SUBMISSION TO THE PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON THE PROTECTED DISCLOSURES AMENDMENT BILL B 40 – 2015

9 AUGUST 2016

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1. INTRODUCTION

The Commission for Gender Equality(CGE) is a Chapter 9 Institution and in terms of it’s mandate obliged to evaluate any proposed policy, practice or law in order to make recommendations that promote, protect, develop and attain gender equality.

Accordingly, the CGE has undertaken an evaluation of the Protected Disclosures Amendment Bill [B 40 – 2015] l which is a remarkable legislative proposal prepared by the Department of Justice and Correctional Services. In this regard the CGE has found it opportune to make recommendations that are deemed necessary to gender mainstream the aforementioned Bill.

1. GENERAL COMMENT

The CGE welcomes an extension of protection to employees of independent contractors, consultants, agents and any person extending any service to clients who is deemed to be a worker. This makes the protection afforded more meaningful and is accordingly, supported by the CGE.

1. Clause 1

The definition of a “business “ and “disclosure” is supported in its current form.

The CGE supports the inclusion of a reference to the Employment Equity Act and Promotion of Equality and Prevention of Unfair Discrimination Act because in the latter definition, any discrimination on the basis of gender is prohibited.

1. Clause 1 (d)

The CGE proposes an inclusion of the following sub- paragraph :

1 (d) (k) the imposition of any unfair restraint of trade on an employee or former

Employee.

1. Clause 4

The CGE supports the proposed clause which seeks to hold both employers and clients jointly and severally liable for acts that result in any occupational detriment to an employee or worker. This will ensure that the employers and contractors will not escape liability by shifting blame in the event of contraventions.

1. Clause 5

The CGE recommends an insertion of the following sub paragraph at paragraph 5(b) :

(d) where the cause of action relates to any dismissal then the matter may be treated as urgent.

1. Clause 6

The CGE supports this clause and recommends the following inclusion :

A new paragraph ( c ) to be inserted which reads as follows :

( c ) Every employer must keep a record of all disclosures made by an employee or worker including what steps were taken in any disclosure which will include steps to protect an employee or worker.

1. Clause 7

The CGE recommends a revision to this Clause as follows :

An insertion of the following words to Section 7 of the Principal Act :

“ Any disclosure made in good faith to a member of Cabinet , any member or Committee of The National Assembly regarding any constitutional institution , or the Executive Council of a province …….

1. CONCLUSION

The CGE thanks the Portfolio Committee for Justice and Correctional Services for the opportunity to participate in this initiative and takes this opportunity to wish the Honourable Chairperson and members all the best in their noble endeavours.