

REPUBLIC OF SOUTH AFRICA

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# **SOUTH AFRICAN POLICE SERVICE AMENDMENT BILL**

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*(As introduced in the National Assembly (proposed section 76); explanatory summary of  
Bill and prior notice of its introduction published in Government Gazette No. 53783  
of 5 December 2025)  
(The English text is the official text of the Bill)*

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(MINISTER OF POLICE)

## GENERAL EXPLANATORY NOTE:

[                    ]     Words in bold type in square brackets indicate omissions from existing enactments.

                         Words underlined with a solid line indicate insertions in existing enactments.

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# BILL

To amend the South African Police Service Act, 1995, so as to insert, delete and amend certain definitions; to provide for the purpose of the South African Police Service Act, 1995; to delete provisions related to the Civilian Secretariat for the Police Service; to provide for the establishment of the South African Police Service as the single national police service contemplated in section 199(1) and section 205(1) of the Constitution; to strengthen the provisions of the South African Police Service Act, 1995, relating to the establishment, powers, functions and control of municipal police services as provided for in section 206(7) of the Constitution; to further regulate the functions of the National Commissioner and Provincial Commissioners; to provide for the establishment of the National Policing Advisory Committee to advise the National Commissioner on issues such as selection criteria for appointment and promotion of members of the Service and the professionalisation of the Service; to provide for the funding of the National Policing Advisory Committee; to provide for the appointment of a Secretariat for the National Policing Advisory Committee and the functions thereof; to provide that Deputy National Commissioners of the Service will, in respect of a loss of confidence in them by the National Commissioner, be subject to investigation by an inquiry similar to that applicable to a Provincial Commissioner; to provide for a Management Forum; to regulate the functions of the National Commissioner and the Provincial Commissioners; to provide that the use of force must be reasonably necessary and proportionate in the circumstances; to provide for service outside the Republic by members of the Service and members of the Directorate for Priority Crime Investigation; to provide for integrity testing of new members of the Service and lifestyle audits of all members; to provide for the inclusion of municipal police recruits in the requirement to submit a DNA sample for the purpose of a DNA profile to be included in the Elimination Index; to provide for the deployment of the national public order policing capacity by the National Commissioner; to provide for deviations from National Instructions by the Directorate for Priority Crime Investigation; to provide for textual corrections; to provide for service arrangements regarding the performance of services of personnel for the Directorate for Priority Crime Investigation; to provide that the retired judge may initiate investigations on behalf of a complainant or which emerge from other related investigations; to provide for the appointment of an office manager for the office of the retired judge; to provide that the retired judge may summons persons to appear before him or her; to provide for the establishment of specialised units by the National Commissioner; to provide for the establishment of the Intelligence Division of the Service; to provide for the repeal of most of the provisions relating to community policing forums and boards in the South African Police Service Act, 1995, and the enactment of new provisions regulating community policing forums, district community policing boards and provincial community policing boards; to further regulate the filling of posts in the

Service; to provide that members would be deemed to be dismissed after a period of absence of 30 calendar days; to provide for the establishment by the National Commissioner of a disciplinary system which would be managed by dedicated, appropriately qualified and trained disciplinary units of presiding and disciplinary officers who are solely dedicated to disciplinary matters; to provide for the seizure or attachment of property of the Service and to improve measures relating to the property of the Service; to provide for the appointment of a Chief of a municipal police service; to provide for the establishment of a municipal public order policing capacity; to provide for the establishment of a national policing co-ordinating committee; to provide for offences relating to the unlawful possession and use of a lamp, fitted in a vehicle or displayed in or on a vehicle, capable of emitting blue light; to provide for an offence in respect of hoaxes and the spreading of false information; to provide for an offence relating to members who are involved in investigations whilst having a conflict of interest; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 68 of 1995, as amended by section 1 of Act 41 of 1997, section 1 of Act 83 of 1998, section 36 of Act 1 of 2011 and section 35 of Act 2 of 2011**

1. Section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995) (hereinafter referred to as the “principal Act”), is hereby amended—

- (a) by the insertion before the definition of “board” of the following definition:  
     “**blue light**” means a lamp capable of emitting blue light;”;
- (b) by the deletion of the definition of “board”; 10
- (c) by the insertion after the definition of “certificate of appointment” of the following definitions:  
     “**Chief**” means a Head of a metropolitan or municipal police service;  
     “**Civilian Secretariat**” means the Civilian Secretariat as defined in section 1 of the Civilian Secretariat for Police Service Act; 15  
     “**Secretariat**” has a corresponding meaning of Civilian Secretariate;  
     “**Civilian Secretariat for Police Service Act**” means the Civilian Secretariat for Police Service Act, 2011 (Act No. 2 of 2011);”;
- (d) by the insertion after the definition of “commissioned officer” of the following definitions: 20  
     “**Constitution**” means the Constitution of the Republic of South Africa, 1996;  
     “**Criminal Procedure Act**” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);  
     “**Deputy National Commissioner**” means a Deputy National Commissioner referred to in section 6(3); 25  
     “**Directorate**” means the Directorate for Priority Crime Investigation, established in terms of section 17C;  
     “**district**” means, irrespective of what it is called at any given time, the area of responsibility for a number of police stations grouped together for purposes of co-ordination, as determined from time to time by a Provincial Commissioner in terms of section 12(2)(a); 30  
     “**division**” means any area or sphere of responsibility which the National Commissioner determines to be a division for the purpose of this Act;  
     “**Divisional Commissioner**” means a Divisional Commissioner referred to in section 6(4);” 35
- (e) by the deletion of the definition of “directorate”;
- (f) by the deletion of the definition of “executive co-ordinating committee”;
- (g) by the substitution for the definition of “Executive Director” of the following definition: 40  
     “**Executive Director**” means the Executive Director as defined in section 1 of the Independent Police Investigative Directorate Act;”;

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- (h) by the insertion after the definition of “Executive Director” of the following definition:  
 “**Firearms Control Act**’ means the Firearms Control Act, 2000 (Act No. 60 of 2000);”;
- (i) by the insertion after the definition of “fixed establishment” of the following definitions: 5  
 “**Independent Police Investigative Directorate**’ means the Independent Police Investigative Directorate established in terms of section 3 of the Independent Police Investigative Directorate Act;  
 “**Independent Police Investigative Directorate Act**’ means the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011);  
 “**integrity test**’ means a personality test designed to verify whether a person is honest and dependable;  
 “**lifestyle audit**’ means a lifestyle audit prescribed by the Minister in terms of section 28A;  
 “**Management Forum**’ means the Management Forum established by section 10;”;
- (j) by the deletion in the definition of “member” of paragraph (d);
- (k) by the substitution for the definition of “member of the Executive Council” of the following definition: 20  
 “**member of the Executive Council**’ means the member of the Executive Council [**referred to in section 217(1) of the Constitution**] responsible for safety, community safety or police, respectively;”;
- (l) by the substitution for the definition of “Minister” of the following definition: 25  
 “**Minister**’ means the Minister [**for Safety and Security**] responsible for policing;”;
- (m) by the insertion after the definition of “municipal police service” of the following definition:  
 “**municipal public order policing capacity**’ means a public order policing capacity established by a municipal police service;”;
- (n) by the substitution for the definition of “National Commissioner” of the following definition: 30  
 “**National Commissioner**’ means the National Commissioner, appointed in terms of section 207(1) of the Constitution, and referred to in section 6(1);”;
- (o) by the substitution for the definition of “national public order policing unit” of the following definition: 35  
 “**national public order policing [unit] capacity**’ means the national public order policing [unit] capacity established in terms of section 17(1);”;
- (p) by the insertion after the definition of “national public order policing unit” of the following definition: 40  
 “**National Road Traffic Act**’ means the National Road Traffic Act, 1996 (Act No. 93 of 1996);”;
- (q) by the insertion after the definition of “national standards” of the following definition: 45  
 “**National Strategic Intelligence Act**’ means the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994);”;
- (r) by the substitution for the definition of “Parliamentary Committees” of the following definition: 50  
 “**Parliamentary Committees**’ means the [**Standing Committees**] Portfolio Committee on Police of the National Assembly and the [**Senate responsible for safety and security affairs**] Select Committee on Security and Justice of the National Council of Provinces;”;
- (s) by the insertion after the definition of “Parliamentary Committees” of the following definition: 55  
 “**Personnel Fingerprints Database**’ means the Personnel Fingerprints Database established in terms of section 28B(1);”;
- (t) by the substitution for the definition of “Provincial Commissioner” of the following definition: 60  
 “**Provincial Commissioner**’ means the Provincial Commissioner of a province, appointed in terms of section 207(3) of the Constitution, and referred to in section 6(2);”;

- (u) by the insertion after the definition of “Provincial Commissioner” of the following definitions:
- “**provincial secretariat**’ means a provincial secretariat constituted in terms of section 16 of the Civilian Secretariat for Police Service Act; **Public Finance Management Act**’ means the Public Finance Management Act, 1999 (Act No. 1 of 1999); **Public Service Act**’ means the Public Service Act, 1994 (Proclamation No. 103 of 1994);”;
- (v) by the insertion after the definition of “Rationalisation Proclamation” of the following definition:
- “**recruit**’ includes a person who has been recruited to the Service and is receiving basic training;”;
- (w) by the insertion after the definition of “regulation” of the following definition:
- “**Regulation of Gatherings Act**’ means the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993);”;
- (x) by the deletion of the definition of “secretariat”; and
- (y) by the substitution for the definition of “Secretary” of the following definition:
- “**Secretary**’ means the Secretary [of] for the Police Service, appointed under section [2(2)] 7(1) of the Civilian Secretariat for Police Service Act;”.

### Insertion of Chapter 1A in Act 68 of 1995

2. The following Chapter is hereby inserted after Chapter 1 of the principal Act:

#### “CHAPTER 1A

#### PURPOSE OF ACT

##### Purpose of Act

**1A.** The purpose of this Act is to—

- (a) provide for a professional Service in terms of integrity and accountability;
- (b) uphold and protect the rule of law and ensure good discipline and ethos associated with a professional Service;
- (c) address the need for a dedicated capability to provide the quality and type of crime analysis and analytical products that would allow the Service to respond, both tactically and strategically, to crime challenges in the most effective and efficient manner; and
- (d) provide, in accordance with section 206(7) of the Constitution, a framework—
- (i) for the establishment, powers, functions and control of municipal police services; and
- (ii) to ensure the overall operational command of municipal police services to provide effective oversight; and
- (e) enable an optimal utilisation of public resources.

##### Respect for public, including women, children, elderly and disabled persons

**1B.** Members of the Service shall, in exercising their duties and performing their functions, deal with the public in a manner that respects the dignity and the rights of the public, including the rights of women, children, elderly persons and persons with disabilities.”.

### Substitution of heading to Chapter 2 of Act 68 of 1995

3. The following heading is hereby substituted for the heading to Chapter 2 of the principal Act:

“[MINISTERIAL SERVICES] NATIONAL POLICING POLICY”.

#### Repeal of sections 2, 3 and 4 of Act 68 of 1995

4. Sections 2, 3 and 4 of the principal Act are hereby repealed.

#### Insertion of section 4A in Act 68 of 1995

5. The following section is hereby inserted in the principal Act after section 4:

##### “National policing policy

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**4A.** (1) The Minister shall, after consulting the provincial governments and taking into account the policing needs and priorities of the provinces, as determined by the provincial executives, in terms of section 206(1) of the Constitution, determine the national policing policy.

(2) The national policing policy may make provision for different policies in respect of different provinces after taking into account the policing needs and priorities of those provinces.

(3) The Minister shall, after consultation referred to in subsection (1), review and update the national policing policy every five years.”.

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#### Amendment of section 5 of Act 68 of 1995, as amended by section 1 of Act 57 of 2008

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6. Section 5 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The South African Police Service is hereby established as the single national police service contemplated in section [214(1)] 199(1) and section 205(1) of the Constitution [is hereby established].”;

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(b) by the substitution for subsection (2) of the following subsection:

“(2) The Service shall consist of—

(a) all persons who immediately before the commencement of [this Act] the South African Police Service Amendment Act, 2026, were members of the Service or the Reserve[—

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(i) of a force which, by virtue of section 236(7)(a) of the Constitution, is deemed to constitute part of the Service;

(ii) appointed under the Rationalisation Proclamation;

(iii) of the Reserve by virtue of section 12(2)(k) of the Rationalisation Proclamation];

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(b) members appointed in terms of section 28(2) [of this Act];

(c) persons who become members of the Reserve under section 48(2) [of this Act]; and

(d) members appointed to the Directorate [for Priority Crime Investigation established by section 17C].”; and

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(c) by the addition of the following subsection:

“(3) A member referred to in—

(a) subsection (2)(a), (b) and (d), excluding a member of the Reserve, shall serve full-time until—

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(i) he or she reaches the age of retirement;

(ii) the expiry of his or her contracted term of service;

(iii) the termination of his or her service by resignation; or

(iv) he or she is otherwise discharged from the Service in accordance with the law; and

(b) subsection (2)(c), shall serve on a part-time basis for such periods during which he or she is required to report for duty in the Service, unless his or her appointment is terminated in accordance with the law.”.

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#### Amendment of section 6 of Act 68 of 1995, as substituted by section 1 of Act 10 of 2012

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7. Section 6 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Appointment of [National and Provincial] Commissioners”;

- (b) by the substitution for subsection (1) of the following subsection:  
 “(1) There shall be a National Commissioner of the Service who shall be appointed in accordance with section 207(1) of the Constitution [**of the Republic of South Africa, 1996**].”;
- (c) by the substitution for subsection (2) of the following subsection: 5  
 “(2) There shall be a Provincial Commissioner of the Service for each province who shall be appointed by the National Commissioner, subject to section 207(3) of the Constitution [**of the Republic of South Africa, 1996**].”; and
- (d) by the addition of the following subsections: 10  
 “(3) There shall be Deputy National Commissioners who shall be appointed by the National Commissioner in the prescribed manner.  
 (4) There shall be Divisional Commissioners who shall be appointed by the National Commissioner in the prescribed manner.”.

**Insertion of sections 6A, 6B, 6C, 6D and 6E in Act 68 of 1995** 15

8. The following sections are hereby inserted in the principal Act after section 6:

**“Establishment and composition of National Policing Advisory Committee**

- 6A.** (1) The National Policing Advisory Committee is hereby established to perform the functions listed in section 6E. 20
- (2) The members of the National Policing Advisory Committee shall be appointed by the Minister after inviting nominations from the public, in the prescribed manner, ensuring a transparent process.
- (3) The National Policing Advisory Committee shall consist of not more than nine and not less than seven members appointed by the Minister, after consultation with the National Commissioner, for a period not exceeding five years, of whom— 25
- (a) at least four members shall be from outside the public sector, with knowledge and experience of at least 10 years in policing, public administration, public finances, law and ethics relevant to policing; 30  
 and
- (b) the remainder of the members shall include retired police officers with experience of at least 10 years in management in the Service relating to personnel administration, financial administration, as well as operational intelligence or investigative functions. 35
- (4) The Minister shall appoint one of the members of the National Policing Advisory Committee as the chairperson, who shall be—
- (a) fit for appointment on account of his or her tenure of judicial office, or on account of his or her experience of at least 10 years as an advocate or an attorney; or 40  
 (b) a professor of law at any university.
- (5) The members of the National Policing Advisory Committee shall elect a deputy chairperson from the remaining members of the Committee.
- (6) The deputy chairperson shall exercise all the powers and perform all the duties of the chairperson whenever the chairperson is unable to do so. 45
- (7) The term of office of a member of the National Policing Advisory Committee may, before the expiry thereof, be renewed by the Minister for one additional term.
- (8)(a) Notwithstanding subsection (3), the Minister may, upon application in writing, authorise a member of the National Policing Advisory Committee to remain in office until his or her successor takes office. 50  
 (b) The extended term of office contemplated in paragraph (a) shall not exceed six months.
- (9)(a) In the case of a vacancy in the National Policing Advisory Committee, the Minister shall fill the vacancy within a period not exceeding six months. 55  
 (b) A person appointed in terms of paragraph (a) shall hold office for the unexpired portion of the period for which his or her predecessor was appointed.

(10) Subsections (2) and (3) shall apply to the filling of vacancies by the Minister in the National Policing Advisory Committee.

(11) The Minister shall report to the National Assembly on the—

- (a) establishment of the National Policing Advisory Committee and the details of the appointment of its members, including the names, expertise and suitability of such members; and
- (b) resignation or removal of members from the National Policing Advisory Committee,

within 14 days of the appointment, removal or resignation of the members of the National Policing Advisory Committee if Parliament is in session, or if Parliament is not in session, within 14 days after the commencement of its next ensuing session.

### **Disqualification, removal and resignation from National Policing Advisory Committee**

**6B.** (1) A person is disqualified from being appointed or continuing to serve as a member of the National Policing Advisory Committee if he or she—

- (a) is not a citizen of the Republic;
- (b) is an unrehabilitated insolvent;
- (c) has been declared by a court to be mentally ill or unfit; or
- (d) has been convicted of a criminal offence.

(2) The Minister may, after due enquiry, remove a member from the National Policing Advisory Committee on account of—

- (a) misconduct;
- (b) incapacity;
- (c) incompetence;
- (d) absence from three consecutive meetings of the National Policing Advisory Committee without the prior permission of the National Policing Advisory Committee, except on good cause shown;
- (e) ill health;
- (f) conflict of interest;
- (g) unethical conduct; or
- (h) disqualification contemplated in subsection (1).

(3) A member of the National Policing Advisory Committee may resign by giving 30 calendar days' written notice of his or her resignation to the Minister.

(4) A member of the National Policing Advisory Committee may be suspended from the Committee by the Minister pending the consideration of the removal of such member from the Committee.

### **Meetings of National Policing Advisory Committee**

**6C.** (1) The first meeting of the National Policing Advisory Committee shall be convened by the Minister and thereafter the meetings of the National Policing Advisory Committee shall be held as and when necessary for the performance of its functions.

(2) The National Policing Advisory Committee may determine its own governance rules and procedures.

### **Funding, secretariat and remuneration of members of National Policing Advisory Committee**

**6D.** (1) The National Policing Advisory Committee shall be funded from the budget allocation of the Civilian Secretariat.

(2) The Secretary shall, in terms of the Public Service Act, appoint a full-time secretariat to provide administrative support to the National Policing Advisory Committee, which secretariat shall serve under the Secretary.

(3) The Secretary may, in consultation with the Minister of Finance, determine the remuneration or payment of expenses for members of the

National Policing Advisory Committee who are not appointed in terms of the Public Service Act.

### Functions of National Policing Advisory Committee

- 6E.** (1) The National Policing Advisory Committee shall—
- (a) make proposals to the National Commissioner to enhance the professionalism of the Service through developing—
    - (i) objective standards and minimum criteria for the recruitment, selection, appointment and promotion of members of the Service at all levels; and
    - (ii) the minimum criteria which shall be complied with by a person before he or she may be appointed as a commissioned officer, a Divisional Commissioner or a Provincial Commissioner;
  - (b) develop, regulate and review professional standards for members of the Service in respect of integrity and accountability and submit such proposals in that regard for consideration to the National Commissioner;
  - (c) evaluate and benchmark all existing training programmes for the Service and municipal police services against international standards and determine whether the content of such programmes adhere to the Constitution;
  - (d) set minimum standards, criteria and competency requirements for all trainers within the Service who are responsible for the presentation and assessment of formal training interventions in the Service; and
  - (e) make recommendations on the restructuring of the Service.
- (2) The National Policing Advisory Committee may gather such information as would assist it in exercising its duties and functions under this Chapter and shall consult with the Service in that regard.
- (3) The Secretary may request the National Commissioner to report, from time to time, on the progress made with the implementation in the Service of proposals and recommendations made by the National Policing Advisory Committee.
- (4) The National Policing Advisory Committee may establish committees to deal with specific matters as and when required.”.

