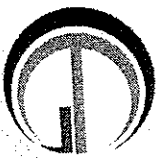


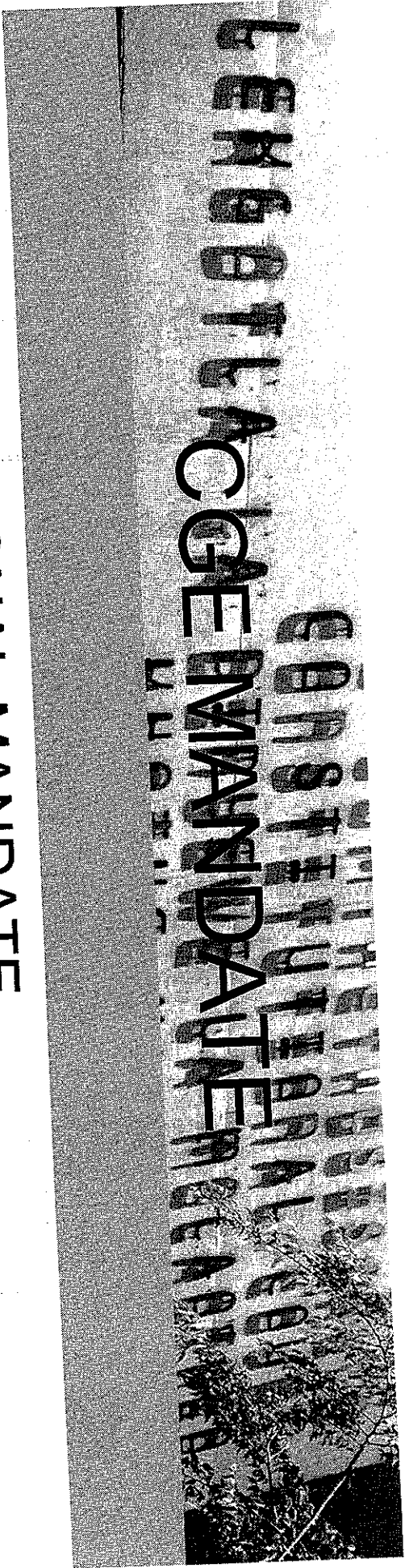
28.11.2012  
PC WOMEN

# CGE PRESENTATION ON THE CGE AMENDMENT BILL [B 36 - 2012]

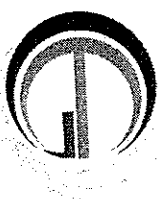
PORTFOLIO COMMITTEE ON WCPD  
28 NOVEMBER 2012

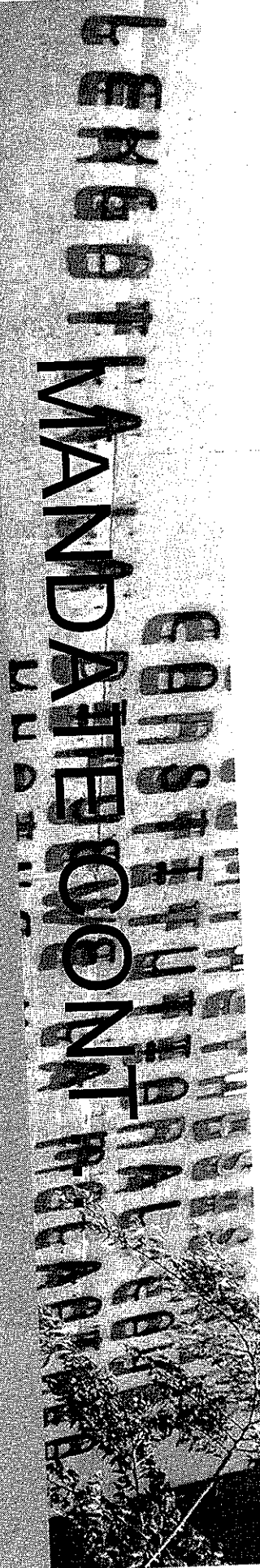
Page 1



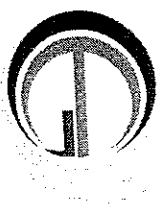
- 
- 1. CONSTITUTIONAL MANDATE
  - TO PROMOTE RESPECT FOR GENDER EQUALITY, THE PROTECTION, DEVELOPMENT AND ATTAINMENT OF GENDER EQUALITY.


