Tribunal processes;
- (c) ensure that all communications and disclosures are made through official channels and in accordance with the Act; and

- (d) take reasonable steps to protect the integrity and confidentiality of Tribunal records and proceedings.

DECLARATION

I, (insert name), identity number..... in my capacity asof the Tribunal, confirm that I understand my responsibilities under the Public Procurement Act, 2024 (Act No. 28 of 2024) and consider this Code of Conduct to be binding on me. I understand that any non-compliance with this code will be addressed in accordance with the Act and may result in the suspension or removal from the Tribunal in accordance with section 41 of the Act.

Signed at:

Date:

Signature:

Full Name:

Capacity:

FOR PUBLIC CONSULTATION ito s63(3) OF ACT