### Amendment of section 8 of Act 68 of 1995

- 9.** Section 8 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
 

**“Loss of confidence in National, Deputy National or Provincial Commissioner”;**
  - (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 

“If the National Commissioner has lost the confidence of the Cabinet, the President may establish a board of inquiry consisting of a judge of the [Supreme] High Court as chairperson, and two other [suitable] persons, each of whom shall be a practising advocate or attorney, having practised as such for a period of at least 10 years, to—”;
  - (c) by the insertion after subsection (1) of the following subsection:
 

“(1A) If a Deputy National Commissioner has lost the confidence of the National Commissioner, the National Commissioner may establish a board of inquiry consisting of not more than three suitably qualified and experienced persons, of which the chairperson shall be a practising advocate or attorney, having practised as such for a period of at least 10 years, to—

    - (i) inquire into the circumstances that led to the loss of confidence;
    - (ii) compile a report; and
    - (iii) make recommendations.”;
  - (d) by the substitution in subsection (2)(c) for the words preceding subparagraph (i) of the following words:
 

“The National Commissioner shall, upon receipt of the notice, establish a board of inquiry consisting of not more than three suitably qualified and

- experienced persons, of which the chairperson [**shall, subject to paragraph (d),**] shall be a [**person who,**] practising advocate or attorney, having practised as such for a period of at least 10 years [**after having qualified as an advocate or an attorney, practised as such,** to—”]; 5
- (e) by the substitution in subsection (3) for paragraph (a) of the following paragraph:  
 “(a) The President or National Commissioner, as the case may be, may, after hearing the Commissioner concerned, pending the outcome of the inquiry referred to in subsection (1), (1A) or (2)(c), suspend him or her from office.”; 10
- (f) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:  
 “If a board of inquiry is established under subsection (1), (1A) or (2)(c), the Commissioner concerned shall be notified thereof in writing, and thereupon he or she may—”; 15
- (g) by the deletion of the word “or” at the end of subsection (6)(a)(i)(aa);  
 (h) by the insertion of the word “or” at the end of subsection (6)(a)(i)(bb);  
 (i) by the addition to subsection (6)(a)(i) of the following item:  
 “(cc) the National Commissioner, in the event of an inquiry under subsection (1A)”; and 20
- (j) by the substitution for subsection (8) of the following subsection:  
 “(8) If a Deputy National or Provincial Commissioner has lost the confidence of the National Commissioner, the provisions of subsections (2)(c) and (d), (3), (4), (5), (6) and (7) shall apply *mutatis mutandis*.”. 25

#### **Amendment of section 9 of Act 68 of 1995**

10. Section 9 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:  
 “**Misconduct by or incapacity of National, Deputy National or Provincial Commissioner**”; 30
- (b) by the substitution for subsection (1) of the following subsection:  
 “(1) Subject to this section, subsections (1) to (8) of section 8 shall apply *mutatis mutandis* to any inquiry into allegations of misconduct by the National, Deputy National or Provincial Commissioner, or into his or her fitness for office or capacity for executing his or her official duties efficiently.”; and 35
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) If the National Commissioner has lost the confidence of the Cabinet, or a Deputy National Commissioner has lost the confidence of the National Commissioner, or a Provincial Commissioner has lost the confidence of the Executive Council or the National Commissioner, as the case may be, following on an inquiry in terms of this section, the provisions of section 8(7) shall apply *mutatis mutandis*.”. 40

#### **Substitution of section 10 of Act 68 of 1995**

11. The following section is hereby substituted for section 10 of the principal Act: 45

##### **“[Board of Commissioners] Management Forum**

10. (1) The **[Board of Commissioners] Management Forum**, consisting of the National **[and] Commissioner**, Provincial Commissioners and other senior members of the management of the Service, as determined from time to time by the National Commissioner, is hereby established. 50
- (2) The functions of the **[board] Management Forum** shall be to promote co-operation and co-ordination in the Service.
- (3) The **[board] Management Forum** shall be presided over by the National Commissioner or his or her nominee and the **[board] Management Forum** shall determine its own procedure.”. 55

**Amendment of section 11 of Act 68 of 1995, as amended by section 2 of Act 10 of 2012**

12. Section 11 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The National Commissioner shall exercise control over and manage the **[police service] Service** in accordance with the national policing policy and the directions of the Minister referred to in section 207(2) of the Constitution [of the Republic of South Africa, 1996].”;

(b) by the insertion after subsection (1) of the following subsections:

“(1A) Subject to the directions of the Minister, the National Commissioner shall be responsible for—

- (a) the maintenance of a professional, impartial, accountable, transparent and efficient Service;
- (b) the implementation of the functions of the Service as provided in the National Strategic Intelligence Act in respect of national security, as defined in section 1 of that Act and in relation to the functions of the Service in terms of section 205(3) of the Constitution;
- (c) subject to the provisions of Chapter 6A, the investigation and prevention of organised crime or crime which requires national investigation and prevention or specialised skills;
- (d) international police liaison;
- (e) the keeping and provision of crime intelligence data, criminal records and statistics;
- (f) the education, training and development of members of the Service;
- (g) subject to Chapter 6A, the recruitment, appointment, promotion and transfer of all members of the Service;
- (h) the provision of forensic services;
- (i) such functions relating to the illegal movement of persons or goods at border control as may be assigned to the Service by law;
- (j) the establishment and maintenance of a national public order policing capacity to be deployed in support of and at the request of a Provincial Commissioner;
- (k) national protection services;
- (l) determining the boundaries of station areas aligned to official demarcated municipal boundaries;
- (m) the establishment of a specialised tactical capability for medium to high risk operations which require specialised skills; and
- (n) the implementation in the Service of an integrated policing model, which involves—
  - (i) adherence to basic principles of policing;
  - (ii) maximising the utilisation of law enforcement resources for effective and efficient policing;
  - (iii) a community oriented focus;
  - (iv) the optimal use of information;
  - (v) embracing innovation and digital policing; and
  - (vi) the effective co-ordination with all relevant governmental role-players.

(1B) Resource allocation shall, subject to the availability of funds, be based on the principles of rationality, justice, fairness and equitableness, with the objective of contributing towards greater police efficiency and effectiveness.

(1C) In allocating the budget for a province, the National Commissioner shall consider the principles in subsection (1B), after requesting inputs from the relevant member of the Executive Council, who shall, within 30 calendar days from the date of the request, provide written input to the National Commissioner in line with the needs and priorities of the province.

(1D) Any directions referred to in section 207(2) of the Constitution, issued by the Minister to the National Commissioner, shall be made in writing and a report on such directions shall be tabled in Parliament by the Minister in the annual report of the Service.

(1E) The directions referred to in subsection (1D) includes the implementation of the—

- (a) national policing policy referred to in section 207(2) of the Constitution;
- (b) national government's medium term strategic framework; and
- (c) annual plan referred to in subsection (2)(a), but does not include operational instructions.

(1F) Whenever the Minister submits a report, received from the Secretary in terms of sections 6 and 31(2) of the Civilian Secretariat for Police Service Act, to the National Commissioner, the National Commissioner shall, within 60 days of receipt of the report—

- (a) comment on the recommendations in respect of or shortcomings in the Service as reflected in the report;
- (b) indicate what steps the National Commissioner has taken to implement the recommendations or address the shortcomings referred to in paragraph (a); and
- (c) provide the Minister with information on factors which may inhibit or prevent the National Commissioner or the Service from implementing the recommendations or addressing the relevant shortcomings.”;

- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“Without derogating from the generality of **[subsection]** subsections (1) and (1A), the National Commissioner shall—”;

- (d) by the substitution in subsection (2) for paragraph (d) of the following paragraph:

“(d) organise or reorganise the Service at national level into various components, units or groups, which may report to a specific Deputy National Commissioner or Divisional Commissioner.”.

**Amendment of section 12 of Act 68 of 1995, as amended by section 2 of Act 41 of 1997**

13. Section 12 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) Subject to this Act, a Provincial Commissioner shall have command of and control over the Service under his or her jurisdiction in the province and may exercise the powers and shall perform the duties and functions necessary to give effect to **[section 219 of the Constitution]** subsection (1A).”;

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) Subject to section 11(1A), a Provincial Commissioner shall, within the province in respect of which he or she is appointed, be responsible for—

- (a) the prevention, combating and investigation of crime, the protection and securing of the inhabitants of the Republic and their property, and upholding and enforcing the law;
- (b) the development of community policing services, being policing services which involve police and community partnerships and co-operative government action with a problem solving approach which is responsive to the needs of a community;
- (c) the maintenance of public order; and
- (d) the provision, in general, of all other visible policing services, including—
  - (i) the establishment and maintenance of police stations;
  - (ii) crime reaction units; and
  - (iii) patrolling services.”;

- (c) by the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) A Provincial Commissioner may—

- (a) subject to a determination under section 11(2)(b), delimit any **[area]** district in the province and determine the boundaries thereof until the province has been divided into as many **[areas]** districts as may

be necessary for the purposes of the organisation of the Service under his or her jurisdiction; and

- (b) establish and maintain police stations and units in the province **[and determine the boundaries of station or unit areas]**.

(3) A Provincial Commissioner shall determine the distribution of the strength of the Service under his or her **[jurisdiction] command** in the province among the different **[areas] districts**, station areas, offices and units, taking into account the needs of communities.”; and

- (d) by the addition of the following subsections:

“(4) Subject to subsection (5), Provincial Commissioners may, by taking into account the needs and priorities of the province, contribute in the form of written inputs to the plan developed by the National Commissioner in terms of section 11(2)(a).

(5) The written inputs of a Provincial Commissioner, referred to in subsection (4), shall be submitted to the relevant member of the Executive Council during the third quarter of each financial year to allow the member of the Executive Council to consider the Provincial Commissioner’s inputs and to make any further written inputs in respect of the National Commissioner’s plan developed in terms of section 11(2)(a).

(6) The National Commissioner may consider the written inputs referred to in subsections (4) and (5) in the development of the plan in terms of section 11(2)(a).

(7) The final plan developed by the National Commissioner in terms of section 11(2)(a) shall be presented by a Provincial Commissioner to the relevant member of the Executive Council.”.

**Amendment of section 13 of Act 68 of 1995, as amended by section 3 of Act 41 of 1997**

14. Section 13 of the principal Act is hereby amended—

- (a) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) Where a member who performs an official duty is authorised by law to use force, he or she may use only the minimum force which is **[reasonable] reasonably necessary and proportionate** in the circumstances.”;

- (b) by the addition to subsection (3) of the following paragraphs:

“(c) Whenever any member makes an official report to the Service on the use of force by another member or members of the Service during the execution of their duties, no self-incriminating answer given or statement made by the member making such report, shall be admissible as evidence against that member in criminal proceedings instituted against that member in any court, except in criminal proceedings for perjury.

(d) Firearms that are fully automatic, as defined in the Firearms Control Act, may not be used for purposes of law enforcement during a gathering or demonstration.”;

- (c) by the deletion of subsection (5);

- (d) by the substitution for subsection (6) of the following subsection:

“(6) Any member may, where it is reasonably necessary to achieve the objects referred to in section 205(3) of the Constitution, for the purposes of control over the illegal movement of people or goods across the borders of the Republic, without a warrant search any person, premises, other place, vehicle, vessel or aircraft, or any receptacle of whatever nature, at any place in the Republic within 10 kilometres or any reasonable distance from any border between the Republic and any foreign state, or in the territorial waters of the Republic, or inside the Republic within 10 kilometres or any reasonable distance from such territorial waters, or at any airport as defined in section 1 of the **[Aviation Act, 1962 (Act No. 74 of 1962)] Civil Aviation Act, 2009 (Act No. 13 of 2009)**, or within any reasonable distance from such airport and seize anything found in the possession of such person or upon or at or in such

premises, other place, vehicle, vessel, aircraft or receptacle and which may lawfully be seized.”;

- (e) by the substitution in subsection (7) for paragraph (c) of the following paragraph:

“(c) Upon receipt of the written authorisation referred to in paragraph (a), any member may cordon off the area concerned or part thereof, and may, where it is reasonably necessary in order to achieve the object specified in the written authorisation[**, without warrant**] and within the cordoned-off area, search any person, premises or vehicle, or any receptacle or object of whatever nature, **[in that area or part thereof]** in terms of sections 21 and 22 of the Criminal Procedure Act, and seize any article referred to in section 20 of the Criminal Procedure Act[**, 1977 (Act No. 51 of 1977),**] found by him or her in the possession of such person or in that area or part thereof: Provided that a member executing a search under this paragraph shall, upon demand of any person whose rights are or have been affected by the search or seizure, exhibit to him or her a copy of the written authorisation.”;

- (f) by the substitution in subsection (8) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) The National or Provincial Commissioner may, where it is reasonable in the circumstances in order to **[exercise a power or perform a function referred to in section 215]** achieve the objects referred to in section 205(3) of the Constitution, in writing authorise a member under his or her command[,] to—

(i) set up a roadblock or roadblocks on any public road in a particular area or to set up a checkpoint or checkpoints at any public place in a particular area; or

(ii) whilst taking into account the safe operation of railway services, search any train.

(b) The written authorisation referred to in paragraph (a) shall specify the date, approximate duration, place, **[and]** object and police official in charge of the proposed action.”;

- (g) by the substitution for subsection (10) of the following subsection:

“(10) The National or Provincial Commissioner may, in the exercise of any power or the performance of any function referred to in section **[215] 205(3)** of the Constitution, publish or cause to be published, or in any other manner display or cause to be displayed any information, photograph or sketch of any person.”;

- (h) by the substitution for subsection (12) of the following subsection:

“(12)(a) If the National Commissioner **[deems]** considers it necessary—

- (i) for the purposes of performing the functions of the Service[**,**]; or
- (ii) to give effect to an international obligation,

he or she may, with the approval of the Minister, direct any member to perform service at any place outside the Republic.

(aA) If the National Head of the Directorate considers it necessary for the purposes of performing the functions of the Directorate, he or she may, with the approval of the Minister, direct any member of the Directorate to perform a service at any place outside the Republic.

(b) A member in respect of whom a direction has been issued under paragraph (a) or (aA), shall perform service in accordance with such direction and shall, while so performing service, remain, unless the Minister in a particular case otherwise directs, subject to the provisions of this Act as if performing service within the Republic.

(c) Whenever a member, including a member of the Directorate, performs a service outside the Republic, as contemplated in paragraphs (a) and (aA), such member—

- (i) remains subject to all disciplinary measures otherwise applicable to the member and the member may be disciplined in terms of such measures within or outside the borders of the Republic; and
- (ii) is subject to be prosecuted, and if convicted, may be sentenced in any court in the Republic in respect of any offence allegedly

committed by such member in the host country in which such member is performing or has performed such service, if a similar offence exists in the Republic, and if—

(aa) it is provided in any international instrument to which the Republic is a State Party, that the Republic retains exclusive criminal and civil jurisdiction in respect of the member;

(bb) immunity, whether diplomatic or otherwise, is not granted to the member in terms of any international instrument; or

(cc) the member has not been convicted or acquitted on the relevant charge in any court in the host country where the member is performing or has performed any service, as contemplated in paragraphs (a) and (aA).

(d) Any court in the Republic which is competent in respect of a similar offence referred to in paragraph (c)(ii), should it have been committed in the Republic, is competent to adjudicate upon an offence committed in the host country, by a member, including a member of the Directorate, who has served, or is serving outside the Republic in the circumstances referred to in paragraphs (a) and (aA).”; and

(i) by the addition of the following subsection:

“(14) Notwithstanding any other provision in any other Act, whenever a member considers it necessary to perform a search and seizure in order to prevent or investigate a crime, the provisions of Chapter 2 of the Criminal Procedure Act shall be applicable.”.

#### **Amendment of section 15 of Act 68 of 1995**

15. Section 15 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) Subject to section [15] 44 of the [Exchequer Act, 1975 (Act No. 66 of 1975)] Public Finance Management Act, any power conferred on the National or Provincial Commissioner by this Act or any other law, excluding the power contemplated in section 13(7)(a), may be delegated, in writing, by any such Commissioner to any member or other person in the employment of the Service, or a board or body established by or under this Act [or a law referred to in section 217(3) of the Constitution], who or which shall exercise such power subject to the directions of the Commissioner concerned.”; and

(b) by the addition to subsection (1) of the following paragraph:

“(c) Subject to section 44 of the Public Finance Management Act, any power conferred on the National Head of the Directorate by this Act or any other law may be delegated, in writing, to any member of the Directorate or other person in the employment of the Directorate, who shall exercise such power subject to the directions of the National Head of the Directorate.”.

#### **Amendment of section 15A of Act 68 of 1995, as inserted by section 6 of Act 6 of 2010**

16. Section 15A of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

“(4) Subject to subsection (5), the fingerprints, body-prints or photographic images referred to in subsections (1), (2) and (3) shall only be used for purposes related to the detection of crime, the investigation of an offence, the identification of missing persons, the identification of unidentified human remains, the performance of a vetting investigation referred to in section 2A of the National Strategic Intelligence Act, the performance of integrity testing and lifestyle audits referred to in section 28A, or the conducting of a prosecution.”; and

- (b) by the substitution in subsection (6) for paragraph (a) of the following paragraph:

“(a) uses or who allows the use of those fingerprints, body-prints or photographic images for any purpose that is not related to the detection of crime, the investigation of an offence, the identification of missing persons, the identification of unidentified human remains, the performance of a vetting investigation referred to in section 2A of the National Strategic Intelligence Act, the performance of integrity testing and lifestyle audits referred to in section 28A, or the conducting of a prosecution; [or]”. 5 10

**Amendment of section 15E of Act 68 of 1995, as inserted by section 6 of Act 37 of 2013**

17. Section 15E of the principal Act is hereby amended by the deletion of paragraph (i).

**Amendment of section 15L of Act 68 of 1995, as inserted by section 6 of Act 37 of 2013**

18. Section 15L of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) From the commencement of this Chapter, all new recruits to the Service and any municipal police service [must] shall be required to submit a buccal sample for purposes of forensic DNA profiles derived therefrom to be included in the Elimination Index.”. 20

**Amendment of section 15S of Act 68 of 1995, as inserted by section 6 of Act 37 of 2013**

19. Section 15S of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person who causes the **[unlawful]** loss of, damage to or unauthorised destruction of information on the NFDD is guilty of an offence and liable in the case of a natural person, to imprisonment for a period not exceeding 15 years, and in the case of a juristic person, to a fine.”. 30

**Amendment of section 15AD of Act 68 of 1995, as inserted by section 6 of Act 37 of 2013**

20. Section 15AD of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 35

“(c) the manner in which to safely preserve, manage and ensure timely transfer of any exhibit material and [collected] samples collected to the forensic science laboratories;”;

- (b) by the deletion in subsection (1) of the word “and” at the end of paragraph (j);  
(c) by the deletion in subsection (1) of the full stop at the end of paragraph (k) and the insertion of a semi-colon; and 40

- (d) by the addition to subsection (1) of the following paragraphs, respectively:

“(l) the manner in which exhibit material and samples are stored, received, registered, processed, analysed, and how findings are reported to the forensic science laboratories; 45

(m) the manner in which forensic findings shall be reported, managed, followed-up and investigated;

(n) the manner in which forensic DNA data may be electronically transmitted;

(o) the manner in which comparative and familial searching is used in criminal investigations and the identification of missing persons and unidentified bodies; and 50

(p) the manner in which forensic service examination and operational areas are implemented in accordance with a Quality Management

System contemplated in section 15P and standards set by the International Organisation for Standardisation.”.

**Amendment of section 16 of Act 68 of 1995, as amended by section 2 of Act 57 of 2008 and section 3 of Act 10 of 2012**

21. Section 16 of the principal Act is hereby amended— 5
- (a) by the substitution in subsection (2) for paragraph (h) of the following paragraph: 10
- “(h) which a Provincial Commissioner requests the National Head of the Directorate [**for Priority Crime Investigation**], referred to in section 17C(2), to prevent or investigate by employing expertise and making resources available at national level and to which request the National Head of the Directorate [**for Priority Crime Investigation**] accedes [**in accordance with the approved policy guidelines**];” and
- (b) by the substitution for subsection (3) of the following subsection: 15
- “(3) In the event of a dispute between the National Head of the Directorate [**for Priority Crime Investigation**] and the National Commissioner or the National Head [**for Priority Crime Investigation**] of the Directorate and a Provincial Commissioner regarding the question whether criminal conduct or endeavour thereto falls within the mandate of the Directorate, the determination by the National Head of the Directorate [**for Priority Crime Investigation in accordance with the approved policy guidelines,**] shall prevail.”. 20

**Amendment of section 17 of Act 68 of 1995**

22. Section 17 of the principal Act is hereby amended— 25
- (a) by the substitution for the heading of the following heading: 30
- “**National public order policing [unit] capacity**”;
- (b) by the substitution for subsections (1) and (2) of the following subsections, respectively: 35
- “(1) The National Commissioner shall[, **subject to section 218(1)(k) of the Constitution,**] establish and maintain a national public order policing [**unit**] capacity. 40
- (2) The National Commissioner may deploy the national public order policing [**unit**] capacity, or any part thereof, at the request and in support of a Provincial Commissioner, taking into account— 35
- (a) the reason for the request, including the nature of the threat;
- (aA) the location and associated attributes of natural and man-made features of the threat;
- (b) the personnel and equipment available to the [**unit**] national public order policing capacity in the area where assistance is required; and 40
- (c) any other circumstances anywhere in the national territory which may have an influence on the maintenance of public order and which may require the deployment of the [**unit**] national public order policing capacity or any part thereof elsewhere.”; 45
- (c) by the insertion after subsection (2) of the following subsection: 45
- “(2A) The deployment of the national public order policing capacity in a province shall not derogate from the responsibility of the Provincial Commissioner to maintain public order in the relevant province.”;
- (d) by the deletion of subsection (3);
- (e) by the insertion after subsection (3) of the following subsections: 50
- “(3A) Where the national public order policing capacity or any part thereof is deployed under subsection (2), such deployment shall be subject to the general or specific directives of the National Commissioner relating to such deployment.
- (3B) The national public order policing capacity, when deployed in a Province under subsection (2), shall operate under national command and control.” 55

(f) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

“(4) The National Commissioner may withdraw the national public order policing [unit] capacity or any part thereof deployed under subsection (2), taking into account— 5

- (a) the prevailing circumstances where the [unit] national public order policing capacity or part thereof is so deployed and the extent to which public order has been restored;
- (aA) the location and associated attributes of natural and man-made features thereof; 10
- (b) the personnel and equipment available to the [unit] national public order policing capacity in the area where assistance is required; and
- (c) any other circumstances anywhere in the national territory which may have an influence on the maintenance of public order and which may require the deployment of the [unit] national public order policing capacity or any part thereof elsewhere: 15

Provided that the National Commissioner shall immediately, at the written request of the Provincial Commissioner, withdraw the deployment of the [unit] national public order policing capacity or any part thereof so deployed, upon consideration of the reasons provided for such request, by the Provincial Commissioner. 20

(5) The **[President]** National Commissioner may[, **in consultation with the Cabinet, direct the National Commissioner to**] deploy the national public order policing [unit] capacity in circumstances where a Provincial Commissioner is unable to maintain public order and the deployment of the [unit] national public order policing capacity is necessary to restore public order. 25