Page 2

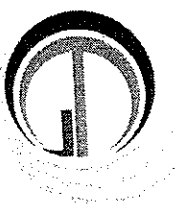




- 2. LEGAL MANDATE
- MONITOR AND EVALUATE POLICIES AND PRACTICES, MAKE RECOMMENDATIONS TO PARLIAMENT ON LEGISLATION, INVESTIGATE GENDER RELATED COMPLAINTS, MONITOR STATE COMPLIANCE WITH INTERNATIONAL INSTRUMENTS, CONDUCT RESEARCH AND EDUCATIONAL PROGRAMMES.

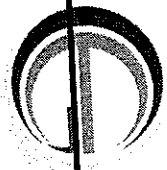


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- 1. PRESENT ON THE PROPOSED AMENDMENTS AS CONTAINED IN THE CGE AMENDMENT BILL [B 36-2012]
  - 2. PRESENT ON AMENDMENTS THAT WERE ENVISAGED BY THE PPSA AND AD HOC COMMITTEE FOR FORENSIC INVESTIGATION INTO THE CGE DEEMED NECESSARY FOR GOOD GOVERNANCE – REPORT 23 / 06 / 2011



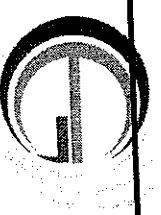
LEGISLATIVE BILL BB 136-20072  
COMPOSTING  
MAY 2007  
LEGISLATIVE BILL BB 136-20072  
MAY 2007  
LEGISLATIVE BILL BB 136-20072  
MAY 2007

CLAUSE	CGE - PROPOSAL
1. PREA	CHANGES SUPPORTED - NECESSARY TO ALIGN ACT TO CONSTITUTION
	THREE ADDITIONS TO FULLY ALIGN CGE ACT TO SECT 181 (1) AND (2) OF CONSTITUTION
	Page 5



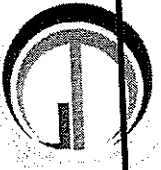


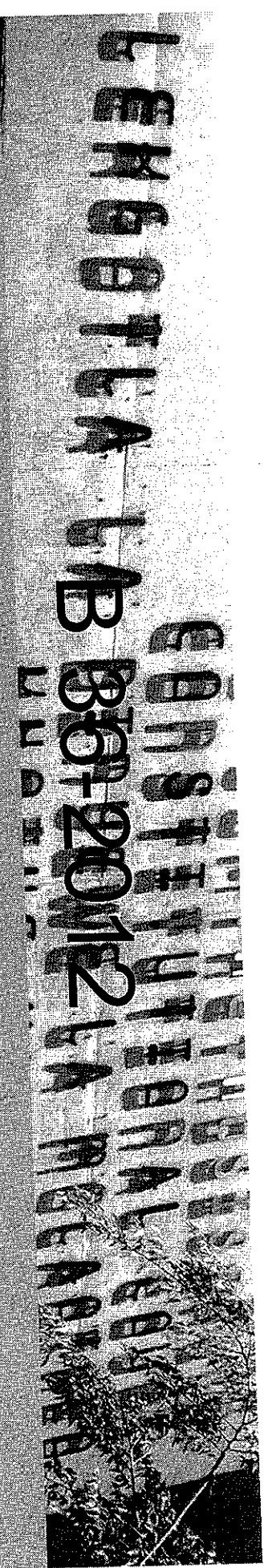
<p>CLAUSE 2</p>	<p>CGE PROPOSALS</p>
<p>Sect 1(a) Commission [on] <u>for</u></p>	<p>SUPPORTED</p>
<p>Sect 1(b) insertion of the definition of "<u>Constitution</u>"</p>	<p>SUPPORTED</p>
<p>Sect 1(c) substitution of minister of WCPD for Justice</p>	<p>SUPPORTED</p>