(6) The National Commissioner shall, **[upon receiving a direction under]** subject to subsection (5), deploy the national public order policing [unit] capacity or such part thereof as may be necessary to restore public order to the area concerned, and may from time to time if he or she **[deems]** considers it necessary, deploy additional members of the [unit] national public order policing capacity in the area concerned or[, **subject to subsection (7),**] withdraw members of the [unit] national public order policing capacity from the area concerned if their continued presence is no longer required to restore or maintain public order in the area concerned or in any part thereof.”; 35

(g) by the deletion of subsection (7); and

(h) by the addition of the following subsection:

“(8) The National Commissioner shall, on a quarterly basis, submit a written report to Parliament on the deployment of the national public order policing capacity and submit a copy of the report to the Civilian Secretariat and the Independent Police Investigative Directorate on— 40

- (a) the number of deployments of the national public order policing capacity; 45
- (b) the reasons for such deployment;
- (c) the location of the deployments;
- (d) any deaths that have occurred as a result of the deployment and the circumstances thereof;
- (e) the number of arrests that emanated from the deployment; 50
- (f) the number and nature of complaints filed with the Service in respect of the conduct of members as a result of the deployment; and
- (g) steps taken, including disciplinary steps, against members as a result of the complaints received.”. 55

**Amendment of section 17A of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008**

23. Section 17A of the principal Act is hereby amended by the deletion of the definition of “Directorate”.

**Amendment of section 17C of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and substituted by section 6 of Act 10 of 2012**

24. Section 17C of the principal Act is hereby amended by the addition of the following subsections:

- “(4) Where the particular circumstances of the Directorate require a deviation from any Standing Order, National Instruction, or directive issued by the National Commissioner in respect of the Service, the National Head of the Directorate may, in writing, request a deviation from the prescripts of such a Standing Order, National Instruction, or directive in respect of personnel of the Directorate. 10
- (5) The National Commissioner shall ensure that prescripts applicable to all members of the Service take into account the operational needs and structures of the Directorate and, to that effect, shall— 15
- (a) in good faith, consider any request by the National Head of the Directorate referred to in subsection (4); and
- (b) consult with the National Head of the Directorate before National Instructions relating to the Directorate are made.”. 20

**Amendment of section 17CA of Act 68 of 1995, as inserted by section 7 of Act 10 of 2012**

25. Section 17CA of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words following paragraph (b) of the following words: 25
- “with due regard to his or her experience, academic qualifications, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as the National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.”; 30
- (b) by the substitution in subsection (4) for the words following paragraph (b) of the following words: 35
- “with due regard to his or her experience, academic qualifications, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a Deputy National Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.”; 40
- (c) by the substitution in subsection (6) for the words following paragraph (b) of the following words: 45
- “with due regard to his or her experience, academic qualifications, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a Provincial Head of the Directorate for a non-renewable fixed term of not shorter than seven years and not exceeding 10 years.”; 50
- (d) by the substitution in subsection (12) for paragraph (e) of the following paragraph: 45
- “(e) Whenever the office of a Deputy National Head of the Directorate is vacant, the National Head of the Directorate shall appoint a suitably qualified person as an Acting Deputy National Head of the Directorate.”; 50
- (e) by the substitution for subsection (14) of the following subsection: 50
- “(14)(a) The National Head or Deputy National Head of the Directorate, as the case may be, may retire from office and shall be so retired on the date when he or she attains the age of 60 years. 55
- (b) If the National Head or Deputy National Head of the Directorate, as the case may be [applicable], attains the age of 60 years after the first day of any month, he or she shall be deemed to have attained that age on the first day of the next succeeding month.”; 55
- (f) by the deletion of subsections (15) and (16); and

(g) by the substitution for subsection (19) of the following subsection:

“(19) Any disciplinary action against a Deputy National Head, Provincial Head, member or employee in the service of the Directorate, as the case may be **[applicable]**, shall be considered and finalised within the Directorate’s structures subject to the relevant prescripts: Provided that, where the circumstances so require, the services of any person within or outside the Service may be utilised for the disciplinary action.”.

**Amendment of section 17D of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and amended by section 8 of Act 10 of 2012** 10

26. Section 17D of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The functions of the Directorate are to prevent, combat and investigate[—  
 (a)] national priority offences, which, in the opinion of the National Head of the Directorate, need to be addressed by the Directorate, **subject to any policy guidelines issued by the Minister and approved by Parliament;**  
 (aA) **selected offences not limited to]** and offences referred to in Chapter 2 and section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)[; **and**  
 (b) **any other offence or category of offences referred to it from time to time by the National Commissioner, subject to any policy guidelines issued by the Minister and approved by Parliament].**”;

(b) by the deletion of subsection (1A); and

(c) by the substitution for subsection (2) of the following subsection:

“(2) If, during the course of an investigation by the Directorate, evidence of any other crime is detected and the National Head of the Directorate considers it in the interests of justice, or in the public interest, he or she may extend the investigation so as to include any offence which he or she suspects to be connected with the subject of the investigation.”.

**Amendment of section 17DA of Act 68 of 1995, as inserted by section 9 of Act 10 of 2012**

27. Section 17DA of the principal Act is hereby amended— 35

(a) by the substitution for subsection (1) of the following subsection:

“(1) The National Head of the Directorate shall not be suspended or removed from office except in accordance with the provisions of subsections [(2),] (3) **[and]**, (4) and (5).”;

(b) by the deletion of subsection (2). 40

**Amendment of section 17E of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and amended by section 10 of Act 10 of 2012**

28. Section 17E of the principal Act is hereby amended—

(a) by the deletion in subsection (2) of paragraph (c); 45

(b) by the deletion of subsection (3); and

(c) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

“(4) Whenever the head of the Intelligence Structure referred to in subsection (2)(a), **[and (c)]** acting in terms of section 2A(6) of the National Strategic Intelligence Act, **[1994,]** upon reasonable grounds, degrades, withdraws or refuses a security clearance[,], of a member of the Directorate, the member is deemed, subject to section 17U(4) and section 17V(4), to be unfit for further employment in the Service and the head of the relevant Intelligence Structure may request the National Commissioner [may on request of] and the National Head of the Directorate [transfer such person from the Directorate, or if such person cannot be redeployed elsewhere in the Service,] to discharge [him or her,

subject to the provisions of section 34] the member, subject to and pending the outcome of any appeal lodged by the member in terms of section 17V(4).

(5) A member of the Directorate may from time to time, or at such regular intervals as the National Head of the Directorate may determine, be subjected to a further security screening investigation. 5

(6) If, upon information at the disposal of the National Head of the Directorate, he or she reasonably believes that the person concerned poses a security risk, he or she may require the member to undergo a further security screening investigation.”. 10

**Amendment of section 17F of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and amended by section 11 of Act 10 of 2012**

29. Section 17F of the principal Act is hereby amended—

(a) by the substitution for subsections (2) and (3) of the following subsections, respectively: 15

“(2) The National Head of the Directorate may request the secondment of personnel, or a service arrangement regarding the performance of services of personnel, from any other Government department or Government institution, whenever he or she [**deems**] considers it necessary for the effective performance of the functions of the Directorate. 20

(3) The Directorate shall be assisted in the performance of its functions by personnel seconded, or made available on a service arrangement, by relevant Government departments or Government institutions, which may include personnel from the South African Revenue Service, the Financial Intelligence Centre and the Department of Home Affairs.”; 25

(b) by the substitution for subsection (6) of the following subsection:

“(6) Without derogating from the functions of the Service in respect of crime intelligence, as provided for in the National Strategic Intelligence Act, [**1994 (Act No. 39 of 1994),**] the Directorate shall be supported by the [**Crime**] Intelligence Division of the Service, referred to in section 17O, to gather, correlate, evaluate, co-ordinate and use crime intelligence in the performance of its functions.”; and 30

(c) by the substitution for subsection (6A) of the following subsection: 35

“(6A) The [**Head**] Divisional Commissioner of the [**Crime**] Intelligence Division of the Service shall upon a request of the National Head of the Directorate make available crime intelligence capacity to assist the Directorate in a specific investigation.”. 40

**Amendment of section 17J of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and amended by section 14 of Act 10 of 2012**

30. Section 17J of the principal Act is hereby amended by the substitution in subsection (1)(a) for subparagraph (iiB) of the following subparagraph:

“(iiB) the [**Head**] Divisional Commissioner of the [**Crime**] Intelligence Division of the [**South African Police**] Service;” 45

**Amendment of section 17K of Act 68 of 1995, as inserted by section 3 of Act 57 of 2008 and amended by section 15 of Act 10 of 2012**

31. Section 17K of the principal Act is hereby amended by the deletion of subsections (4), (7), (8) and (9).

**Amendment of section 17L of Act 68 of 1995, as amended by section 3 of Act 57 of 2008 and amended by section 16 of Act 10 of 2012**

32. Section 17L of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) The performance of the functions provided for in respect of the retired judge does not derogate from the powers of the Independent 55

- [**Complaints**] Police Investigative Directorate [**referred to in section 50**] to investigate complaints in respect of any member, including members in the Directorate [**for Priority Crime Investigation**].”;
- (b) by the insertion after subsection (4) of the following subsection: 5
- “(4A) The retired judge may, *mero motu*, where allegations referred to in subsection (4)—
- (a) are made on behalf of a complainant; or
- (b) emerge from other related investigations with which the retired judge is involved, 10
- investigate such allegations.”;
- (c) by the substitution for subsection (5) of the following subsection: 15
- “(5) The retired judge may upon receipt of a complaint investigate such complaint or refer it to be dealt with by, amongst others, the Civilian Secretariat, the Independent [**Complaints**] Police Investigative Directorate, the National Commissioner, the Head of the Directorate, the relevant Provincial Commissioner, the National Director of Public Prosecutions, the Inspector-General of Intelligence, or any institution mentioned in chapter 9 of the Constitution [**of the Republic of South Africa, 1996**].”;
- (d) by the insertion after subsection (6) of the following subsections: 20
- “(6A) The retired judge shall identify a suitably qualified and experienced person as office manager in the office of the retired judge who—
- (a) is responsible for all administrative, financial and clerical functions of the office of the retired judge;
- (b) is accountable to the Secretary for all the monies received by the office of the retired judge; and 25
- (c) is under the control and authority of the retired judge.
- (6B) The person contemplated in subsection (6A) shall be appointed by the Secretary.
- (6C) The appointment and other conditions of service, including the salary and allowances of the office manager in the office of the retired judge are regulated in terms of the Public Service Act. 30
- (6D) The retired judge shall refer any matter relating to misconduct and incapacity of the office manager in the office of the retired judge to the Civilian Secretariat. 35
- (6E) The office manager in the office of the retired judge appoints staff as may be necessary to enable the retired judge to perform his or her functions in terms of this Act.
- (6F) The staff component shall be established in accordance with the Public Service Act. 40
- (6G) The conditions of service, including salaries and allowances of the staff component, are regulated in terms of the Public Service Act.
- (6H)(a) The office manager in the office of the retired judge shall appoint one or more persons with legal, investigative or any other expertise as assistants when required by the retired judge, to assist the retired judge with any specialised aspect of his or her functions or investigations. 45
- (b) The assistants referred to in paragraph (a) are appointed for a fixed period or until the completion of a specific task.
- (c) The remuneration of the assistants referred to in paragraph (a) shall be determined in accordance with the Public Service Act. 50
- (d) The assistants referred to in paragraph (a) shall perform such functions as authorised and directed by the retired judge.”;
- (e) by the deletion in subsection (8) of the word “and” at the end of paragraph (b);
- (f) by the insertion in subsection (8) after paragraph (b) of the following paragraph: 55
- “(bA) may summons any complainant, any member of the public or any member of the Service to appear before him or her and to produce information or documents under the control of such person; and”;
- (g) by the insertion after subsection (8) of the following subsection: 60
- “(8A) Any person who fails or refuses to comply with summons issued by the retired judge in terms of this section shall be guilty of an

offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.”;

(h) by the substitution for subsection (9) of the following subsection:

“(9) The retired judge shall annually report to Parliament on the performance of his or her functions.”; and

(i) by the substitution for subsection (10) of the following subsection:

“(10) The National Head of the Directorate may request the retired judge to investigate complaints or allegations relating to investigations by the Directorate or alleged interference with such investigations.”.

### Insertion of Chapters 6B and 6C in Act 68 of 1995

33. The following Chapters are hereby inserted after Chapter 6A of the principal Act:

#### “CHAPTER 6B

#### SPECIALISED UNITS

##### Establishment of specialised units

17M. Subject to Chapter 6A, the National Commissioner shall, after consultation with the Management Forum—

- (a) establish specialised units with the objective of the prevention, combating and investigation of organised crime, crime which requires national prevention or investigation, or crime which requires specialised skills in the prevention and investigation thereof, as referred to in section 16(1), read with section 16(2), as well as corruption and cybercrime and which crimes are not being investigated by the Directorate referred to in Chapter 6A;
- (b) establish a unit referred to in paragraph (a) to ensure that crimes referred to in paragraph (a) are investigated on a national level, where required;
- (c) ensure that a unit established in terms of this section has the capability, capacity and competence to fulfil its required purpose; and
- (d) ensure the deployment of a unit in a province after consulting the provincial government and taking into account the policing needs and priorities of the province.

#### CHAPTER 6C

#### POLICE SERVICE INTELLIGENCE

##### Definitions in Chapter

17N. In this Chapter, unless the context indicates otherwise—

- (a) ‘**police service intelligence**’ includes—
  - (i) ‘counter-intelligence’ within the Service as determined in section 2(3) of the National Strategic Intelligence Act;
  - (ii) ‘crime intelligence’; and
  - (iii) ‘departmental intelligence’,
 as defined in section 1 of the National Strategic Intelligence Act; and
- (b) ‘**Intelligence Division**’ means the Intelligence Division of the Service contemplated in section 17O.

##### Intelligence Division of Service

17O. (1) The Crime Intelligence Division in existence in the Service immediately before the commencement of the South African Police Service Amendment Act, 2026, continues to exist as the Intelligence Division of the Service.

(2) The Head of the Crime Intelligence Division of the Service, immediately before the commencement of the South African Police Service Amendment Act, 2026, continues to serve as the Divisional Commissioner

of the Intelligence Division until his or her retirement or his or her services are terminated in terms of this Act.

### **Reporting line of Divisional Commissioner of Intelligence Division**

**17P.** (1) The Divisional Commissioner of the Intelligence Division, in addition to any reporting function in terms of the National Strategic Intelligence Act, reports to the National Commissioner and may, in circumstances where he or she considers it necessary in the interest of justice, the public interest or the security of the Republic, report particular matters directly to the Minister. 5

(2) The Divisional Commissioner of the Intelligence Division, in addition to any reporting obligations imposed by any other law, shall be accountable to the parliamentary body responsible for oversight over the intelligence services concerning any utilisation by the Intelligence Division of funds from the Secret Services Account established by the Secret Services Account Act, 1978 (Act No. 56 of 1978). 10 15

### **Application of strategic and operational intelligence**

**17Q.** (1) The Intelligence Division shall, subject to the National Strategic Intelligence Act, gather, correlate, evaluate and use—

- (a) crime intelligence and departmental intelligence for purposes of—
  - (i) ensuring national security; and 20
  - (ii) assisting in the execution of policing policy; and
- (b) operational intelligence for purposes of—
  - (i) the prevention, combating and investigation of crime; 25
  - (ii) the maintenance of public order;
  - (iii) protecting and ensuring the inhabitants of the Republic and their property;
  - (iv) upholding and enforcing the law;
  - (v) collating and verifying crime information to inform, amongst others, targeted police patrols, local operational planning and efforts to improve and strengthen crime investigation, reduction and prevention; 30
  - (vi) generating the kind of information needed to better understand the type of crime, violence, threats and vulnerabilities that disparate communities face supported by a community-centred approach to policing; and 35
  - (vii) ensuring the security of National Key Points and critical infrastructure.

(2) The Intelligence Division shall be managed from a national level—

- (a) to support the Service, in general, to gather, correlate, evaluate, co-ordinate and use crime intelligence in pursuance of its objects; 40
- (b) to support the Directorate in the manner referred to in section 17F(6) and (6A); and
- (c) to perform the functions referred to in sections 2(3), 2A and 3 of the National Strategic Intelligence Act. 45

### **Co-operation with other intelligence services** 45

**17R.** The Intelligence Division shall co-operate with any other intelligence service or body created by or under any other law, subject to the National Strategic Intelligence Act.

### **Counter-intelligence by Intelligence Division**

**17S.** The Intelligence Division shall— 50

- (a) conduct and institute counter-intelligence measures and activities within the Service; and
- (b) conduct vetting investigations of and issue security clearances to—
  - (i) members employed in the Directorate in terms of and in accordance with section 2A of the National Strategic Intelli- 55

gence Act, when determined by the Minister under section 17E(2)(a) as the relevant Intelligence Structure to do so; and  
 (ii) other members of the Service and persons as determined in section 2A(1) of the National Strategic Intelligence Act, who require a security clearance due to their access to classified information, or the sensitivity of the functions performed by such members or persons.

### Determination of security classification

**17T.** (1) A member, employee or person contemplated in section 17S(b) may not be enrolled, appointed or promoted, receive a commission or be retained as a member or employee, unless such member or employee has been issued with the appropriate security clearance by the Intelligence Division.

(2) A member, employee or person contemplated in section 17S(b) may not claim an automatic right by virtue of enrolment, appointment, promotion, receipt of commission or retention to obtain, retain or be issued with a security clearance or any grade of security clearance.

(3) The Divisional Commissioner of the Intelligence Division shall determine whether any security clearance or a specific grade of security clearance shall be issued to any member, employee or person contemplated in section 17S(b).

(4) The grade of security clearance issued to a member, employee or person in terms of subsection (3) shall—

- (a) be specified in a certificate, issued by the Divisional Commissioner of the Intelligence Division, which certificate shall be *prima facie* proof of the grade of security clearance so issued;
- (b) remain in force until the next determination is made under subsection (3) or until the clearance lapses or is downgraded or withdrawn in terms of this Act; and
- (c) be subject to periodic revision by the Intelligence Division.

### Discharge of members when security clearance is degraded, withdrawn or refused

**17U.** (1) If the security clearance of a member is degraded, withdrawn or refused by the Divisional Commissioner of the Intelligence Division, the member shall be considered unfit for further employment in the Service and the National Commissioner may discharge such a member, subject to and pending the outcome of any appeal lodged by the member in terms of section 17V(4).

(2) Any member in respect of whom a security clearance has been degraded, withdrawn or refused, may appeal to the Minister in accordance with section 17V(4) against such decision.

(3) The National Commissioner or the National Head of the Directorate may transfer a member to another unit whilst an appeal, in terms of subsection (2), against the degrading, withdrawal or refusal of such member's security clearance is pending.

(4) Where a member's appeal in terms of subsection (2) has been unsuccessful, the member shall be deemed to be unfit for further employment in the Service and—

- (a) the National Commissioner, in the case of a member of the Service, who is not a member of the Directorate; or
  - (b) the National Head of the Directorate, in the case of a member of the Directorate,
- may discharge him or her.

**Notification of granted, degraded, withdrawn or refused security clearance**

**17V.** (1) The Divisional Commissioner of the Intelligence Division shall give notice, in writing, to every member, employee or person in respect of whom a determination has been made in terms of section 17T(3). 5

(2)(a) Subject to paragraph (b), the Divisional Commissioner of the Intelligence Division, or an officer authorised by him or her in writing, shall in writing furnish every member, employee or person whose security clearance, or particular grade of security clearance, has been degraded, withdrawn or refused in terms of section 17U, with the grounds and reasons for such refusal, degrading or withdrawal. 10

(b) A person may not reveal any counter-intelligence measure taken, any source of information, or the identity of any person involved in the collection or giving of information with regard to a vetting investigation and evaluation, or allude to it in a manner which would enable a person to identify it. 15

(3) A security clearance or specific grade of security clearance may not be degraded, withdrawn or refused without the member, employee or person who would be affected thereby being afforded reasonable opportunity to present information regarding such matter. 20

(4) Within 60 calendar days after having received the reasons contemplated in subsection (2)(a), the member, employee or person concerned may lodge an appeal with the Minister, in the prescribed manner, against the degrading, withdrawal or refusal of security clearance and shall set out the grounds for the appeal. 25

(5) After considering the grounds of an appeal lodged in terms of subsection (4), and the reasons for the decision of the Divisional Commissioner of the Intelligence Division's to degrade, withdraw or refuse the member, employee or person's security clearance, the Minister shall, as soon as practicable, confirm, set aside or vary such decision. 30

(6) The Minister shall inform the member, employee or person of the outcome of the appeal and provide the reasons for a decision to confirm, set aside or vary the decision of the Divisional Commissioner of the Intelligence Division." 35

**Substitution of heading to Chapter 7 of Act 68 of 1995**

**34.** The following heading is hereby substituted for the heading to Chapter 7 of the principal Act:

**"COMMUNITY [POLICE] POLICING FORUMS AND BOARDS"**.

**Amendment of section 18 of Act 68 of 1995**

**35.** Section 18 of the principal Act is hereby amended— 40

(a) by the substitution for the heading of the following heading:

**"[Objects of] Liaising with community through community [police] policing forums and boards";**

(b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: 45

"The Service shall, in order to achieve the objects contemplated in section [215] 205(3) of the Constitution, liaise with the community through community [police] policing forums, [and area and] as well as national, provincial and district community [police] policing boards, in accordance with sections [19, 20 and 21,] 6B, 6C, 6D, 6E and 6H of the Civilian Secretariat for Police Service Act, with a view to—"; 50

(c) by the substitution in subsection (1) for paragraphs (d) and (e) of the following paragraphs, respectively:

"(d) improving the rendering of police services to the community at national, provincial, [area] district and local levels; 55

(e) improving transparency in and oversight over, the Service and accountability of the Service to the community; and";

(d) by the insertion after subsection (1) of the following subsections:

“(1A) The members designated by the station commander, district commanders and the Provincial Commissioner, from time to time for that purpose, shall be *ex officio* members of the community policing forum and sub-forum established at the police station in terms of section 6B of the Civilian Secretariat for Police Service Act, and shall further be *ex officio* members of the relevant district and provincial community policing boards established in terms of sections 6C and 6D of the Civilian Secretariat for Police Service Act, and shall diligently attend the meetings of the respective community policing forums and community policing boards.