СЕРБИЈА  
Београд  
Универзитет  
Колеџијум  
Факултет  
Психологије  
и Социјалне  
Психологије  
Београд

DEFINITIONS	ADDITIONAL DEFINITIONS SUCH AS PEPUDA, GENDER, INVESTIGATION, PLENARY, SECRETARIAT REQUIRES INCLUSION DUE TO EXPANDED LEGAL MANDATE / GOOD GOVERNANCE
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CLAUSE 3 – (a) number of commissioners

Not Supported –  
propose a maximum of 10 Commissioners inclusive of  
Chairperson – 7 year renewable terms for continuity / in keeping with SAHRC / draft bill on remuneration of Commissioners/  
**Budget constraints**



CLAUSE 3 (b) (a)		SUPPORTED
CLAUSE 3 (b) (b)		SUPPORTED
CLAUSE 3 (b) (c)		SUPPORTED
CLAUSE 3 (c)	Page 9	SUPPORTED



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CLAUSE 3 (d) This section allows for public participation in the nomination process

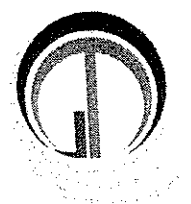
Deletion is not supported. Public participation is necessary

CLAUSE 3 (e) This section aligns the CGE Act to Sect 194 of the Constitution.

Supported.

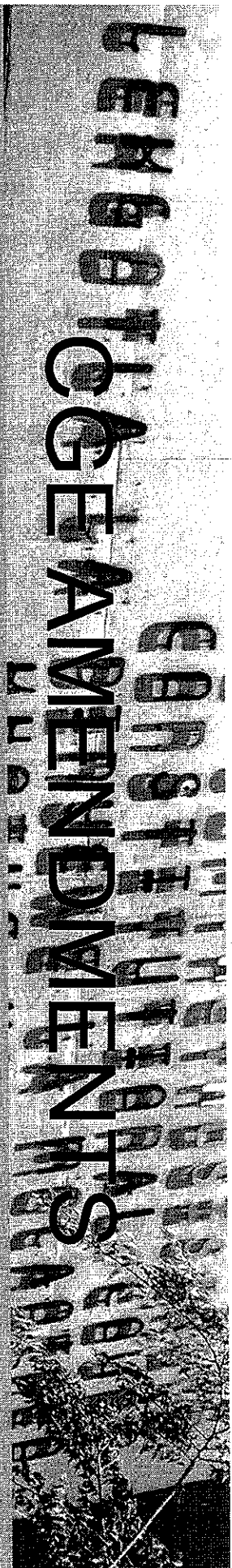
CLAUSE 4 Sect 9 of Act -- substitution of PFMA for Exchequer Act Page 10

Supported

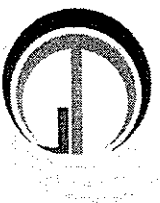


<p>CLAUSE 5 – Sect 11of CGE Act Proposes substitution [119(3)] for <u>187</u> of Constitution</p>	<p>SUPPORTED</p>
<p>CLAUSE 6-9 – Sect 19 of CGE Act and Other references to the CGE Act Short Title – Commission [on] <u>for</u></p>	<p>SUPPORTED</p> <p>Page 11</p>



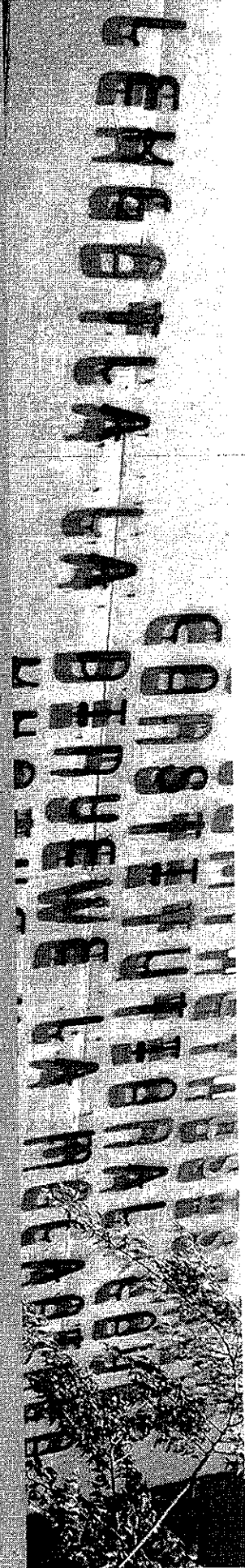


SECTION TO BE REVISED	EXPLANATION
Sect 2 (1)  Page 12	Seat of Commission should be determined by Commission not President – present provision conflicts with Sect 181(3)and (4) of Constitution as well as Sect 10 of CGE Act.

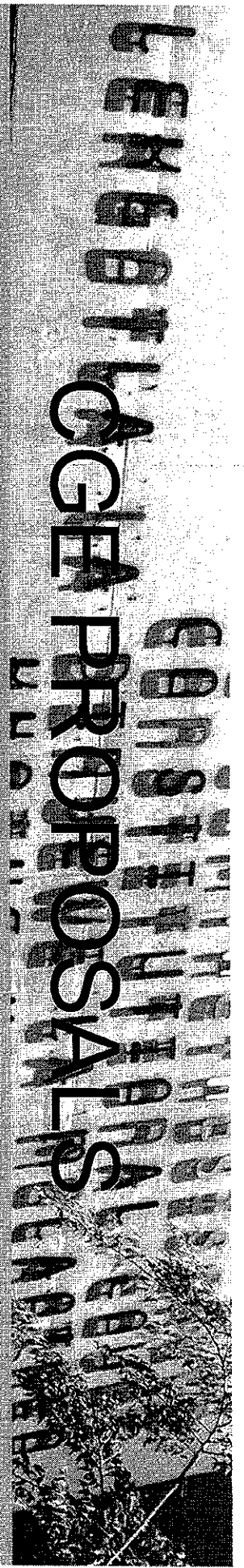


Sect 3(4)	CGE recommends a total of 10 Commissioners inclusive of Chairperson. This would mean that 1 Commissioner is assigned per province.
	7 x full – time and 2 x part-time Commissioners recommended and a Chair is additional.
Page 13	The term of office of a Commissioner must be for 7 years which is renewable. This is in keeping with SAHRC / New Draft Bill on remuneration of Commissioners/ budgets