(1B) The monthly reports by provincial and district community policing boards and community policing forums which are submitted in terms of section 6I(2) of the Civilian Secretariat for Police Service Act, shall be considered by the relevant police station or district commander, the Provincial Commissioner, the provincial secretariat, and the member of the Executive Council and all reasonable steps shall be taken to address concerns expressed in these reports.”; and

(e) by the substitution for subsection (2) of the following subsection:

“(2) This Chapter shall not preclude liaison by the Service with the community by means other than through community **[police]** policing forums and boards.”.

#### **Repeal of sections 19, 20, 21, 22, and 23 of Act 68 of 1995**

36. Sections 19, 20, 21, 22, and 23 of the principal Act are hereby repealed.

#### **Amendment of section 24 of Act 68 of 1995**

37. Section 24 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (i) of the following paragraph:

“(iA) the appointment and conditions of service of Deputy National Commissioners and Divisional Commissioners;”; 30

(b) by the insertion in subsection (1) after paragraph (k) of the following paragraph:

“(kA) injuries and diseases sustained or contracted by members in the course of their employment, or death as a result of such injury or disease, to supplement, where required, the provisions of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);”; 35

(c) by the substitution in subsection (1) for paragraph (cc) of the following paragraph:

“(cc) **[the proper functioning of the directorate, including]** the referral to the **[directorate]** Independent Police Investigative Directorate of complaints received by the police;”; and 40

(d) by the substitution for subsection (3) of the following subsection:

“(3) Any regulation under subsection (1)(cc) shall be made **[in]** after consultation with the Executive Director.”.

#### **Substitution of section 27 of Act 68 of 1995, as amended by section 17 of Act 10 of 2012**

38. The following section is hereby substituted for section 27 of the principal Act:

##### **“Filling of posts**

27. The filling of any post in the Service, whether by appointment, promotion or transfer, shall promote the basic values and principles governing public administration.” 50

**Amendment of section 28 of Act 68 of 1995, as amended by section 18 of Act 10 of 2012**

39. Section 28 of the principal Act is hereby amended—
- (a) by the insertion after subsection (1) of the following subsection: 5  
“(1A) All posts shall be filled following a transparent, competitive and merit-based process to ensure the best-suited person is appointed.”;
  - (b) by the substitution for subsection (2) of the following subsection: 10  
“(2) Subject to section 27, the National Commissioner may appoint a person to a post in the fixed establishment of the Service, including as a Deputy National Commissioner to oversee and manage the performance of functions of a group of divisions, or as a Divisional Commissioner who will be responsible for a particular division.”;
  - (c) by the deletion of subsection (3); and
  - (d) by the addition of the following subsection: 15  
“(4) A person may not be appointed as a member of the Service if that person is not a citizen of the Republic.”

**Insertion of sections 28A, 28B and 28C in Act 68 of 1995**

40. The following sections are hereby inserted in the principal Act after section 28:

**“Integrity testing and lifestyle audits**

**28A.** (1) Every person that is newly recruited or considered for appointment to the Service as a police official, after the commencement of the South African Police Service Amendment Act, 2026, shall undergo to a prescribed integrity test before appointment in the Service. 20

(2) The integrity test referred to in subsection (1) may entail the use of fingerprints, a buccal sample analysed for a DNA profile, as defined in section 15E, a polygraph, financial disclosures, disclosure of income and expenses, credit history, membership of entities such as boards, directorships and institutions, and determination of contracts with the State. 25

(3) A person contemplated in subsection (1) may not be appointed in the Service, unless an integrity test has been successfully completed in respect of the person. 30

(4) A lifestyle audit, as prescribed, may be performed in respect of any member, including the National Commissioner, a Deputy National Commissioner or Provincial Commissioner, or any other officer on a rank level equal to or lower than a Provincial Commissioner, in respect of whom there are reasonable grounds to suspect that the person is living above his or her income. 35

(5) The lifestyle audit referred to in subsection (4) may entail the use of financial disclosures, including the disclosure of income and expenses, credit history, membership of entities such as boards, directorships and institutions, and determination of contracts with the State. 40

(6) Any member may be subjected to drug testing in the prescribed manner.

(7) The National Commissioner shall designate a Division or Divisions in the Service to perform integrity tests and lifestyle audits. 45

(8) A comparative search may be made into any official database in the Service in respect of the person undergoing an integrity test or lifestyle audit.

**Taking and use of fingerprints of members**

**28B.** (1)(a) A national fingerprints database within the Service, to be known as the Personnel Fingerprints Database, is hereby established. 50

(b) The National Commissioner shall ensure that fingerprints of members are taken and stored in computerised or other form on the Personnel Fingerprints Database.

(2) The National Commissioner may direct that fingerprints of members be taken from time to time during their employment to enhance a 55

professional police service based on the principles of integrity and accountability, which may include, but not limited to, establishing whether a member has been convicted of an offence.

(3) Any person who, with regard to any fingerprints taken of a member—

(a) uses or allows the use of those fingerprints that is not related to the purposes set out in subsection (2);

(b) tampers with or manipulates the process or the fingerprints in question; or

(c) falsely purports that fingerprints are from a specific member whilst knowing them to have been taken from another person,

is guilty of an offence and liable on conviction to imprisonment for a period not exceeding 15 years.

(4) The Personnel Fingerprints Database shall be kept and maintained separately from the criminal database within the Division responsible for keeping and processing fingerprints.

(5) Fingerprints of members stored on the Personnel Fingerprints Database may be checked against any database held by any national department, including the Service, irrespective of whether the fingerprints stored on these respective databases were collected before or after the coming into operation of this section.

### **Security measures on integrity of information on database**

**28C.** (1) The National Commissioner shall secure the integrity of fingerprints of members kept on the Personnel Fingerprints Database by taking appropriate, reasonable, technical and organisational measures to prevent—

(a) loss of, damage to, or unauthorised destruction of, information on the database; and

(b) unlawful access to, or processing of, information on the database.

(2) In order to give effect to subsection (1), the National Commissioner shall take reasonable measures to—

(a) identify all reasonable foreseeable internal and external risks to information on the database under his or her control;

(b) establish and maintain appropriate safeguards against the risks identified;

(c) regularly verify that the safeguards are effectively implemented; and

(d) ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

(3) The National Commissioner shall have due regard to generally accepted information security practices and procedures which may apply to the Service generally or be required in terms of any law relating to security of information applicable to the Service.

(4) The National Commissioner shall ensure that the fingerprints of a member kept on the Personnel Fingerprints Database are destroyed within a period of 90 days after termination, for whatever reason, of his or her employment as a member.”

### **Repeal of section 29 of Act 68 of 1995**

41. Section 29 of the principal Act is hereby repealed.

### **Substitution of section 32 of Act 68 of 1995**

42. The following section is hereby substituted for section 32 of the principal Act:

#### **“Training**

**32.** (1) The National Commissioner shall determine the criteria for education, training and development that members under his or her command shall undergo.

(2) The National Head of the Directorate shall determine the criteria for

education, training and development that members of the Directorate shall undergo.

(3) The National Commissioner shall determine the criteria for education, training and development of police recruits and lateral appointees.”.

**Amendment of section 33 of Act 68 of 1995**

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**43.** Section 33 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) A Deed of Commission, appointment certificate issued by the National Commissioner, or a President’s Minute, bearing the signatures of the President and the Minister, or [replicas] certified copies thereof, shall be proof of appointment as commissioned officer.”; 10

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“The commission and rank of a commissioned officer shall terminate and be deemed to be cancelled upon—”; 15

(c) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) the **[discharge]** dismissal of such officer following on disciplinary proceedings under section 40 or an inquiry under section 34(1)(b), (c) or (d);”; 20

(d) by the deletion in subsection (3) of the word “or” at the end of paragraph (c);

(e) by the deletion in subsection (3) of the full stop at the end of paragraph (d) and the insertion of a semi-colon;

(f) by the addition to subsection (3) of the following paragraphs:

“(e) in the case of the National Commissioner, a Deputy National Commissioner or a Provincial Commissioner, his or her removal from office based on misconduct in terms of section 9; 25

(f) in the case of a member who has left the Service because of his or her discharge in terms of section 35, retirement or resignation and who, thereafter, is convicted of an offence for which a sentence to a term of imprisonment, with or without the option of a fine, is imposed; or 30

(g) in the case of the National Head of the Directorate, his or her removal from office based on misconduct in terms of section 17DA(3)(a).”; 35

(g) by the substitution for subsection (5) of the following subsection:

“(5) Any commissioned officer who leaves the Service because of his or her discharge in terms of section 35, retirement or resignation, shall retain the commission and rank he or she held immediately prior to his or her discharge, retirement or resignation, unless the Minister, on the recommendation of the National Commissioner, otherwise directs.”; and 40

(h) by the addition of the following subsection:

“(6) Notwithstanding of subsection (5), any commissioned officer who leaves the Service because of his or her discharge, retirement or resignation, shall, upon re-enlistment in the Service— 45

(a) forfeit the commission or rank he or she held immediately prior to his or her discharge, retirement or resignation, if such officer is re-enlisted in the rank of non-commissioned officer; or

(b) retain the commission if such officer is re-enlisted at the level of commissioned officer, but he or she shall hold the new rank applicable to the post enlisted to.” 50

**Amendment of section 34 of Act 68 of 1995, as amended by section 5 of Act 41 of 1997**

**44.** Section 34 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection: 55

“(2A)(a) A member who absents himself or herself from his or her official duties without the permission of his or her commander for a period exceeding 30 calendar days, is deemed to have been dismissed from the Service on account of misconduct

with effect from the date immediately succeeding his or her last day of attendance at his or her place of duty.

(b) A member, contemplated in paragraph (a), who assumes other employment, is deemed to have been dismissed in terms of paragraph (a), irrespective of whether or not the period of one calendar month has expired.

(c) If a member who is deemed to have been dismissed in terms of paragraph (a), reports for duty at any time after the expiry of the period referred to in paragraph (a), the National Commissioner may, on good cause shown, approve the reinstatement of that member in the Service in his or her former post, or any other post or position, and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave, without pay, or leave on such other conditions as the National Commissioner may determine.

(d) Notwithstanding paragraph (c), the National Commissioner may follow the procedure contemplated in subsection (2).”.

**Amendment of section 35 of Act 68 of 1995, as amended by section 35 of Act 47 of 1997**

45. Section 35 of the principal Act is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of the following words:

“The National Commissioner may, subject to the provisions of the **[Government Service Pension Act, 1973 (Act No. 57 of 1973)]** Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996), discharge a member—”; and

(b) by the substitution for paragraph (c) of the following paragraph:

“(c) if the President or a Premier appoints him or her in the public interest under any law to an office to which the provisions of this Act or the Public Service Act [**1994 (promulgated under Proclamation 103 of 1994)**], do not apply.”.

**Amendment of section 36 of Act 68 of 1995**

46. Section 36 of the principal Act is hereby amended—

(a) by the deletion of subsection (3); and

(b) by the addition of the following subsection:

“(7)(a) An application made by a member in terms of subsection (2) shall be considered and finalised within 60 days from the date of receipt thereof by the National Commissioner, and if the application for reinstatement is not finalised by the National Commissioner within the 60 day period, the member shall be deemed to have been re-instated from the date upon which he or she is deemed to have been so discharged.

(b) In the event of the National Commissioner rejecting an application brought in terms of subsection (2), the National Commissioner shall provide the member with written reasons for such rejection within the 60 day period referred to in paragraph (a).”.

**Repeal of section 37 of Act 68 of 1995**

47. Section 37 of the principal Act is hereby repealed.

**Substitution of section 40 of Act 68 of 1995**

48. The following section is hereby substituted for section 40 of the principal Act:

**“Disciplinary proceedings**

**40. (1)** Disciplinary proceedings may be instituted in the prescribed manner against a member on account of misconduct, whether such misconduct was committed within or outside the borders of the Republic.

“(2) The National Commissioner shall establish a disciplinary system within the Service which involves dedicated, properly qualified and trained units to perform functions related to presiding officers and disciplinary officers.

(3) The National Head of the Directorate shall establish a disciplinary system within the Directorate, which involves dedicated, properly qualified and trained units to perform functions related to presiding officers and disciplinary officers in respect of members of the Directorate.

(4) Members employed in the dedicated disciplinary units shall be solely dedicated and committed to disciplinary matters.”.

#### **Amendment of section 45 of Act 68 of 1995**

49. Section 45 of the principal Act is hereby amended—

(a) by the substitution in subsection (3)(a) for the words preceding subparagraph (i) of the following words:

“Subject to paragraph (b), a member who in terms of [section 212 (7)(b) of the Constitution or] any [other] law has the right to retire at an earlier age than that contemplated in subsection (1)(a), shall give written notification to the National Commissioner of his or her wish to be so retired and he or she shall—”; and

(b) by the deletion of subsection (10).

#### **Amendment of section 49 of Act 68 of 1995**

50. Section 49 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) No member may, during a period in which a state of national defence, declared under section [82(4)(b)(i)] 203(1) of the Constitution, or a state of emergency, [proclaimed] declared in accordance with section [34(1)] 37(1) of the Constitution, is in force, resign from the Service without the written permission of the National Commissioner.”.

#### **Substitution of section 60 of Act 68 of 1995**

51. The following section is hereby substituted for section 60 of the principal Act:

**“[Property of Service not liable to seizure] Seizure or attachment of property of Service**

**60. Property of the Service may only be seized or attached in consequence of a judgment or order of a court of law.”.**

#### **Amendment of section 63 of Act 68 of 1995**

52. Section 63 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The National Commissioner shall, with due regard to sections [215, 218 and 219] 205(3) and 207(2) and (4) of the Constitution, determine whether a particular function, duty or service falls within the scope of the normal and generally accepted responsibilities of the Service and, if such function, duty or service does not fall within such scope, it shall, subject to subsection (2), be performed only on such conditions as may be prescribed in consultation with the National Treasury.”.

**Amendment of section 64A of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

53. Section 64A of the principal Act is hereby amended—

- (a) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 5  
 “(a) **[after]** in consultation with the National Commissioner, taking into account the factors mentioned in paragraph (d);”;
- (b) by the deletion in subsection (3) of the word “and” at the end of paragraph (b);
- (c) by the deletion in subsection (3) of the full stop at the end of paragraph (c) and the insertion of a semi-colon and the word “and”; 10
- (d) by the addition to subsection (3) of the following paragraph:  
 “(d) after considering the feasibility of establishing a municipal police service for that specific geographical area, taking into account the needs and resources of that specific local community and whether such establishment would contribute to effective policing in that part of the country.”; and 15
- (e) by the insertion after subsection (3) of the following subsection:  
 “(3A) Whenever the National Commissioner and the member of the Executive Council are unable to agree on an application for the establishment of a municipal police service, the Minister shall mediate between the parties.” 20

**Amendment of section 64B of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

54. The following section is hereby substituted for section 64B of the principal Act:

“**[Chief Executive Officer of municipality] Municipal manager** 25

**64B.** The **[chief executive officer]** municipal manager, as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), of a municipality shall be responsible to the municipal council for the functioning of the municipal police service, taking into consideration provincial policing needs and priorities as determined by the relevant member of the Executive Council.” 30

**Amendment of section 64C of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

55. Section 64C of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 35  
 “**[Executive head] Chief of municipal police service**”;
- (b) by the substitution for subsection (1) of the following subsection:  
 “(1) Subject to section 64D, a municipal council, after consultation with the National Commissioner, shall appoint a member of the municipal police service as the **[executive head] Chief** thereof.”; 40
- (c) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:  
 “The **[executive head] Chief** shall, subject to this Act, national standards determined by the National Commissioner, and the directives of the **[chief executive officer of the municipality] municipal manager**, exercise control over the municipal police service, and shall—”; 45
- (d) by the substitution in subsection (2) for paragraph (f) of the following paragraph:  
 “(f) **[either personally or through]** ensure that a member or members of the municipal police service designated by him or her for that purpose, represent the municipal police service on every community **[police] policing** forum or sub-forum, established in terms of section **[19] 6B** of the Civilian Secretariat for Police Service Act, within the area of jurisdiction of the municipality;” and 50

(e) by the addition of the following subsection:

“(3) The Chief shall liaise with the Provincial Commissioner in order to ensure co-ordination of operational activities, in relation to national and provincial priorities.”.

**Substitution of section 64D of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998** 5

56. The following section is hereby substituted for section 64D of the principal Act:

“**First [executive head] Chief of municipal police service**

**64D.** When a municipal police service is established under section 64A, the municipal council in question, after consultation with the National Commissioner, shall appoint a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned as the first Chief of the municipal police service.”. 10

**Amendment of section 64E of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998** 15

57. Section 64E of the principal Act is hereby amended—

- (a) by the deletion of the word “and” at the end of paragraph (b);  
 (b) by the deletion of the full stop at the end of paragraph (c) and the insertion of a semi-colon and the word “and”; and 20  
 (c) by the addition of the following paragraph:

“(d) the enforcement of the Regulation of Gatherings Act—

- (i) as first responders, in consultation with the local station commander, with reference to the definition of “Police” in section 1 of the Regulation of Gatherings Act, until members of the Service arrive at the scene of a gathering or demonstration, from which moment the municipal police service shall be responsible for law enforcement in respect thereof under the command and control of the most senior member of the Service trained to deal with public order policing who shall take charge of the scene; or 25  
 (ii) upon the request of a station commander within the area of jurisdiction of the municipal police service and under the command and control of the member of the Service who is in control of the scene of a gathering or demonstration.”. 30 35

**Insertion of section 64EA in Act 68 of 1995**

58. The following section is hereby inserted in the principal Act after section 64E:

“**Establishment of public order policing capacity for municipal police services**

**64EA.** (1) A municipal police service may establish a public order policing capacity to perform the functions provided for in section 64E(d). 40

(2) A municipal public order policing capacity may assist the national public order policing capacity, deployed in terms of section 17: Provided that such assistance shall be provided under the command and control of the most senior commander of the national public order policing capacity.”. 45

**Amendment of section 64K of Act 68 of 1995**

59. Section 64K of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
 “(b) [area] district policing co-ordinating committees;”;

- (b) by the insertion after subsection (1) of the following subsections:
- “(1A) The National Commissioner shall, after consultation with the department responsible for local government, establish a national policing co-ordinating committee, the objects of which are to—
- (a) enhance co-operation and co-ordination between municipal police services and the Service by ensuring the effective utilisation of resources in the performance of policing functions;
  - (b) serve as a platform to address matters pertaining to the performance of the functions of municipal police services;
  - (c) identify and resolve challenges which hamper effective service delivery by municipal police services;
  - (d) enhance the rendering of professional policing services to the community;
  - (e) take decisions aimed at enhancing co-ordination and co-operation between stakeholders; and
  - (f) promote an integrated approach to safety and security and facilitate the objective of crime prevention.
- (1B) The national policing co-ordinating committee referred to in subsection (1A) shall be constituted of senior representatives from at least the—
- (a) Service;
  - (b) South African Local Government Association, as recognised in terms of section 2 of the Organised Local Government Act, 1997 (Act No. 52 of 1997);
  - (c) municipal police services;
  - (d) Road Traffic Management Corporation, established in terms of section 3 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);
  - (e) Road Traffic Infringement Agency, established in terms of section 3(1) of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998);
  - (f) Civilian Secretariat; and
  - (g) Independent Police Investigative Directorate.”;
- (c) by the substitution for subsections (2), (3) and (4) of the following subsections, respectively:
- “(2) The National Commissioner, or a person designated by him or her for that purpose, shall act as chairperson at a meeting of the national policing co-ordinating committee referred to in subsection (1A) and the Provincial Commissioner, or a person designated by him or her for that purpose, shall act as chairperson at a meeting of a policing co-ordinating committee referred to in subsection (1)(a) to (c).
- (3) **[Every]** The national policing co-ordinating committee and the policing co-ordinating committees established in terms of subsection (1)(a) to (c) shall determine [its] their own procedure and cause minutes to be kept of their proceedings.
- (4) The Minister may, with the concurrence of the Minister of Transport, make regulations to ensure the proper functioning of the national policing co-ordinating committee and the policing co-ordinating committees established in terms of subsection (1)(a) to (c).”;
- (d) by the addition of the following subsection:
- “(5) The national policing co-ordinating committee shall, after each meeting, submit a report on such meeting to the National Commissioner and the Minister.”.

**Amendment of section 64L of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

**60.** Section 64L of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The National Commissioner may determine national standards of policing for municipal police services and, in addition to the training prescribed for traffic officers in terms of the **[Road Traffic Act, 1989 (Act No. 29 of 1989)]** National Road Traffic Act, determine national

standards with regard to the training of members of municipal police services.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) If a municipal police service has failed to maintain national standards, the National Commissioner shall report the failure to the Minister and the relevant member of the Executive Council, and issue a notice of non-compliance to the relevant metropolitan council.”.

**Amendment of section 64M of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

61. Section 64M of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Upon receipt of a report contemplated in section 64L, the Minister may request the member of the Executive Council concerned to intervene as contemplated in section 139 of the Constitution [of the Republic of South Africa, 1996 (Act No. 108 of 1996),] and shall provide the member with a copy of that report.”; and

(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) For the purposes of this subsection, any reference in section 64N(4) to (7) to—

[(a)] (i) the member of the Executive Council, shall be deemed to be a reference to the Minister;

[(b)] (ii) the member of the Executive Council responsible for local government, shall be deemed to be a reference to the Minister [for Provincial Affairs and Constitutional Development] responsible for Co-operative Governance and Traditional Affairs;

[(c)] (iii) the member of the Executive Council responsible for transport and traffic matters, shall be deemed to be a reference to the Minister of Transport;

[(d)] (iv) the Premier, shall be deemed to be a reference to the President;

[(e)] (v) an official of the provincial government, shall be deemed to be a reference to an official of the national government; and

[(f)] (vi) [to] section 139(2) of the Constitution [of the Republic of South Africa, 1996 (Act No. 108 of 1996)], shall be deemed to be a reference to section 100(2) of the Constitution.”.

**Substitution of section 64O of Act 68 of 1995, as inserted by section 3 of Act 83 of 1998**

62. The following section is hereby substituted for section 64O of the principal Act:

**“Certain other sections of [this] Act to apply to municipal police service**

**64O.** (1) The Minister may prescribe which other provisions of this Act shall apply to a municipal police service and the extent to which they shall apply.

(2) A municipal police service shall take reasonable steps to comply with the provisions prescribed in terms of subsection (1).”.

**Substitution of section 65 of Act 68 of 1995**

63. The following section is hereby substituted for section 65 of the principal Act:

**“Receipt or possession of certain property**

65. Any person who receives or has in his or her possession any property which in terms of this Act may not be sold, pledged, lent or otherwise

disposed of, knowing the same to have been sold, pledged, lent or otherwise disposed of in contravention of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [12 months] five years, or to both such fine and such imprisonment.”.

**Insertion of section 65A in Act 68 of 1995**

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64. The following section is hereby inserted in the principal Act after section 65:

**“Disposal or abuse of property and equipment**

**65A.** (1) A property or an equipment of the Service whether or not issued to a member may not be sold, pledged, lent or otherwise disposed of.

(2) A property or an equipment of the Service whether or not issued to a member may not be used to facilitate a criminal offence.

(3) For purposes of subsections (1) and (2), property or equipment of the Service includes, but is not limited to—

(a) any uniform or part thereof, including bullet-resistant jackets;

(b) blue lamps used on or in vehicles;

(c) radios, computers, laptops or other electronic equipment; and

(d) medals, rank signs and insignia.

(4) Any person who contravenes subsection (1) or (2) in relation to the property or equipment of the Service listed in subsection (3)(a) to (c), shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding 15 years, or to both such fine and such imprisonment.

(5) Any person who contravenes subsection (1) or (2) in relation to the property or equipment of the Service listed in subsection (3)(d), shall be guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.”.

**Amendment of section 66 of Act 68 of 1995**

65. Section 66 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Any person who wears any uniform or distinctive badge or button of the Service or wears anything materially resembling or presenting any such uniform, badge or button or wears anything with the intention that it should be regarded as such uniform, badge or button, shall, unless—;

(b) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

“be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [six months] 15 years, or to both such fine and such imprisonment.”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) Any person who wears, or without the written permission of the National Commissioner, makes use of any decoration or medal instituted, constituted or created under this Act, or its bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive, shall, unless he or she is the person to whom such decoration or medal was awarded, be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [six months] five years, or to both such fine and such imprisonment.”; and

(d) by the addition of the following subsections:

“(3) The National Commissioner or a Provincial Commissioner may serve a notice in the prescribed form and manner on any juristic person, including a juristic person registered as a security service provider in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), which uses any insignia, emblem, title or symbol whether on a uniform, a vehicle or otherwise which might reasonably be confused as

that used by the Service, to refrain from using the same within a period of 30 days from the date of the service of the notice.

(4) A juristic person which fails to comply with a notice contemplated in subsection (3) shall be guilty of an offence and if convicted is liable to a fine not exceeding R100,000.

(5) The owner, manager or person in charge of a juristic person who fails to comply with a notice contemplated in subsection (3), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.”.

#### **Amendment of section 67 of Act 68 of 1995**

**66.** Section 67 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

“shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [**12**] 24 months.”; and

(b) by the substitution in subsection (2) for the words following paragraph (b) of the following words:

“shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [**two years**] 24 months.”.

#### **Amendment of section 68 of Act 68 of 1995**

**67.** Section 68 of the principal Act is hereby amended—

(a) by the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) Any person who by means of a false certificate or any false representation obtains an appointment in the Service, or, having been dismissed from the Service, receives, by concealing the dismissal, any salary, wages, allowance, gratuity or pension, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [**six months**] five years.

(3) Any person who, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or convey or which is calculated or is likely to lead other persons to believe or infer that such activity is carried on under or in terms of the provisions of this Act or under the patronage of the Service, or is in any manner associated or connected with the Service, without the approval of the National Commissioner, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding [**six months**] five years.”; and

(b) by the addition of the following subsections:

“(4) Any member or employee of the Service who—

(a) uses a state vehicle to facilitate, commit or assist in the commission of a crime;

(b) rents out, provides or makes available any equipment issued to such member or employee for purposes of the commission of a crime; or

(c) exposes the identity of a person who provides, or provided information to the Service on a confidential basis and who thereby put the life of such person or his or her next-of-kin in danger,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 15 years.

(5) Any person who is not a police official, municipal police official, military police official appointed in terms of section 30 of the Defence Act, 2002 (Act No. 42 of 2002), a member of the South African National Defence Force as contemplated in section 200 of the Constitution, or a traffic official and who operates or is in possession of a vehicle—

(a) where such vehicle is fitted with, or in or on which is displayed, a blue light; and

(b) where such vehicle may be confused with a vehicle which is operated by a police official, municipal police official, military

police official, member of the South African National Defence Force, or a traffic official, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 15 years.

(6) Subject to subsection (7), any person who is in possession of a blue light in a vehicle, under circumstances which may raise a reasonable suspicion that the person intends to use the blue light for the unlawful purpose contemplated in subsection (5), shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 15 years.

(7) In determining whether a person intends to use a blue light for the unlawful purpose contemplated in subsection (6), all relevant factors including, but not limited to, the following shall be taken into account:

- (a) The place and time where the person is found;
- (b) the behaviour of the person, including the making of any threat or the impression created by the person that he or she is authorised to display such blue light;
- (c) the manner in which the blue light is used or displayed;
- (d) whether the possession of the blue light in the vehicle facilitated the commission of any offence or furthered any criminal activity; or
- (e) any other relevant factors, including any explanation the person may wish to provide for his or her possession of the blue light in the vehicle: Provided that this paragraph shall not be interpreted as an obligation on the person to explain his or her possession of the blue light.”.

#### **Substitution of section 70 of Act 68 of 1995**

68. The following section is hereby substituted for section 70 of the principal Act:

##### **“Unauthorised disclosure of information**

70. Any member or person employed by the Service, or a reservist, who unlawfully and intentionally discloses information—

- (a) on a pending investigation in order to warn a suspect or possible suspect of such investigation or imminent arrest;
- (b) regarding planned actions or planned operations of the Service in order to forewarn any person who may be affected by such action or operation; or
- (c) in circumstances in which he or she knows, or could reasonably be expected to know, that such a disclosure shall or may prejudicially affect the exercise or the performance by the Service of the powers or the functions referred to in section 205(3) of the Constitution,

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 10 years.”.

#### **Insertion of sections 71A and 71B in Act 68 of 1995**

69. The following sections are hereby inserted in the principal Act after section 70:

##### **“Hoaxes, untrue and false information**

71A. (1) Any person who intentionally—

- (a) makes a false report to the Service;
- (b) spreads untruthful information; or
- (c) publishes or conveys information or hoaxes in any form, including in electronic form,

and who knows or reasonably ought to have known such report or information to be false, and which causes the unnecessary and wasteful use of resources of the Service, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

(2) A court which has convicted a person for a contravention of subsection (1) may, in addition to any fine or sentence of imprisonment, order the accused to reimburse the Service for any unnecessary and wasteful use of resources proven during a trial.

### **Conflict and disclosure of interest**

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**71B.** (1) A member shall not oversee or conduct an investigation, or render assistance with an investigation, in respect of a matter in which he or she has a personal, financial or other interest which may preclude him or her from exercising or performing his or her powers, duties and functions in an objective manner.

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(2) If, during an investigation, it appears to a member that a matter concerns a personal, financial or other interest of that member as referred to in subsection (1), that member shall—

- (a) immediately and fully, in writing, disclose the fact and nature of that interest to the National Commissioner, or to the National Head of the Directorate if the member concerned is a member of the Directorate; and
- (b) withdraw from any further involvement in that investigation.

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(3) Any member who fails to make a disclosure in accordance with subsection (2)(a), or fails to withdraw in terms of subsection (2)(b), as the case may be, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

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(4) Any member who knows or ought reasonably to have known or suspected that another member is conducting an investigation or renders assistance with an investigation in respect of a matter in which he or she has a personal, financial or other interest, shall immediately report the grounds for the knowledge or suspicion and the prescribed particulars concerning that knowledge or suspicion to the National Commissioner, or to the National Head of the Directorate if the member concerned is a member of the Directorate.

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(5) The supervisor or manager of a member referred to in subsection (2) shall take necessary steps to ensure that the investigations referred to therein are undertaken and overseen by members who have no personal, financial or other interest which might preclude them from exercising or performing their powers, duties and functions in an objective manner.

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(6) The supervisor or manager of a member referred to in subsection (2) shall report on the matters contemplated in subsections (1) and (2) to the National Commissioner, or to the National Head of the Directorate if the member concerned is a member of the Directorate.

(7) The report to the National Commissioner or to the National Head of the Directorate, as contemplated in subsection (6), shall include measures taken by such a member to ensure compliance with subsection (2) and by the supervisor or manager of such a member to ensure compliance with subsection (5).”.

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### **Amendment of section 72 of Act 68 of 1995, as amended by section 4 of Act 83 of 1998**

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**70.** Section 72 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1)(a) for subparagraph (i) of the following subparagraph:

“(i) sections 8(1), 9(1) to (8), 10, 12(1) and (2)(a) to (j), **13** and 14 thereof; and”;

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- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) Sections 11, 12 and 15 [**of this Act**] shall, where applicable, be subject to section 9(1) to (8) of the Rationalisation Proclamation until the National Commissioner has certified that the assignment of the functions referred to in section 219 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), read with Item 24 of Schedule 6 to the Constitution and Annexure D to that Schedule, by the National

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Commissioner to all Provincial Commissioners as contemplated in section 9(4)(a) of the Rationalisation Proclamation, has been completed, whereupon sections 11, 12 and 15 of this Act shall be applicable to the National and Provincial Commissioner in relation to the Province concerned.”;

- (c) by the substitution in subsection (1) for paragraph (d) of the following paragraph: 5
- “(d) Any person who, immediately before the commencement of this Act, was a member of a force [**contemplated in section 5(2)(a)(i),** rationalised through the Rationalisation Proclamation and who has not been appointed to a post in or additional to the fixed establishment or otherwise dealt with in accordance with section 14 of the Rationalisation Proclamation, shall serve in a pre-rationalised post until he or she is appointed to a post in or additional to the fixed establishment or is otherwise dealt with in accordance with that section.”; 10 15
- (d) by the substitution for subsection (3) of the following subsection: 15
- “(3) Any reference in any law to a Commissioner of a police force shall, except where such post has not yet been abolished, and unless clearly inappropriate, be construed as a reference to the National Commissioner or, in regard to any matter in respect of which a Provincial Commissioner is lawfully responsible, and subject to section 219 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), read with Item 24 of Schedule 6 to the Constitution and Annexure D to that Schedule, to the Provincial Commissioner concerned.”; 20
- (e) by the substitution in subsection (4) for paragraph (b) of the following paragraph: 25
- “(b) Any reference in any regulation, standing order or administrative measure to a regional commissioner or a district commissioner shall, unless clearly inappropriate, be construed as a reference to a Provincial Commissioner or [**an area commissioner**] a district commissioner, respectively.”; and 30
- (f) by the addition of the following subsections: 30
- “(5) The Crime Intelligence Division in existence in the Service immediately prior to the commencement of the South African Police Service Amendment Act, 2026, continues to exist as the Intelligence Division of the Service. 35
- (6) Personnel designated as members by means of a notice in the *Gazette*, prior to the commencement of the South African Police Service Amendment Act, 2026, remain members and shall be deemed to be members appointed to posts in the fixed establishment of the Service in terms of section 28(2) with effect from the date determined by the Minister in the notice.”. 40

#### **Amendment of Preamble of Act 68 of 1995, as amended by section 20 of Act 10 of 2012**

- 71.** The Preamble to the principal Act is hereby amended— 45
- (a) by the insertion before the first paragraph of the following paragraph: 45
- “**WHEREAS** section 199(1) of the Constitution of the Republic of South Africa, 1996, provides for a single police service and section 205(1) requires a national police service which must be structured to function in the national, provincial, and where appropriate, local spheres of government.”; 50
- (b) by the substitution for the first paragraph of the following paragraph: 50
- “**AND WHEREAS** section 205(2) of the Constitution of the Republic of South Africa, 1996, requires national legislation to [**provide for the establishment,**] establish the powers and functions of the [**South African Police**] Service and to enable the Service to discharge its responsibilities effectively, taking into account the requirements of the provinces, and to function in accordance with national policing policy and the directions of the Cabinet member responsible for policing.”; 55
- (c) by the insertion after the first paragraph of the following paragraph: 60
- “**AND WHEREAS** section 205(3) of the Constitution of the Republic of

- South Africa, 1996, provides that the objects of the police service are to—
- (a) prevent, combat and investigate crime;
  - (b) maintain public order;
  - (c) protect and secure the inhabitants of the Republic and their property; and
  - (d) uphold and enforce the law;”;
- (d) by the substitution for the second paragraph of the following paragraph:  
 “**AND WHEREAS** there is a need to provide a police service throughout the national territory to—
- (a) ensure the safety and security of all persons and property in the **[national territory]** Republic;
  - (b) uphold and safeguard the fundamental rights of every person as guaranteed by Chapter [3] 2 of the Constitution of the Republic of South Africa, 1996, in particular, but not limited to, the rights to life, dignity, equality before the law, and freedom and security of the person;
  - (c) respect the public and ensure co-operation between the Service and the communities it serves in the combating of crime; and
  - (d) reflect respect for victims of crime and an understanding of their needs; **[and]**
  - [(e) ensure effective civilian supervision over the Service;]**”;
- (e) by the insertion after the second paragraph of the following paragraph:  
 “**AND WHEREAS** section 206(7) of the Constitution of the Republic of South Africa, 1996, provides that national legislation must provide a framework for the establishment, powers, functions and control of municipal police services;”.

#### **Amendment of arrangement of sections of Act 68 of 1995**

72. The arrangement of sections of the principal Act is hereby amended—
- (a) by the insertion after the item relating to section 1 of the following item: 30
- “CHAPTER 1A**
- PURPOSE OF ACT**
- 1A. Purpose of Act**
  - 1B. Respect for public, including women, children, elderly and disabled persons”;** 35
- (b) by the substitution for the heading to Chapter 2 of the following heading:  
 “**[MINISTERIAL SERVICES] NATIONAL POLICING POLICY”;**
  - (c) by the deletion of the items relating to sections 2, 3 and 4;
  - (d) by the insertion after the item relating to section 4 of the following item:  
 “**4A. National policing policy”;** 40
  - (e) by the substitution for the item relating to section 6 of the following item:  
 “**6. Appointment of [National and Provincial] Commissioners”;**
  - (f) by the insertion after the item relating to section 6 of the following items:  
 “**6A. Establishment and composition of National Policing Advisory Committee** 45  
**6B. Disqualification, removal and resignation from National Policing Advisory Committee**  
**6C. Meetings of National Policing Advisory Committee**  
**6D. Funding, secretariat and remuneration of members of National Policing Advisory Committee** 50  
**6E. Functions of National Policing Advisory Committee”;**
  - (g) by the substitution for the item relating to section 8 of the following item:  
 “**8. Loss of confidence in National, Deputy National or Provincial Commissioner”;**
  - (h) by the substitution for the item relating to section 9 of the following item: 55  
 “**9. Misconduct by or incapacity of National, Deputy National or Provincial Commissioner”;**

- (i) by the substitution for the item relating to section 10 of the following item:  
“**10. [Board of Commissioners] Management Forum**”;
- (j) by the substitution for the item relating to section 17 of the following item:  
“**17. National public order policing [unit] capacity**”;
- (k) by the insertion after the item relating to section 17L of the following items: 5

**“CHAPTER 6B**

**SPECIALISED UNITS**

**17M. Establishment of specialised units**

**CHAPTER 6C**

**POLICE SERVICE INTELLIGENCE**

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**17N. Definitions in Chapter**

**17O. Intelligence Division of Service**

**17P. Reporting line of Divisional Commissioner of Intelligence Division**

**17Q. Application of strategic and operational intelligence**

**17R. Co-operation with other intelligence services**

**17S. Counter-intelligence by Intelligence Division**

**17T. Determination of security classification**

**17U. Discharge of members when security clearance is degraded, withdrawn or refused**

**17V. Notification of granted, degraded, withdrawn or refused security clearance**;

- (l) by the substitution for the heading to Chapter 7 of the following heading:  
“**COMMUNITY [POLICE] POLICING FORUMS AND BOARDS**”;
- (m) by the substitution for the item relating to section 18 of the following item: 25  
“**18. [Objects of] Liaising with community through community [police] policing forums and boards**”;
- (n) by the deletion of the items relating to sections 19, 20, 21,22 and 23;
- (o) by the insertion after the item relating to section 28 of the following items: 30  
**28A. Integrity testing and lifestyle audits**  
**28B. Taking and use of fingerprints of members**  
**28C. Security measures on integrity of information on database**”;
- (p) by the deletion of the item relating to section 29;
- (q) by the deletion of the item relating to section 37;
- (r) by the substitution for the item relating to section 60 of the following item: 35  
“**60. [Property of Service not liable to seizure] Seizure or attachment of property of Service**”;
- (s) by the substitution for the item relating to section 64B of the following item:  
“**64B. [Chief Executive Officer of municipality] Municipal manager**”; 40
- (t) by the substitution for the item relating to section 64C of the following item:  
“**64C. [Executive head] Chief of municipal police service**”;
- (u) by the substitution for the item relating to section 64D of the following item:  
“**64D. First [executive head] Chief of municipal police service**”;
- (v) by the insertion after the item relating to section 64E of the following item: 45  
“**64EA. Establishment of public order policing capacity for municipal police services**”;
- (w) by the substitution for the item relating to section 64O of the following item:  
“**64O. Certain other sections of [this] Act to apply to municipal police service**”; 50
- (x) by the insertion after the item relating to section 65 of the following item:  
“**65A. Disposal or abuse of property and equipment**”; and
- (y) by the insertion after the item relating to section 70 of the following items:  
**71A. Hoaxes, untrue and false information**  
**71B. Conflict and disclosure of interest**. 55

**Substitution for “Constitution of the Republic of South Africa, 1996” and “Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)” in Act 68 of 1995**

73. The principal Act is hereby amended by the substitution for the phrases “Constitution of the Republic of South Africa, 1996”, and “Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)”, wherever they occur, of the word “Constitution”. 5

**Substitution for “Criminal Procedure Act, 1977” and “Criminal Procedure Act, 1977 (Act No. 51 of 1977)” in Act 68 of 1995**

74. The principal Act is hereby amended by the substitution for the phrases “Criminal Procedure Act, 1977”, and “Criminal Procedure Act, 1977 (Act No. 51 of 1977)”, wherever they occur, of the phrase “Criminal Procedure Act”. 10

**Amendment of laws**

75. The laws mentioned in the Schedule are hereby amended to the extent set out in the Schedule. 15

**Short title and commencement**

76. This Act is called the South African Police Service Amendment Act, 2026, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

**SCHEDULE** 20

**LAWS AMENDED BY SECTION 75**

**A. Regulation of Gatherings Act, 1993**

**Amendment of section 1 of Act 205 of 1993, as amended by section 1 of Act 90 of 1996**

1. Section 1 of the Regulation of Gatherings Act, 1993, is hereby amended— 25
- (a) by the insertion after the definition of “branch” of the following definition: “**Constitution**” means the Constitution of the Republic of South Africa, 1996;”;
- (b) by the substitution for the definition of “demonstration” of the following definition: “**demonstration**” includes any demonstration by one or more persons[, **but not more than 15 persons,**] for or against any person, cause, action or failure to take action;”;
- (c) by the substitution in the definition of “gathering” for the words preceding paragraph (a) of the following words: “**gathering**” means any assembly, concourse demonstration, or procession [**of more than 15 persons**] in or on any public road as defined in the [**Road Traffic Act, 1989 (Act 29 of 1989),**] National Road Traffic Act, 1996 (Act No. 93 of 1996), or any other public place or premises wholly or [**partly**] partially open to the air—”;
- (d) by the substitution for the definition of “local authority” of the following definition: “**local authority**” means [**any local authority body established in terms of any law which applies in an area which forms part of the national territory referred to in section 1 of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), and in areas where only a regional authority body, established in terms of a law, has jurisdiction, that regional authority body**] any municipality, as defined in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and includes any municipality referred to in section 155(6) of the Constitution;”;