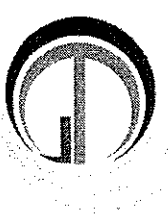


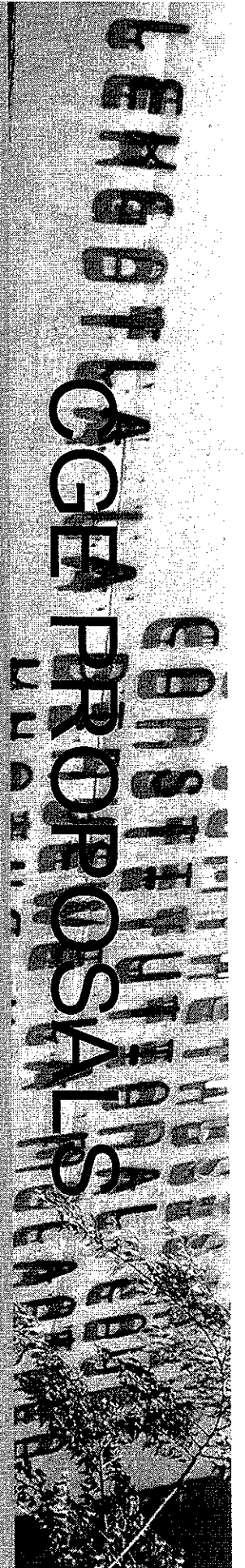


<p>Sect 3(6) of CGE Act</p>	<p>A part-time Commissioner should be appointed as a full – time commissioner and vice versa. This flexibility is necessary to accommodate new/changed circumstances.</p>
	<p>Circumstances and vacancies must allow for above changes.</p>
<p>Sect 3(9) of CGE Act Page 14</p>	<p>The CGE proposes a substitution for Commissioners to choose the Chairperson and DC as done by SAHRC</p>

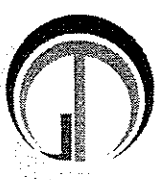


Sect 4(3)	CGE recommends insertion of clauses c and d which addresses difficulties when resignations occur and vacant positions are not filled.
Page 15	The above is necessary for continuity, good governance and responsibilities of Commissioners to be fulfilled.





<p>Sect 5(3)</p>	<p>To be revised to cater for instances where vacancies exist and are not filled.</p>
<p>Sect 5(6)</p>	<p>The CGE proposes a better construction of what the existing section intends to provide. Page 16</p>





<p>Sect 7</p>	<p>CGE recommends an insertion of a new Sect 7A to provide for the harmonious operations between the two levels namely Commissioners and Secretariat as this gap was never addressed.</p>
<p>Sect 7(1) (a) Page 17</p>	<p>This Sect is unconstitutional as it undermines the independence of the CGE and could limit the CGE in its choice of candidates for CEO. Therefore, CGE proposes revision.</p>