- (e) by the substitution for the definition of “Minister” of the following definition:  
 “**Minister**’ means the [**Minister for Safety and Security**] Cabinet member responsible for police;”;
- (f) by the substitution for the definition of “National Commissioner” of the following definition: 5  
 “**National Commissioner**’ means the National Commissioner [**referred to in section 6(1) of the South African Police Service Act, 1995 (Act 68 of 1995),**] appointed by the President in terms of section 207(1) of the Constitution and includes a Provincial Commissioner [referred to in section 6(2) of the said Act] appointed by the National Commissioner in terms of section 207(3) of the Constitution;” 10
- (g) by the substitution for the definition of “Police” of the following definition:  
 “**Police**’ means the South African Police Service established by section 5(1) of the South African Police Service Act, 1995, and includes any body of persons established or enrolled under any law and exercising or performing the powers, duties and functions of a police service[, **but does not include any body of traffic officers;**];” 15
- (h) by the insertion after the definition of “Police” of the following definition:  
 “**procession**’ means a line, group or parade of people who are walking, riding or driving and travelling in the same direction by foot or whatever means of transport;” 20
- (i) by the insertion after the definition of “riot damage” of the following definitions, respectively:  
 “**spontaneous gathering**’ means a gathering which develops on the spur of the moment by persons affected by an event or complaint and which gathering had not been planned or organised in any manner, including through social media; 25  
 “**violent gathering**’ means any gathering or demonstration in which any participant to the gathering resorts to violent or wanton destruction of property or causes harm to any person or persons or an immediate threat of harm.” 30

### Amendment of section 2 of Act 205 of 1993

2. Section 2 of the Regulation of Gatherings Act, 1993, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

- “(a) The National Commissioner or a person authorized thereto by him or her shall authorize a suitably qualified and experienced member of the Police, either in general or in a particular case, to represent the Police at consultations or negotiations contemplated in section 4 and to perform such other functions as are conferred or imposed upon an authorized member by this Act, and shall notify all local authorities or any local authority concerned of every such authorization, and of the name, rank and address of any authorized member concerned.” 35 40

### Amendment of section 3 of Act 205 of 1993

3. Section 3 of the Regulation of Gatherings Act, 1993, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 45  
 “(1) The convener of [**a gathering**] the following types of gatherings shall give notice in writing signed by him or her of the intended gathering in accordance with the provisions of this section:  
 (a) Any gathering on a public road as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);  
 (b) any gathering in or at any other public place or premises wholly or partially open to the air, which may impact on national security as defined in section 1 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), public safety, public order, the protection of public health, morals or the protection of the rights of others, taking into account the following factors— 50 55  
 (i) the place where the gathering is planned;  
 (ii) the number of persons planned or expected to attend the gathering;

- (iii) the particular date and time for which the gathering is planned and the planned duration thereof;
- (iv) whether traffic can be expected to be affected by the gathering to such an extent that additional measures will have to be made to regulate the traffic;
- (v) the extent to which the gathering will impact on the rights of other citizens, in terms of the freedom of movement, to trade and to go about their normal business;
- (vi) the effect which the gathering may have upon the access to medical or health care facilities, emergency and police services or other essential services;
- (vii) the involvement of vehicles as part of the demonstration;
- (viii) the ability of the organisers to contribute to control of the gathering by means of compliance with section 8; and
- (ix) how the gathering is planned to be convened, be conducted and concluded in an orderly fashion
- [Provided that if the convener is not able to reduce a proposed notice to writing the responsible officer shall at his request do it for him].”;**
- (b) by the insertion after subsection (1) of the following subsections:
- “(1A) If the convener is not able to reduce a proposed notice to writing, the responsible officer shall, at his or her request, do so for him or her.
- (1B) Notice in terms of this section is not required in respect of a spontaneous gathering.”;
- (c) by the substitution for subsection (2) of the following subsection:
- “(2) The convener shall not later than **[seven]** four days before the date on which the gathering is to be held, give notice of the gathering to the responsible officer concerned: Provided that if it is not reasonably possible for the convener to give such notice earlier than **[seven]** four days before such date, he shall give such notice at the earliest opportunity, but not less than 48 hours before the commencement of the gathering: Provided further that if such notice is given less than 48 hours before the commencement of the gathering, the responsible officer may by notice to the convener prohibit the gathering if upon credible information at the disposal of the responsible officer, the gathering may lead to the serious disruption of traffic, endangerment of the lives of the public or members of the police, endangerment of public safety, public order, public health, or the protection of the rights of others and extensive damage to property.”;
- (d) by the insertion after subsection (2) of the following subsections:
- “(2A) If the responsible officer decides to prohibit the gathering, he or she shall, in a manner contemplated in section 4(5)(a), notify the convener, authorized member and every other person with whom he or she has so met or consulted, of the decision and the reasons therefor.
- (2B) The notification of the planned gathering from the convener is required to allow the State authorities to facilitate the exercise of the right to freedom of peaceful assembly and to take measures to protect public safety and order, and to protect the rights and freedoms of others.”; and
- (e) by the substitution in subsection (3) for paragraph (i) of the following paragraph:
- “(i) if notice is given later than **[seven]** four days before the date on which the gathering is to be held, the reason why it was not given timeously.”.

**Amendment of section 8 of Act 205 of 1993, as amended by section 5 of Act 15 of 2013**

4. Section 8 of the Regulation of Gatherings Act, 1993, is hereby amended by the substitution for subsection (8) of the following subsection:

- “(8) No person shall at any gathering or demonstration wear any form of apparel that resembles any of the uniforms worn by members of the **[security forces, including the]** Police, **[and]** the South African National Defence Force,

correctional services, traffic officials, or members of any municipal police service.”.

#### Amendment of section 9 of Act 205 of 1993

5. Section 9 of the Regulation of Gatherings Act, 1993, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (d) of the following paragraph: 5
- “(d) If any person who participates in a gathering, **[or demonstration]** or any person who hinders, obstructs or interferes with persons who participate in a gathering, **[or demonstration]**—
- (i) kills or seriously injures, or attempts to kill or seriously injure, or shows a manifest intention of killing or seriously injuring, any person; or 10
- (ii) **destroys or does serious damage to, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing serious damage to, any immovable property or movable property considered to be valuable,** 15
- such],** a member of the Police of or above the rank of warrant officer may order the members of the Police under his or her command to take the necessary steps to prevent the **[action]** actions contemplated in this **[subparagraphs (i) and (ii)]** paragraph and may for that purpose, if he or she finds other methods to be ineffective or inappropriate, order the use of force, including the use of firearms and other weapons which may cause serious injury or death.”; 20
- (b) by the insertion in subsection (2) after paragraph (d) of the following paragraph: 25
- “(dA) If any person who participates in a gathering or demonstration, or any person who hinders, obstructs or interferes with persons who participate in a gathering or demonstration, destroys or does serious damage to, or attempts to destroy or to do serious damage to, or shows a manifest intention of destroying or doing serious damage to, any immovable property or movable property considered to be valuable, a member of the Police of or above the rank of warrant officer may order the members of the Police under his or her command to take the necessary steps to prevent the actions contemplated in this paragraph and may, for that purpose, if he or she finds other methods to be ineffective or inappropriate, order the use of force, excluding the use of firearms or other weapons which may cause serious injury or death.”; 30
- (c) by the substitution in subsection (2) for paragraph (e) of the following paragraph: 40
- “(e) The degree of force which may be so used shall not be greater than is necessary for the prevention of the actions contemplated in **[subparagraphs]** paragraphs (d)**[(i) and (ii)]** and (dA), and the force shall be moderated and be proportionate to the circumstances of the case and the object to be attained.”; 45
- (d) by the substitution for subsection (3) of the following subsection: 50
- “(3) No common law principles regarding **[self-defence]** private defence, necessity and protection of property, which are consistent with the Constitution, shall be affected by the provisions of this Act.”; and
- (e) by the addition of the following subsections: 55
- “(4) Firearms that are fully automatic, as defined in the Firearms Control Act, 2000 (Act No. 60 of 2000), may not be used for purposes of law enforcement during a gathering or demonstration.
- (5) A member of the Police shall only use force if non-violent means are manifestly ineffective, or without any prospect of achieving the result of protecting the public or the members of the Police.
- (6) Official duties concerning a gathering or demonstration shall be planned as far as is reasonably possible with a view of minimising the risk of members resorting to the use of force, especially potentially lethal force.”. 60

**Amendment of section 10 of Act 205 of 1993**

6. Section 10 of the Regulation of Gatherings Act, 1993, is hereby amended—
- (a) by the deletion of the word “and” at the end of paragraph (b); and
  - (b) by the insertion after paragraph (b) of the following paragraph:
    - “(bA) non-lethal weapons and other equipment with which members of the Police may be provided when attending to a gathering or demonstration; and”.

**Amendment of section 11 of Act 205 of 1993**

7. Section 11 of the Regulation of Gatherings Act, 1993, is hereby amended by the substitution in subsection (2) for paragraph (c) of the following paragraph:
- “(c) that he or she, or [it] the organisation took all reasonable steps within his or her, or its power, including the giving of notice of the gathering where required, in accordance with section 3, to prevent the act or omission in question: Provided that proof that he or she, or it forbade an act of the kind in question shall not by itself be regarded as sufficient proof that he or she, or it took all reasonable steps to prevent the act in question.”.

**Amendment of section 12 of Act 205 of 1993, as amended by section 5 of Act 15 of 2013**

8. Section 12 of the Regulation of Gatherings Act, 1993, is hereby amended—
- (a) by the substitution for the heading of the following heading:
    - “**Offences, [and] penalties and administrative fines**”;
  - (b) by the deletion in subsection (1) of paragraph (a);
  - (c) by the substitution in subsection (1) for the words following paragraph (k) of the following words:
    - “shall be guilty of an offence and on conviction liable[—
    - (i), in the case of a contravention referred to in paragraphs [(a)] (b) to [(j)] (k), to a fine or to imprisonment for a period not exceeding **[one year] three years** or to both such fine and such imprisonment; **and**
    - (ii) **in the case of a contravention referred to in paragraph (k), to a fine or to imprisonment for a period not exceeding three years]**.”;
  - (d) by the deletion of subsection (2); and
  - (e) by the addition of the following subsections:
    - “(3) Should a convener, who convenes a gathering contemplated in section 3(1), fail to—
    - (a) give notice of such gathering as required in terms of section 3(1); or
    - (b) fail to give adequate notice of such gathering within the period specified in section 3(2),

a member of the Police may deliver an infringement notice to the convener by hand, which notice shall contain the particulars listed in subsection (4).

    - (4) An infringement notice referred to in subsection (3) shall contain the following particulars:
      - (a) The name and address of the convener;
      - (b) the particulars of the alleged infringement;
      - (c) the amount of the administrative fine payable, which in the case of an infringement referred to in subsection (3)(a), shall be an amount not exceeding R5 000, and in the case of an infringement referred to in subsection (3)(b), shall be an amount not exceeding R3 000; and
      - (d) that a failure to comply with the requirements of the infringement notice, as provided in subsection (5), shall result in the administrative fine becoming recoverable in terms of subsection (8).
      - (5) The infringement notice referred to in subsection (3) shall inform the convener that he or she, not later than 30 days after the date of service of the infringement notice, shall—
        - (a) pay the administrative fine specified in the infringement notice;

- (b) make arrangements with the Clerk of the Magistrates' Court to pay the administrative fine in instalments; or
- (c) elect to apply to a Magistrates' Court for the review of the infringement notice as a civil matter and the Magistrates' Court shall grant—
- (i) the relevant member of the Police the opportunity to state on what basis the infringement notice was issued; and
  - (ii) the convener an opportunity to cross examine the relevant member of the Police and allow the convener to provide reasons as to why he or she, or it is not liable to pay the administrative fine.
- (6) Should a convener elect to apply to the Magistrates' Court for the review of an infringement notice, the convener shall give notice to the Clerk of the Magistrates' Court in the prescribed manner.
- (7) The Clerk of the Magistrates' Court shall determine a date for the hearing of the convener's application for the review of the infringement notice and the Clerk shall notify both the relevant member of the Police and the convener who both are obliged to attend the Magistrates' Court hearing.
- (8) If a convener fails to comply with the requirements of an infringement notice, or where the convener's application to the Magistrates' Court for the review of the infringement notice was unsuccessful and the infringement notice was confirmed by the Magistrates' Court, a member of the Police may—
- (a) file with the Clerk or Registrar of any competent court, a statement certified by him or her as correct, setting forth the amount of the administrative fine payable by the convener; and
  - (b) the statement filed by the member of the Police shall have the effect of a civil court order of the court where the statement has been filed and shall be in favour of the Police for a liquid debt in the amount specified in the statement.
- (9) An administrative fine imposed in terms of this section does not constitute a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)."

## **B. National Road Traffic Act, 1996**

### **Amendment of section 75 of Act 93 of 1996**

1. Section 75 of the National Road Traffic Act, 1996, is hereby amended by the insertion after subsection (2B) of the following subsection:

"(2C) Whenever the Minister, in terms of this section, has made a regulation regarding *curricula* for traffic officers, the National Commissioner of the South African Police Service and the national policing co-ordinating committee, referred to in section 64K(1A) of the South African Police Service Act, 1995 (Act No. 68 of 1995), shall be consulted before such *curricula* are published in the *Gazette*."

## **C. Civilian Secretariat for Police Service Act, 2011**

### **Amendment Section 1 of Act 2 of 2011**

1. Section 1 of the Civilian Secretariat for Police Service Act, 2011, is hereby amended by the insertion after the definition of "directorate" of the following definition:

"**"district"** means a district as defined in the South African Police Service Act;"

### **Insertion of Chapter 2A in Act 2 of 2011**

2. The following Chapter is hereby inserted in the Civilian Secretariat for Police Service Act, 2011, after Chapter 2:

## “CHAPTER 2A

**NEIGHBOURHOOD PATROLLING, NEIGHBOURHOOD WATCH AND FARM WATCH ASSOCIATIONS, COMMUNITY POLICING FORUMS, DISTRICT, PROVINCIAL AND NATIONAL COMMUNITY POLICING BOARDS**

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**Establishment and functioning of neighbourhood patrolling, neighbourhood watch and farm watch associations**

**6A.** (1) Members of a community residing in, working in or owning a business in a particular neighbourhood or rural area may establish a voluntary neighbourhood patrolling, neighbourhood watch or farm watch association to address crime and safety issues in a neighbourhood or rural area in the manner and for the purpose contemplated in this section.

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(2) Members of a community who establish a neighbourhood patrolling, neighbourhood watch or farm watch association must appoint a co-ordinator to—

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- (a) liaise with the police station for that particular neighbourhood or rural area;
- (b) provide particulars of persons and vehicles used in neighbourhood patrolling, neighbourhood watch or farm watch association activities to the police station under whose jurisdiction they fall;
- (c) co-ordinate and record any observations or patrols performed by members of the neighbourhood patrolling, neighbourhood watch or farm watch association; and
- (d) perform any other administrative functions that the members of that neighbourhood patrolling, neighbourhood watch or farm watch association may assign to that co-ordinator.

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(3) The functions of a neighbourhood patrolling, neighbourhood watch or farm watch association are to—

- (a) monitor a particular neighbourhood or rural area through observation and patrols; and
- (b) subject to subsection (4), report to the nearest police station any activity in respect of which there is a reasonable suspicion that the person involved in such activity committed or intends to commit an offence.

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(4) Any report contemplated in subsection (3)(b) must be made to the police station for that particular neighbourhood or rural area, and the police official to whom such report is made must record the report in a register created for this purpose at the police station, and provide the serial number of the report to such person.

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(5) A member of a neighbourhood patrolling, neighbourhood watch or farm watch association may not perform a security service as contemplated in the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001).

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(6) This section must not be interpreted so as to—

- (a) assign any policing function to any member of a neighbourhood patrolling, neighbourhood watch or farm watch association; or
- (b) derogate from any legal power which a private person has.

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(7) A neighbourhood patrolling, neighbourhood watch or farm watch association, or any member thereof, may not expect or receive any remuneration from the members of the neighbourhood patrolling, neighbourhood watch or farm watch association for the functions that they perform in terms of this Act.

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(8) The MEC may determine a Code of Conduct for neighbourhood patrolling, neighbourhood watch and farm watch associations.

(9) Neighbourhood patrolling, neighbourhood watch and farm watch associations shall be regulated by the relevant provincial government department responsible for community safety.

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(10) Neighbourhood patrolling, neighbourhood watch and farm watch associations must register with the relevant provincial government department responsible for community safety and the relevant community policing forum in the manner prescribed by the MEC.

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(11) Neighbourhood patrolling, neighbourhood watch and farm watch associations are non-political party structures, and a member serves as a community member and not as a political party representative to advance partisan interests.

(12) A private security service provider, or an employee thereof in his or her capacity as employee of such private security service provider, may not be a member of a neighbourhood patrolling, neighbourhood watch or farm watch association.

(13)(a) Neighbourhood patrolling, neighbourhood watch and farm watch associations must work in liaison with community policing forums and boards.

(b) The establishment of neighbourhood patrolling, neighbourhood watch and farm watch associations in terms of subsection (1), must not substitute the establishment of community policing forums and boards.

#### **Establishment of community policing forums**

**6B.** (1) The MEC is responsible for establishing community policing forums at police stations in the province which must be broadly representative of the local community.

(2) The station commander and the members designated by him or her from time to time for that purpose, are *ex officio* members of the community policing forum and sub-forums established at the police station concerned.

(3) The term of office for members of a community policing forum is five years.

#### **Establishment of district community policing boards**

**6C.** (1) The MEC is responsible for establishing district community policing boards in all districts within the province.

(2) The term of office for members of the district community policing board is five years.

(3) Subject to subsection (5), a district community policing board consists of representatives of community policing forums in the district concerned designated through a process of nominations for that purpose by such community policing forums.

(4) Any municipality which falls within the jurisdictional area of a district must be represented in the district community policing board, by a member or members of the municipal police services involved, as contemplated in section 64C(2)(f), or another appropriate representative where there is no municipal police service in the municipality.

(5) The district commissioner and the members designated by him or her from time to time for that purpose are *ex officio* members of the district community policing board concerned.

(6) The Provincial Commissioner must ensure that the district commissioner designates a member of the police service to serve on district community policing boards.

#### **Establishment of provincial community policing boards**

**6D.** (1) The MEC is responsible for establishing a provincial community policing board.

(2) Subject to subsection (3), a provincial community policing board consists of representatives of district community policing boards designated for that purpose through a process of elections by the district community policing boards in the province concerned.

(3) The Provincial Commissioner and the members designated by him or her from time to time for that purpose are *ex officio* members of the provincial community policing board concerned.

(4) The term of office of an elected member of a provincial community policing board is five years and may not exceed two terms.

(5) Representatives from the provincial department responsible for community safety and the provincial secretariat are *ex officio* members of the concerned provincial community policing board.

(6) A provincial community policing board must perform the functions it considers necessary and appropriate to achieve the objects contemplated in section 6H. 5

### **Establishment of National Community Policing Board**

**6E.** (1) The Secretary may establish a National Community Policing Board. 10

(2) The National Commissioner of the police service and the Secretary serve as *ex officio* members of the National Community Policing Board.

(3) Each provincial community policing board must nominate a representative to serve on the National Community Policing Board.

(4) The term of office for nominated members is five years and may not exceed one term. 15

(5) The National Commissioner of the police service and the Secretary must nominate officials to serve on the National Community Policing Board.

(6) The National Community Policing Board must elect a chairperson for the said Board. 20

(7) The National Community Policing Board must perform the functions it considers necessary and appropriate to achieve the objects contemplated in section 6H.

### **Criteria for membership of community policing forums, district and provincial community policing boards and National Community Policing Board** 25

**6F.** (1) A person must reside, work in or conduct business in the community, district or province in order to be eligible to serve on the relevant community policing forum or community policing board.

(2) At provincial level, members who are eligible to serve on the provincial community policing board must work and reside in the relevant province. 30

(3) A community policing forum and community policing board are a non-political party structure, and a member must serve as a community member and not as a political party representative to advance partisan interests. 35

### **Persons precluded from membership of community policing forums, district and provincial policing boards and National Community Policing Board**

**6G.** (1) Any person serving in the defence force, the State Security Agency, traffic department, the police service or a municipal police service is precluded from membership in their private capacity of any community policing forum or community policing board. 40

(2) A person may not serve as a member of a community policing forum, district, provincial or National Community Policing Board, if such person has a criminal record relating to dishonesty, the use of violence, the possession and use of a firearm, a sexual offence, domestic violence, or any offence for which a sentence of more than six months imprisonment, without the option of a fine, has been imposed, and which offence was committed within two years of the person's application for such membership. 45  
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### **Objects of community policing forums and community policing boards**

**6H.** The objects of community policing forums and community policing boards are to—

- (a) establish and maintain a partnership between the community and the police service;
- (b) promote communication between the police service and communities;
- (c) promote co-operation between the police service and communities in fulfilling the needs of communities in respect of policing;
- (d) improve the rendering of police services to communities at national, provincial and local levels;
- (e) improve transparency in the police service and accountability of the police service to communities; and
- (f) promote joint problem identification and problem-solving by the police service and communities.

### **Functions of community policing forums and community policing boards**

**6I.** (1) Every provincial or district community policing board, or a community policing forum or sub-forum, shall perform the functions it considers necessary and appropriate to achieve the objects contemplated in section 6H and shall—

- (a) monitor the effectiveness and efficiency of the police service at the local, district, provincial and national levels and evaluate the provision of policing services;
- (b) advise on policing needs and priorities on the local, district, provincial and national levels;
- (c) ensure effective communication and foster closer co-operation between the police and communities;
- (d) improve relations by promoting and building co-operative relations and partnerships between the police and communities;
- (e) propose crime prevention projects that shall improve the safety of communities in line with the policing priorities of a local community;
- (f) participate and mobilise communities in crime prevention programmes and initiatives;
- (g) promote joint problem solving between the police service and communities;
- (h) work in collaboration with other safety structures;
- (i) ensure sustained community support and participation in community policing forums;
- (j) build sustainable forums for community engagement, partnership and participation;
- (k) comply with governance requirements, as may be prescribed, including holding monthly executive meetings, production of minutes and issuing of financial statements;
- (l) hold community meetings and ensure effective communication with the community; and
- (m) involve other community structures which have an interest in crime-related issues, such as the broader drug problem in communities and the integration of parolees into the community.