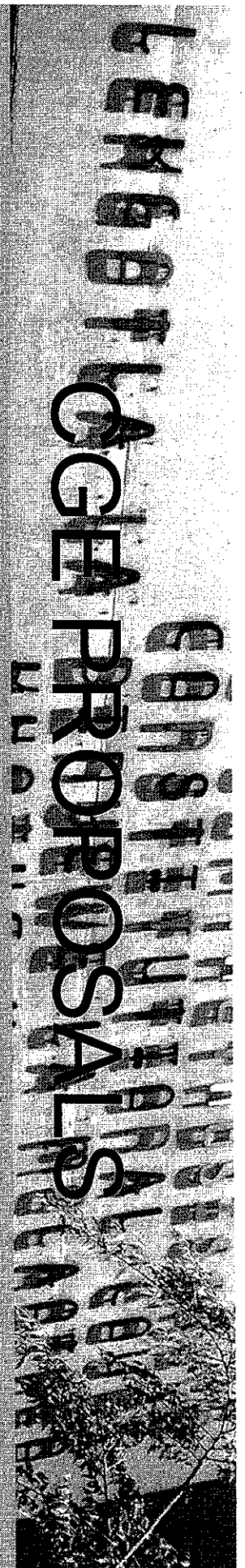


# LEGISLATIVE COUNCIL PROPOSAL

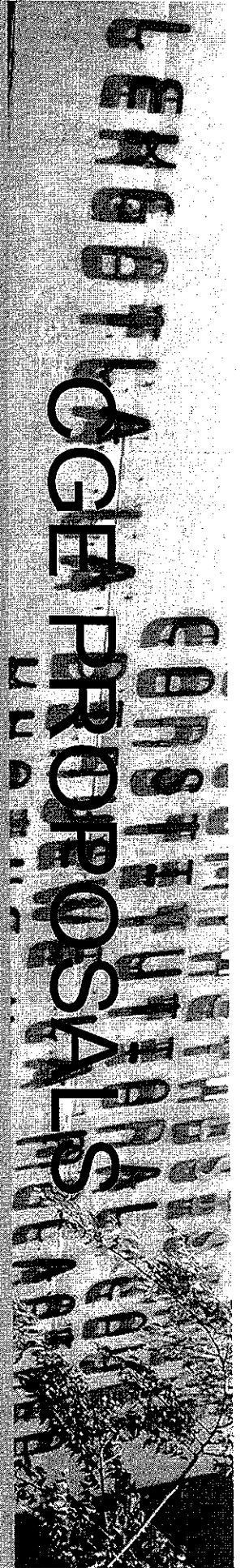
<p>Sect 7(1) (b)</p>	<p>CGE recommends expansion to ensure that suitable candidates are appointed at senior levels by the CEO.</p>
<p>7(1) (c) and (d) for insertion</p>	<p>A new insertion is proposed to bring the CGE Act in line with Section 181 of the Constitution by allowing it to determine salaries and benefits of staff. Page 18</p>






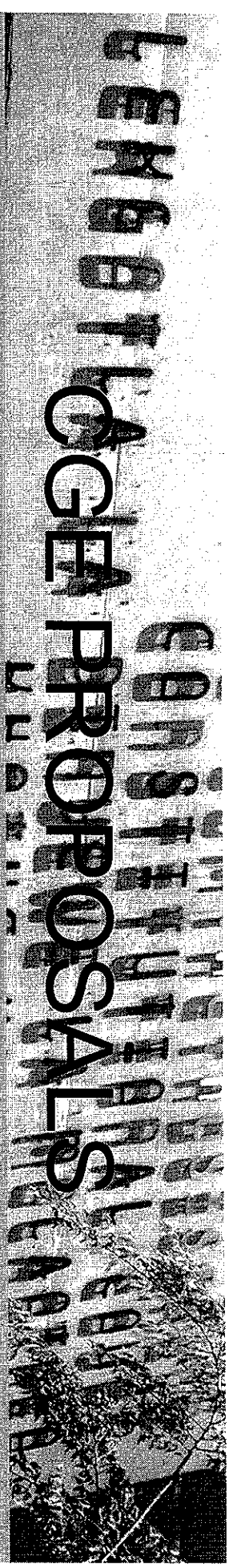


<p>Sect 7(3) c and (d)</p>	<p>Deletion recommended as unconstitutional.</p>
<p>Sect 7(4), (5) and insertion of new ss(6)</p>	<p>CGE recommends both subsections be substituted with provisions which are in keeping with the needs of the Commission, necessary for alignment to PEPUDA and maintenance of its independence. <b>Eg.</b> It cannot employ staff from departments that it monitors. Page 19</p>

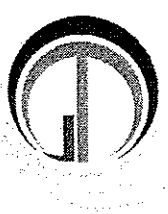


Sect 8(1) The CGE reports to Parliament and proposes the replacement of [President] with Parliament

Sect 8(3) The CGE recommends a substitution because where the salaries are already determined the payment for additional duties is administrative and can be undertaken by the Commission.  **determine** remuneration. Page 20



<p>Sect 9(1)</p>	<p>CGE proposes deletion of latter part of this section as the CGE is not a government department. The deletion makes the provision constitutional.</p>
<p>Sect 9(2) a</p>	<p>CGE proposes insertions to allow for lawful delegation of authority by the CEO.</p>

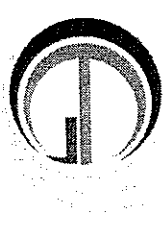


Sect 10	The CGE proposes insertions and substitutions that align the CGE Act with the Constitutional standards of independence envisaged in Section 181
Sect 11	The CGE recommends numerous substitutions and additions which bring greater clarity to its powers and functions. Page 22



# LEMBAR TUGAS PROPOSAL

<p>Sect 11(1) l,m and n</p>	<p>The CGE recommends the insertion of subsect I to allow for the CGE to affirm gender rights that arise from complaints</p>
<p>m</p>	<p>Subsect m allows for the CGE to litigate as required by PEPUDA</p>





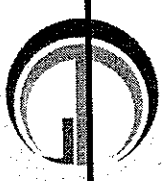


n	The insertion of this SS streamlines the existing provision.
o	This insertion assists the Commission to ensure that it receives cooperation in all investigations. Page 24




LEMBOR TUGA PROPOSAL  
DAPUS TETAP  
UNDUK

q	This insertion allows for the CGE to impose a relevant and immediate sanctions where there is non-compliance at a public hearing.
Sect 12A(1) to (4)	These provision allows for the CGE to link Section 12 and 11(1) e due to the misjoinder between 11(1) e and 12 that is evident.

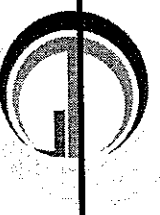


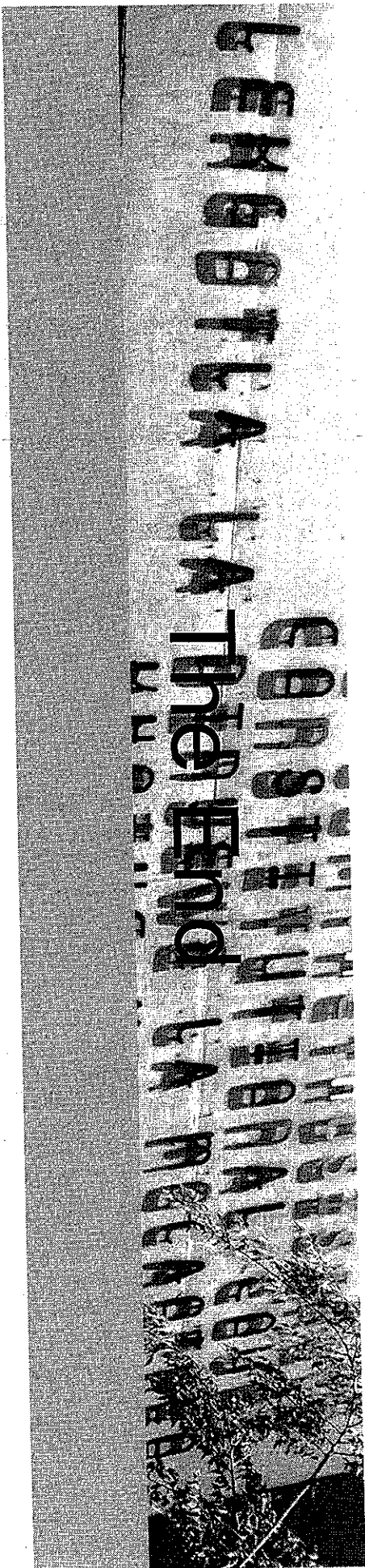
LEGISLATIVE COUNCIL PROPOSAL  
CONSULTATION  
UNAPPROVED

Sect 14(4)	<p>This insertion ensures that compensation for damages may not be claimed against a Commissioner or staff member whilst on official duty. This means that Commission as the juristic person is cited and a party to any claim unlike a state department the CGE is a juristic person.</p>
Sect 15 (1) – (3)	<p>Substitutions are designed to provide clarity</p> <p>Page 26</p> 

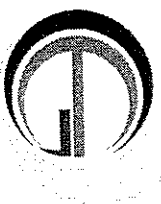
LEMMING TOWER COLLEGE PROPOSALS

<p>SECT 18</p>	<p>THIS INSERTION ALIGNS THE AMENDMENTS TO THE PENALTY CLAUSE IN S 18.</p>
<p>Viii in definitions</p>	<p>Public Service Commission ...section 209 (1) to be substituted by <u>Section 196</u> to align with Constitution.</p>
	<p>Page 27</p>





- THANK YOU AND A BLESSED FESTIVE SEASON FROM THE CGE



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