(2) Every provincial and district community policing board and every community policing forum and sub-forum shall report on a monthly basis to the relevant police station or district commander, the Provincial Commissioner, the provincial secretariat, and the MEC on the performance of its functions and any shortcomings that needs to be addressed by the police service.

### **Procedural matters**

**6J.** (1) Every provincial and district community policing board and community policing forum and sub-forum shall—

- (a) elect one of its members as chairperson and another one as vice-chairperson;
- (b) determine its own procedure and cause minutes to be kept of its proceedings; and

- (c) whenever it considers it necessary, co-opt other members or experts, or community leaders, to the board or forum in an advisory capacity.
- (2) Members of community policing forums and community policing boards shall render their services on a voluntary basis and shall have no claim to compensation solely for services rendered to such forums or boards. 5
- (3) The MEC shall determine—
- (a) the composition and roles of members of the community policing forums and community policing boards; 10
- (b) the establishment of sub-forums and boards;
- (c) adequate representation on community policing forums and community policing boards representative of demographics and of women, youth and other vulnerable groups; and
- (d) the manner in which community policing forums and community policing boards shall register with the provincial government department responsible for community safety and the provincial secretariat. 15
- (4) The MEC, shall provide guidelines to ensure the proper functioning of community policing forums, sub-forums and community policing boards.”.

**Insertion of section 17A in Act 2 of 2011** 20

3. The following section is hereby inserted in the Civilian Secretariat for Police Service Act, 2011, after section 17:

**“Oversight over and support of community policing forums and community policing boards**

- 17A.** (1) Each provincial secretariat shall— 25
- (a) exercise oversight over the establishment and functioning of community policing forums and voluntary neighbourhood patrolling and neighbourhood watch associations;
- (b) ensure compliance by the community policing forums with the Code of Conduct determined by the MEC for voluntary neighbourhood patrolling and neighbourhood watch associations in terms of section 6A(8); and 30
- (c) provide financial support and capacity building where required.
- (2) The provincial secretariats shall, in consultation with the MEC, facilitate the allocation of funds and resources for the effective functioning of community policing forums and community policing boards. 35
- (3) The resources and budget to be allocated in terms of subsection (2) shall be informed by the tasks, activities and programmes that the community policing forums and community policing boards are required to undertake. 40
- (4) The MEC shall determine and publish, in the relevant provincial *Gazette*, a funding model and payment management system aligned with the Public Finance Management Act, 1999 (Act No. 1 of 1999), and any other legal requirements which shall—
- (a) determine requirements and criteria for eligibility of funding of projects and activities, including the necessary equipment to carry out activities of the community policing forums and community policing boards; and 45
- (b) provide for a verification system in terms of reports and documentation required for consideration of funding of the activities of the community policing forums or community policing boards in relation to the Public Finance Management Act, 1999, and other financial legislation.” 50

**Amendment of section 34 of Act 2 of 2011**

4. Section 34 of the Civilian Secretariat for Police Service Act, 2011, is hereby amended by the addition of the following subsection: 55

“(8) The community policing forums and community policing boards already established in terms of the South African Police Service Act, shall, upon the commencement of the South African Police Service Amendment Act, 2026, be regarded as having been established in terms of the provisions of Chapter 2A of this Act: Provided that this section shall not derogate from the powers of the MEC in respect of existing community policing forums and community policing boards in accordance with this Act.” 5

#### Amendment of long title of Act 2 of 2011

5. The Civilian Secretariat for Police Service Act, 2011, is hereby amended by the substitution for the long title of the following long title: 10

“**To provide for the establishment of a Civilian Secretariat for the Police Service in the Republic; to define the objects, functions and powers of the Civilian Secretariat, and for this purpose to align the operations of the Civilian Secretariat in the national and provincial spheres of government and reorganise the Civilian Secretariat into an effective and efficient organ of state; to regulate the appointment, duties and functions, powers and removal from office of the Secretary for the Police Service and heads of provincial secretariats; to provide for the establishment of a senior management forum and a Ministerial Executive Committee; to provide for co-operation between the Civilian Secretariat and the Independent Police Investigative Directorate; to provide for co-operation between the Civilian Secretariat and the South African Police Service; to provide for intervention into the affairs of provincial secretariats by the Civilian Secretariat; to provide for the establishment and functions of neighbourhood patrolling, neighbourhood watch and farm watch associations and of community policing forums and community policing boards; and to provide for matters connected therewith.**” 15  
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#### Amendment of arrangement of sections of Act 2 of 2011

6. The arrangement of sections of the Civilian Secretariat for Police Service Act, 2011, is hereby amended—

(a) by the insertion after the item relating to section 6 of the following items: 30

#### “CHAPTER 2A

#### NEIGHBOURHOOD PATROLLING, NEIGHBOURHOOD WATCH AND FARM WATCH ASSOCIATIONS, COMMUNITY POLICING FORUMS, DISTRICT, PROVINCIAL AND NATIONAL COMMUNITY POLICING BOARDS 35

- 6A. Establishment and functioning of neighbourhood patrolling, neighbourhood watch and farm watch associations
- 6B. Establishment of community policing forums
- 6C. Establishment of district community policing boards
- 6D. Establishment of provincial community policing boards 40
- 6E. Establishment of National Community Policing Board
- 6F. Criteria for membership of community policing forums, district and provincial community policing boards and National Community Policing Board
- 6G. Persons precluded from membership of community policing forums, district and provincial policing boards and National Community Policing Board 45
- 6H. Objects of community policing forums and community policing boards
- 6I. Functions of community policing forums and community policing boards 50
- 6J. Procedural matters”; and

(b) by the insertion after the item relating to section 17 of the following item:  
“**17A. Oversight over and support of community policing forums and community policing boards**” 55

## MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN POLICE SERVICE AMENDMENT BILL, 2026

### 1. BACKGROUND

The review of the South African Police Service Act, 1995 (Act No. 68 of 1995) (“principal Act”), is necessary in view of the following:

- (a) The principal Act was enacted before the Constitution of the Republic of South Africa, 1996 (the “Constitution”) came into operation. Although, some amendments have been effected to the principal Act to align it with the Constitution, the principal Act still refers to the provisions of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) (“previous Constitution”). Therefore, the provisions of the principal Act referring to the previous Constitution need to be amended to align with the Constitution;
- (b) policing in South Africa was previously based on the principles of the National Crime Prevention Strategy of 1996 and the White Paper on Safety and Security of 1998 which were adopted by Cabinet and which were based on the prescripts of the Constitution. Since then, a number of policies have been adopted, namely the White Paper on Policing, 2016, the White Paper on Safety and Security, 2016, the Community Policing Policy, the Policy on a Single Police Service, the National Development Plan and the Community Policing Policy. Accordingly, the principal Act need to be aligned with the aforementioned policies;
- (c) the Constitutional Court in the judgment of *Helen Suzman Foundation v the President and Others and Glenister v the President and Others* (“*Helen Suzman* judgment”) (Cases CCT 07/14 and CCT 09/14) found certain sections of the principal Act to be unconstitutional and ordered the deletion of those sections with immediate effect. The relevant sections of the principal Act must, therefore, be repealed in compliance with the *Helen Suzman* judgment. The Constitutional Court in *Mlungwana and Others v The State and Another* (“*Mlungwana* judgment”) ([2018] ZACC 45), found section 12(1)(a) of the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993) (“Regulation of Gatherings Act”), unconstitutional. Furthermore, the Constitutional Court in the judgment of *Residents of Industry House and Others v the Minister of Police and Others* (“*Residents of Industry House* judgment”) ([2021] ZACC 37), found section 13(7)(c) of the principal Act unconstitutional and ordered a read-in into the section with immediate effect;
- (d) after the Marikana events, the President appointed a Commission of Inquiry, headed by Judge Farlam, to investigate the events, to make findings and to report thereon and make recommendations to the President. One of the recommendations of the Commission of Inquiry was the appointment of a Panel of Experts to investigate and to make recommendations in respect of various aspects relating to policing in general and crowd management in particular and to report on the outcome of such investigations and their recommendations to the Minister of Police (“Minister”). The Minister has received the Report of the Panel of Experts and the relevant recommendations made by the Panel have been included in the South African Police Service Amendment Bill, 2026 (“Bill”);
- (e) legislation pertaining to the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011), and the Civilian Secretariat for Police Service Act, 2011 (Act No. 2 of 2011) (“Civilian Secretariat for Police Service Act”), have also necessitated amendments to the principal Act; and
- (f) for the purpose of the practical application of the principal Act, certain provisions of the principal Act require amendments.

### 2. OBJECTS OF BILL

- 2.1 The Bill seeks to align the principal Act with the Constitution and the policies mentioned above, in particular the National Development Plan, and the Policies on Community Policing Forums and a Single Police Service.
- 2.2 The Bill proposes amendments to the Regulation of Gatherings Act, to provide that in the instance of a gathering or demonstration, a member of the

South African Police Service (“Service”) may only use minimum force which is reasonably necessary and proportional in the circumstances. The Bill further addresses the Constitutional Court’s finding in the *Mlungwana* judgment wherein section 12(1)(a) of the Regulation of Gatherings Act was found to be unconstitutional.

- 2.3 The Bill proposes amendments to the National Road Traffic Act, 1996 (Act No. 93 of 1996) (“National Road Traffic Act”), to provide that when the Minister of Transport has made regulations regarding the curricula for traffic officers, the National Commissioner of the Service and the national policing co-ordinating committee must be consulted before such curricula are published in the *Gazette*.
- 2.4 The Bill further proposes amendments to the Civilian Secretariat for Police Service Act to provide for the establishment of neighbourhood patrolling, neighbourhood watch and farm watch associations, community policing forums, district, provincial community policing boards and the National Community Policing Board.

### 3. SUMMARY OF BILL

#### 3.1 *Ad clause 1*

Clause 1 proposes for the substitution, deletion and insertion of certain definitions in section 1 of the principal Act.

#### 3.2 *Ad clause 2*

Clause 2 proposes the insertion of Chapter 1A after section 1 of the principal Act and consists of section 1A which provides for the purpose of the principal Act and section 1B which provides that members of the Service must deal with the public with due regard to their dignity and must respect the rights of the public, including the rights of women, children, elderly persons and persons with disabilities.

#### 3.3 *Ad clause 3*

Clause 3 proposes the substitution of the heading to Chapter 2 of the principal Act.

#### 3.4 *Ad clause 4*

Clause 4 proposes the repeal of sections 2, 3 and 4 of the principal Act as the establishment of the Civilian Secretariat is provided for in the Civilian Secretariat for Police Service Act.

#### 3.5 *Ad clause 5*

Clause 5 proposes the insertion of section 4A in Chapter 2 of the principal Act which provides that the Minister must determine the national policing policy in terms of section 206(1) and (2) of the Constitution and that such policy must be reviewed every five years.

#### 3.6 *Ad clause 6*

Clause 6 proposes the amendment of section 5 of the principal Act in order to align the section with section 199(1) of the Constitution, by referring to the establishment of the police service as the single national police service.

#### 3.7 *Ad clause 7*

Clause 7 proposes the amendments of section 6 of the principal Act by aligning it with the Constitution.

#### 3.8 *Ad clause 8*

Clause 8 proposes the insertion of sections 6A to 6E into the principal Act. The proposed sections deal with the establishment, composition, functions, funding, meetings and secretariat of the National Policing Advisory Committee (“NPAC”). The proposed sections further provides for the remuneration, disqualification, removal and resignation of a member from the NPAC.

### 3.9 **Ad clause 9**

Clause 9 proposes the amendment of section 8 of the principal Act by providing that in the case of a Deputy National Commissioner losing the confidence of the National Commissioner, an enquiry similar to that which may be instituted to investigate a Provincial Commissioner may be instituted to investigate and report on a Deputy National Commissioner as well. The procedures relating to Provincial Commissioners are furthermore extended to Deputy National Commissioners in respect of the suspension and entitlement to salary, allowance, privilege or benefit.

### 3.10 **Ad clause 10**

Clause 10 proposes for the amendment of section 9 of the principal Act, which proposes to make the provisions which are applicable to the National Commissioner and Provincial Commissioners in respect of misconduct and unfitness also applicable to Deputy National Commissioners.

### 3.11 **Ad clause 11**

Clause 11 proposes the substitution of section 10 of the principal Act by substituting the Board of Commissioners with the Management Forum, which consists of the National Commissioner and Provincial Commissioners, and includes such other senior members of the management of the Service, as determined from time to time by the National Commissioner.

### 3.12 **Ad clause 12**

Clause 12 proposes the amendment of section 11 of the principal Act by providing for the control and management of the Service by the National Commissioner, in accordance with the national policing policy, and the directions of the Minister as determined in terms of section 207(2) of the Constitution. The clause further proposes for the insertion of subsections (1A) to (1F) in section 11, which reflect the powers of the National Commissioner and provides for the allocation of resources by the National Commissioner, as well as the allocation of a budget for a province and directions issued by the Minister to the National Commissioner in terms of section 207(2) of the Constitution. The clause further proposes how the National Commissioner shall deal with any report from the Secretary, in fulfilling the objects and functions of the Civilian Secretariat for Police Service, which report is forwarded to the National Commissioner by the Minister.

### 3.13 **Ad clause 13**

Clause 13 proposes the amendment of section 12 of the principal Act by substituting the reference to “areas” in provinces with “districts”. The clause further inserts subsection (1A) and proposes the addition of subsections (4), (5), (6) and (7), which expand upon the duties of a Provincial Commissioner.

### 3.14 **Ad clause 14**

Clause 14 proposes the amendment of section 13 of the principal Act and provides that where a member of the Service performs an official duty and is authorised by law to use force, such force may only be used if reasonably necessary and proportionate in the circumstances. Provision is further made for instances in which members make official reports to the Service on the use of force by another member, or members, during the execution of their duties and further provides that no self-incriminating statement made by the member making such a report will be admissible as evidence against that member in criminal proceedings. Moreover, firearms that are fully automatic may not be used for purposes of law enforcement during a gathering or demonstration. In addition, the clause lists the conditions applicable to members who perform services outside of the Republic. This clause further amends section 13(7)(c) of the principal Act to give effect to the Constitutional Court judgment of *Residents of Industry House* where the Constitutional Court held that section 13(7)(c) of the principal Act is unconstitutional and ordered a read-in into that section which became effective from the date of the judgment.

**3.15 *Ad clause 15***

Clause 15 proposes the amendment of section 15 of the principal Act and substitutes the reference to the Exchequer Act, 1975 (Act No. 66 of 1975), with a reference to the Public Finance Management Act, 1999 (Act No. 1 of 1999), and provides the National Head of the Directorate for Priority Crime Investigation (“Directorate”) with the authority to delegate his or her powers.

**3.16 *Ad clause 16***

Clause 16 proposes the amendment of section 15A of the principal Act to provide for the use of fingerprints for performing a vetting investigation referred to in section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), and the performance of integrity testing and lifestyle audits referred to in the proposed section 28A of the principal Act.

**3.17 *Ad clause 17***

Clause 17 proposes the deletion of paragraph (*i*) in section 15E of the principal Act, which provides for a definition of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as clause 1 proposes the insertion of a definition for the said Act in section 1 of the principal Act.

**3.18 *Ad clause 18***

Clause 18 proposes the amendment of section 15L of the principal Act to provide for the inclusion of municipal police recruits in the requirement to submit DNA samples for purposes of forensic profiles to be included in the Elimination Index.

**3.19 *Ad clause 19***

Clause 19 proposes the substitution in section 15S for subsection (2) of another subsection (2) wherein the word “unlawful” is deleted.

**3.20 *Ad clause 20***

Clause 20 proposes the amendment of section 15AD of the principal Act to provide for additional items on which the Minister for Police may make regulations.

**3.21 *Ad clause 21***

Clause 21 proposes the amendment of section 16 of the principal Act by substituting all references to the “Directorate for Priority Crime Investigation” with “Directorate” in accordance with the proposed amendments to section 1 of the principal Act.

**3.22 *Ad clause 22***

Clause 22 proposes the amendment of section 17 of the principal Act and substitutes the national public order policing “unit” with the national public order policing “capacity”. Furthermore, the clause provides that the National Commissioner must report to Parliament, and also submit a copy of the report to the Civilian Secretariat and Independent Police Investigative Directorate, on a quarterly basis on the details listed in the proposed subsection (8) which makes provision for deployments of the national public order policing capacity. It further proposes that the national public order policing capacity, when deployed in a province, shall operate under national command and control. The clause further proposes that the National Commissioner, as opposed to the President, may approve the deployment of the national public order policing capacity in circumstances where a Provincial Commissioner is not able to maintain public order in a province.

**3.23 *Ad clause 23***

Clause 23 proposes the amendment of section 17A of the principal Act by the deletion of the definition of “Directorate”.

**3.24 *Ad clause 24***

Clause 24 proposes the amendment of section 17C of the principal Act by the addition of subsections (4) and (5), to ensure a cooperative approach between

the National Commissioner and the National Head of the Directorate in drafting National Instructions, taking into account the particular circumstances of the Directorate.

### 3.25 **Ad clause 25**

Clause 25 proposes the amendment of section 17CA of the principal Act by including academic qualifications as a factor which must be considered by the Minister in the appointment of the National Head, Deputy National Head and a Provincial Head of the Directorate. The clause also proposes to delete subsections (15) and (16) in line with the *Helen Suzman* judgment. The clause proposes amendments to subsection (14) to provide legal certainty regarding the retirement of the National Head and the Deputy National Head of the Directorate in accordance with the *Helen Suzman* judgment. The clause further proposes an amendment of subsection (19) and provides that where circumstances so require, the services of any person within or outside the Service may be utilised for a disciplinary action within the Directorate.

### 3.26 **Ad clause 26**

Clause 26 proposes the amendment of section 17D of the principal Act in compliance with the *Helen Suzman* judgment, which includes the deletion of section 17D(1A).

### 3.27 **Ad clause 27**

Clause 27 proposes the amendment of section 17DA of the principal Act by the deletion of subsection (2) in accordance with the *Helen Suzman* judgment.

### 3.28 **Ad clause 28**

Clause 28 proposes the amendment of section 17E of the principal Act by substituting the reference to “Head of the Directorate” with “National Head of the Directorate” and provides for the consequences of a member’s security clearance being degraded, withdrawn or refused.

### 3.29 **Ad clause 29**

Clause 29 proposes the substitution of subsections (2) and (3) of section 17F of the principal Act to provide that the National Head of the Directorate may request a service arrangement regarding the performance of services of personnel from any other government department or government institution. The clause further proposes the substitution of the reference to the “Crime Intelligence Division of the Service” with a reference to the “Intelligence Division of the Service”.

### 3.30 **Ad clause 30**

Clause 30 proposes the amendment of section 17J of the principal Act and proposes the substitution of the reference to the “Head of the Crime Intelligence Division of the South African Police” with a reference to the “Divisional Commissioner of the Intelligence Division of the Service”.

### 3.31 **Ad clause 31**

Clause 31 proposes the deletion of subsections (4), (7), (8) and (9) of section 17K of the principal Act in accordance with the *Helen Suzman* judgment.

### 3.32 **Ad clause 32**

Clause 32 proposes the amendment of section 17L of the principal Act by the substitution of the reference to the “Independent Complaints Directorate” with the “Independent Police Investigative Directorate”. The clause extends the powers of the retired judge in respect of the investigation of complaints received from members of the public and members of the Directorate in terms of section 17L(4). In addition, the clause proposes for the appointment of an office manager in the office of the retired judge who will be responsible for all administrative, financial and clerical functions of the office of the retired judge.

### 3.33 **Ad clause 33**

Clause 33 proposes the insertion of Chapter 6B into the principal Act, which provides for the establishment of specialised units within the Service by the National Commissioner and the insertion of Chapter 6C which provides for the establishment of an Intelligence Division for the Service, the line of reporting of the Divisional Commissioner of the Intelligence Division of the Service to the National Commissioner and in circumstances where the said Divisional Commissioner deems it necessary in the interest of justice, the public interest or the security of the Republic, he or she may report particular matters directly to the Minister. The clause further proposes for the determination of security classifications of members and employees by the Divisional Commissioner of the Intelligence Division and the discharge of members in respect of whom a security clearance had been degraded, withdrawn or refused.

### 3.34 **Ad clause 34**

Clause 34 proposes the substitution of the heading of Chapter 7 of the principal Act with the following heading: “**Community [Police] Policing Forums and Boards**”.

### 3.35 **Ad clause 35**

Clause 35 proposes the amendment of section 18 of the principal Act in order to substitute community police forums and boards with community “policing” forums and boards. Furthermore, the clause proposes that the members designated by the station commander, district commanders and the Provincial Commissioner shall be *ex officio* members of the community policing forum and sub-forum established at the police station concerned and shall further be *ex officio* members of the relevant district and provincial community policing boards.

### 3.36 **Ad clause 36**

Clause 36 proposes the repeal of sections 19, 20, 21, 22 and 23 of the principal Act, as these sections finds more application in the Civilian Secretariat for Police Service Act, and the Bill proposes amendments to the Civilian Secretariat for Police Service Act to address the aforesaid.

### 3.37 **Ad clause 37**

Clause 37 proposes the amendment of section 24 of the principal Act by empowering the Minister to make regulations to supplement, where required, the provisions of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), in respect of injuries and diseases sustained or contracted by members in the course of their employment, or death as a result of such injury or disease.

### 3.38 **Ad clause 38**

Clause 38 proposes the substitution of section 27 of the principal Act in order to align the provision with section 195 of the Constitution.

### 3.39 **Ad clause 39**

Clause 39 proposes the amendment of section 28 of the principal Act by providing that all posts in the Service shall be filled following a transparent, competitive and merit-based process to ensure the best-suited person is appointed. The clause further proposes provision for a process in order for the Department of Home Affairs to verify that a member or potential member of the Service is a citizen of the Republic.

### 3.40 **Ad clause 40**

Clause 40 proposes the insertion of sections 28A, 28B and 28C in the principal Act. The proposed section 28A provides for integrity testing of every person who is newly recruited or considered for appointment to the Service. It further provides for lifestyle audits which may be performed in respect of any member, including the National Commissioner, a Deputy National Commissioner or Provincial Commissioner, or any other officer on a rank level equal

to or lower than a Provincial Commissioner, in respect of whom there are reasonable grounds to suspect that the person is living above his or her income. Section 28B provides that the National Commissioner must ensure that fingerprints of members are taken and stored on a database maintained in the Division responsible for keeping and processing fingerprints, which database shall be established and known as the Personnel fingerprints database and will be kept and maintained separately from the criminal database. The National Commissioner may direct that fingerprints of members be taken from time to time to enhance a professional police service on the principles of integrity and accountability, which may include establishing whether a member has been convicted of an offence. Section 28C provides that the National Commissioner must secure the integrity of fingerprints of members kept on the Personnel fingerprints database by taking appropriate, reasonable, technical and organisational measures to prevent the loss of, damage to, or unauthorised destruction of information on the database and to prevent any unlawful access to, or processing of, information on the database.

#### 3.41 ***Ad clause 41***

Clause 41 proposes the repeal of section 29 of the principal Act. Section 29 was originally provided for in terms of the principal Act for the purposes of facilitating the rationalisation of the different police organisations that existed during the transition and their integration into the single national police service. Section 29 no longer serves a legitimate and reasonable purpose and should therefore be repealed.

#### 3.42 ***Ad clause 42***

Clause 42 proposes the substitution of section 32 of the principal Act by providing that the National Commissioner, in respect of members of the Service, and the National Head of the Directorate, in respect of members of the Directorate, shall determine the criteria for education, training and development that such members must undergo. In addition, the National Commissioner shall determine the criteria for education, training and development of police trainees and lateral appointees.

#### 3.43 ***Ad clause 43***

Clause 43 proposes the amendment of section 33 of the principal Act, to provide that in addition to a Deed of Commission, an appointment certificate issued by the National Commissioner or a President's Minute, or certified copies thereof, bearing the signature of both the Minister and the President, is proof of appointment as a commissioned officer. The clause further proposes that the commission and rank of a commissioned officer shall terminate and be deemed to be cancelled upon the removal from office of the National Commissioner, a Deputy National Commissioner or a Provincial Commissioner, or the National Head of the Directorate on the basis of misconduct and in the case of a member who has left the Service on account of his or her discharge, retirement or resignation and who thereafter is convicted of an offence for which a sentence of imprisonment, with or without the option of a fine, is imposed. The clause also proposes for the addition of subsection (6) to provide for consequences regarding the commission or rank of a member who has left the Service and is subsequently re-enlisted.

#### 3.44 ***Ad clause 44***

Clause 44 proposes the amendment of section 34 of the principal Act, to provide for the consequences of a member being absent from official duties, without the permission of his or her commander, for a period exceeding one calendar month.

#### 3.45 ***Ad clause 45***

Clause 45 proposes the amendment of section 35 of the principal Act by substituting for the reference to the "Government Service Pension Act, 1973 (Act No. 57 of 1973)", of a reference to the "Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996)", and rectifies the reference to the

Public Service Act in accordance with its definition as proposed in clause 1 of the Bill.

**3.46 Ad clause 46**

Clause 46 proposes the amendment of section 36 of the principal Act by adding subsection (7) which provides that an application for re-instatement in terms of subsection (2) must be considered and finalised within 60 days of the date upon which such application was received by the National Commissioner.

**3.47 Ad clause 47**

Clause 47 proposes the repeal of section 37 of the principal Act, as police trainees are not appointed as members of the Service during the period of basic training and there is thus no need for the discharge of such trainees should they fail to successfully complete their basic training.

**3.48 Ad clause 48**

Clause 48 proposes the substitution of section 40 of the principal Act by providing for the establishment of a disciplinary system within the Service by the National Commissioner, which involves dedicated, properly qualified and trained units to perform functions related to presiding officers and disciplinary officers. The clause similarly proposes provision for the National Head of the Directorate to establish a disciplinary system within the Directorate.

**3.49 Ad clause 49**

Clause 49 proposes the amendment of section 45 of the principal Act by deleting the reference to section 212 of the Constitution in subsection (3)(a) as this is a reference to section 212 of the previous Constitution which is no longer in operation and the clause further proposes the deletion of subsection (10) as the subsection concerns compliance with section 212 of the previous Constitution.

**3.50 Ad clause 50**

Clause 50 proposes the amendment of section 49(1) of the principal Act by aligning it with the relevant sections of the Constitution.

**3.51 Ad clause 51**

Clause 51 proposes the substitution of section 60 of the principal Act, to provide that property of the Service may only be seized or attached in consequence of a judgment or order of a court of law.

**3.52 Ad clause 52**

Clause 52 proposes the amendment of section 63 of the principal Act to delete the reference to sections 215, 218 and 219 of the previous Constitution and substituting them with corresponding sections of the Constitution.

**3.53 Ad clause 53**

Clause 53 proposes the amendment of section 64A(3) of the principal Act by adding paragraph (d), which adds to the requirements that must be met before the member of the Executive Council may approve an application for the establishment of a municipal police service, and provides that the member of the Executive Council must consider the feasibility of establishing a municipal police service. The decision must be taken in consultation with the National Commissioner. The clause further proposes the insertion of subsection (3A) which provides that should the National Commissioner and the member of the Executive Council be unable to agree on an application for the establishment of a municipal police service, the Minister shall mediate between the parties.

**3.54 Ad clause 54**

Clause 54 proposes the amendment of section 64B of the principal Act by substituting the references to the “chief executive officer” with references to the “municipal manager”.

**3.55 Ad clause 55**

Clause 55 proposes the amendment of section 64C of the principal Act by substituting the references to the executive head of a municipal police service with references to the Chief of a municipal police service as defined in clause 1 of the Bill and providing that the Chief of a municipal police service shall liaise with the Provincial Commissioner in order to ensure co-ordination of operational activities.

**3.56 Ad clause 56**

Clause 56 proposes the substitution of section 64D of the principal Act and provides that when a municipal police service is established, the municipal council, after consulting with the National Commissioner, shall appoint a fit and proper person as the Chief of the relevant municipal police service.

**3.57 Ad clause 57**

Clause 57 proposes the amendment of section 64E of the principal Act by adding the enforcement of the Regulation of Gatherings Act, to the functions of a municipal police service, as first responders, in consultation with the local station commander.

**3.58 Ad clause 58**

Clause 58 proposes the insertion of section 64EA into the principal Act, which provides for the establishment of a public order policing capacity for a municipal police service.

**3.59 Ad clause 59**

Clause 59 proposes the amendment of section 64K of the principal Act and insertion of subsection (1A), which provides for the establishment of a national policing co-ordinating committee by the National Commissioner and the insertion of subsection (1B) which provides how the national policing co-ordinating committee will be constituted. The clause further proposes the amendment of subsection (2) in order to provide that the National Commissioner, or a person designated by him or her, shall act as chairperson at a meeting of the national policing co-ordinating committee. The clause proposes the addition of subsection (5) which provides for a reporting function of the national policing co-ordinating committee to the National Commissioner and the Minister.

**3.60 Ad clause 60**

Clause 60 proposes the amendment of section 64L of the principal Act by substituting the reference to the “Road Traffic Act, 1989 (Act No. 29 of 1989)”, with a reference to the “National Road Traffic Act”. The clause further proposes that where a municipal police service has failed to maintain national standards, the National Commissioner shall issue a notice of non-compliance to the relevant metropolitan council.

**3.61 Ad clause 61**

Clause 61 proposes to rectify the numbering of the subparagraphs in section 64M(2) of the principal Act and to substitute the reference to the “Minister for Provincial Affairs and Constitutional Development” with a reference to the “Minister responsible for Co-operative Governance and Traditional Affairs”.

**3.62 Ad clause 62**

Clause 62 proposes the substitution of section 64O of the principal Act in order to provide for reasonable steps that must be taken by municipal police services in order to comply with certain provisions of the principal Act which apply to the municipal police services as prescribed by the Minister.

**3.63 Ad clause 63**

Clause 63 proposes the substitution of section 65 of the principal Act to provide for a penalty of imprisonment for a period not exceeding five years, as opposed to a period of 12 months, for receipt or possession of certain property.

**3.64 Ad clause 64**

Clause 64 proposes for the insertion of section 65A in the principal Act which provides for a new offence relating to the disposal or abuse of property and equipment of the Service, including uniforms, blue lamps, radios, electronic equipment and medals, with a penalty of imprisonment of up to five years, if convicted.

**3.65 Ad clause 65**

Clause 65 proposes the amendment of section 66 of the principal Act and substitutes the six-month period of imprisonment with a maximum period of five years, if a person is convicted for wearing a uniform, distinctive badge or button of the Service when he or she was not entitled to do so. The clause further proposes the addition of subsections (3), (4) and (5) which provide that where any juristic person, after having received a notice from the National Commissioner or a Provincial Commissioner to refrain from using any insignia, emblem, title or symbol whether on a uniform, vehicle or otherwise, which may be confused with that used by the Service, fails to comply with such notice, is guilty of an offence and if convicted, is liable to a fine not exceeding R100 000. In addition, the owner, manager or person in charge of a juristic person who fails to comply with the aforementioned notice from the National Commissioner or a Provincial Commissioner is guilty of an offence and liable to a fine or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

**3.66 Ad clause 66**

Clause 66 proposes the amendment of section 67 of the principal Act by providing for a sentence of imprisonment not exceeding 24 months, as opposed to 12 months, in respect of an offence referred to in subsection (1).

**3.67 Ad clause 67**

Clause 67 proposes the amendment of section 68 of the principal Act by substituting the six month period of imprisonment in respect of the offences referred to in subsections (2) and (3) with a period of five years. The clause further proposes the addition of subsection (4) which provides that any member or employee of the Service who uses a state vehicle or rents out, provides or makes available any equipment issued to such member or employee for the purpose of the commission of a crime, or exposes the identity of a person who provided or provides information to the Service, is guilty of an offence and liable upon conviction to a fine or to imprisonment for a period not exceeding 15 years. Furthermore, the clause proposes the addition of subsection (5) which provides that any person who is not a police official, municipal police official, military police official, a member of the South African National Defence Force, or a traffic official, who operates a motor vehicle fitted with, or in or on which is displayed, a lamp or lamps capable of emitting blue light on a public road, is guilty of an offence and is liable upon conviction to a fine or imprisonment for a period not exceeding 15 years.

**3.68 Ad clause 68**

Clause 68 proposes the substitution of section 70 of the principal Act to provide that a member of the Service, any person employed by the Service or a reservist, who wilfully discloses information including a pending investigation in order to warn a suspect or possible suspect of such investigation or imminent arrest, or regarding planned actions or operations of the Service in order to forewarn any persons who may be affected by such action or operation, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 10 years.

**3.69 Ad clause 69**

Clause 69 proposes the insertion of section 71A in the principal Act, by providing for an offence in respect of making false reports to the Service, spreading untruthful information or publishing, in any form, information or hoaxes knowing that such information is false and which causes the unnecessary and wasteful use of the resources of the Service. The penalty for

the aforementioned offence is a fine or imprisonment for a period not exceeding five years or both such fine and imprisonment. In addition, the proposed section provides that a court which convicts a person for the aforementioned offence may, in addition to such a fine or imprisonment, order the accused to remunerate the Service for the unnecessary and wasteful use of resources proven during the trial. The clause further proposes the insertion of section 71B in the principal Act which prohibits a member of the Service from conducting an investigation, or assisting with such investigation, if he or she has a financial or other interest in the investigation which may preclude him or her from exercising or performing his or her powers in an objective manner. Such a member is obliged to withdraw from the investigation if such a conflict of interest arises and the clause provides that a failure to disclose such a conflict is an offence. In addition, the proposed section 71B provides that a member who knows or ought reasonably to have known or suspected that another member has a conflict of interest in respect of a matter such member is investigating, the member who is aware of the conflict of interest must report such knowledge or suspicion to the National Commissioner, or to the National Head of the Directorate if the member is a member of the Directorate.

### 3.70 *Ad clause 70*

Clause 70 proposes the amendment of section 72 of the principal Act, to ensure alignment with the relevant provisions of the Constitution and the previous Constitution. This clause further proposes the addition of subsections (5) and (6). Subsection (5) provides that the Crime Intelligence Division will continue as the Intelligence Division of the Service after the commencement of the South African Police Service Amendment Act, 2026 (“envisaged Act”). Subsection (6) provides that personnel designated as members prior to the commencement of the envisaged Act shall be deemed to be members in terms of section 28(2).

### 3.71 *Ad clause 71*

Clause 71 proposes the amendment of the Preamble of the principal Act in order to align it with the Constitution.

### 3.72 *Ad clause 72*

Clause 72 proposes the arrangement of sections in the principal Act.

### 3.73 *Ad clause 73*

Clause 73 proposes the substitution of all references to the “Constitution of the Republic of South Africa, 1996”, and the “Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)”, wherever they occur in the principal Act, with the word “Constitution”.

### 3.74 *Ad clause 74*

Clause 74 proposes the substitution of all references to the “Criminal Procedure Act, 1977”, and “Criminal Procedure Act, 1977 (Act No. 51 of 1977)”, wherever they occur in the principal Act, with the phrase “Criminal Procedure Act”.

### 3.75 *Ad clause 75*

3.75.1 Clause 75 proposes the amendment of the laws listed in the Schedule to the extent set out in the Schedule. The Schedule proposes the amendment of section 1 of the Regulation of Gatherings Act, to provide for the substitution and insertion of certain definitions. Amendments are proposed to section 2 of the Regulation of Gatherings Act by substituting the reference to the Commissioner in subsection (2)(a) with the National Commissioner. In addition, amendments are proposed to section 3 and provides a list of the type of gatherings which a convener must provide written notice of, should he or she plan to arrange such a gathering and further provides for the instances in which a responsible officer may prohibit a gathering.

Further amendments are proposed to section 8 to substitute the reference to “security forces” with a reference to the Police, as defined in section 1 of the Regulation of Gatherings Act, the South African National Defence Force, correctional services, traffic officials or members of any municipal police service.

- 3.75.2 Amendments are proposed to section 9 of the Regulation of Gatherings Act to provide that where any person who participates in a gathering or demonstration, or any person who interferes with such persons, damages or attempts to damage any immovable or movable property, a police official may take the necessary steps to prevent such damage. A member of the police of, or above, the rank of warrant officer may order the members under his or her command to take the necessary steps to prevent the aforementioned action and may order the use of force, excluding the use of firearms or other weapons which may cause serious injury or death, if he or she finds other methods to be ineffective. The proposed amendment further provides that fully automatic firearms may not be used for law enforcement during a gathering or demonstration. The Schedule proposes amendments to section 10 of the Regulation of Gatherings Act, to empower the Minister to make regulations regarding non-lethal weapons and other equipment that members of the Police may be provided with when attending to a gathering or demonstration.
- 3.75.3 Furthermore, amendments are proposed to section 11 of the Regulation of Gatherings Act to provide that it shall be a defence to a claim against a person or organisation for any damages caused during a gathering or demonstration, if such person or organisation proves that reasonable steps were taken, including the provision of a notice of a gathering where required, to prevent the damages caused.

In addition, the Schedule proposes the deletion of section 12(1)(a) and section 12(2) of the Regulation of Gatherings Act, as well as amending the penalty clause in that section in accordance with the *Mlungwana* judgment and further proposes the addition of subsections (3) to (9) which provide for an infringement notice to be served upon a convener who fails to comply with section 3 and that such infringement notice will provide for an administrative fine to be imposed upon the convener.

- 3.75.4 The Schedule proposes the amendment of section 75 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), which provides for the insertion of subsection (2C) which provides that whenever the Minister of Transport has made a regulation regarding curricula for traffic officers, the National Commissioner and the national policing co-ordinating committee shall be consulted before such curricula are published in the *Gazette*.
- 3.75.5 The Schedule proposes the amendment to the Civilian Secretariat for Police Service Act, by the insertion of the definition of “district” in section 1 and the insertion of Chapter 2A which provides for the establishment and functioning of neighbourhood patrolling, neighbourhood watch and farm watch associations, establishment of community policing forums, establishment of district and provincial community policing boards and the National Community Policing Board. The Schedule further proposes the insertion of section 17A in the Civilian Secretariat for Police Service Act, which provides for the oversight and support of community policing forums and community policing boards by the provincial secretariats, as well as the funding arrangements for same. The addition of subsection (8) to section 34 is proposed, which provides that the community policing forums and community policing boards already established in terms of the principal Act when the envisaged Act comes into operation, will be

regarded as having been established in terms of Chapter 2A of the Civilian Secretariat for Police Service Act. In addition, the Schedule proposes an amendment to the long title of the Civilian Secretariat for Police Service Act to include the establishment and functions of neighbourhood patrolling, neighbourhood watch and farm watch associations and of community policing forums and community policing boards and further proposes amendments to the arrangement of sections of the Civilian Secretariat for Police Service Act.

### 3.76 *Ad clause 76*

Clause 76 provides the short title and commencement of the envisaged Act, and states that it will come into operation on a date determined by the President by proclamation in the *Gazette*.

## 4. ORGANISATIONS AND INSTITUTIONS CONSULTED

- 4.1 Requests were made to the following in order to obtain inputs regarding the practical application of the Bill:
- (a) The Department for Public Service and Administration;
  - (b) the Department of Transport;
  - (c) the Department of Home Affairs;
  - (d) the National Commissioner of the South African Police Service;
  - (e) the National Head of the Directorate for Priority Crime Investigation;
  - (f) the Judge for the Directorate for Priority Crime Investigation;
  - (g) the Executive Director of the Independent Police Investigative Directorate;
  - (h) the Heads of the Departments of Community Safety in the respective provinces;
  - (i) the Community Police Fora;
  - (j) the South African Policing Union (SAPU);
  - (k) the Police and Prisons Civil Rights Union (POPCRU);
  - (l) the Chief Executive Director: Private Security Industry Regulatory Authority (PSIRA); and
  - (m) National Treasury.
- 4.2 The inputs received from the respective offices which contributed, together with the policy documents, court judgments and report of the Panel of Experts referred to in the background of this memorandum on the objects of the Bill, were used to draft a Working Document setting out the proposed amendments on a complete copy of the Bill, showing the context of the proposed amendments.
- 4.3 The draft Working Document was sent out for comments to all addressees mentioned in paragraph 4.1.
- 4.4 The Bill was then developed on the basis of further comments received.
- 4.5 The Independent Police Investigative Directorate and the retired judge were also consulted.
- 4.6 The draft Bill was then circulated to all relevant Directors General, including the Department of Transport and the Department of Home Affairs, for comments and their comments were addressed.
- 4.7 Cabinet, on 23 September 2020, approved that the Bill be published for public comments and a notice in that regard was published in the *Gazette* on 1 October 2020. Public awareness meetings were held at a total of 13 locations in all nine provinces and the public comments received were scrutinised and taken into account when amendments were made to the published Bill.

## 5. FINANCIAL IMPLICATIONS FOR STATE

- 5.1 The implementation of the Bill can be accommodated within the Medium Term Expenditure Framework, three-year and five-year strategic planning and budgets of the South African Police Service and the Civilian Secretariat for Police Service.
- 5.2 A national policing co-ordinating committee is already being utilised in practice, but the Bill will provide a proper legal basis. It will, however, not require additional funds.
- 5.3 The proposed funding of pre-authorised projects of Community Policing Forums will be the responsibility of Provincial Secretariats and provincial budgets. Following the public comments, meetings were held with the National Treasury, the City Budget Forum as a working committee of the Local Government Budget Forum and the Committee of Heads of Departments in the Provinces as a working committee of the Budget Council in order to ensure adequate consultations in respect of the draft Bill in terms of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997). The National Treasury was satisfied that these consultations and allowing comments on the financial implications of the Bill on local and provincial levels of government were adequate. The National Treasury underlined the principle that budget follows function in respect of the transfer of the function relating to community policing forums to the Members of the Executive Council and the Provincial Civilian Secretariat for Police Service.
- 5.4 It is planned to implement the Bill in a phased manner.

## 6. PARLIAMENTARY PROCEDURE

- 6.1 The State Law Advisers and the Department: Civilian Secretariat for Police Service are of the opinion that the Bill must be dealt with in accordance with the procedure established in section 76 of the Constitution.
- 6.2 Chapter 4 of the Constitution specifies the manner in which legislation must be enacted by Parliament. It prescribes different procedures for Bills, including ordinary Bills not affecting provinces (section 75 procedure), and ordinary Bills affecting provinces (section 76 procedure). The determination of the procedure to be followed in processing the Bill is referred to as tagging.
- 6.3 In terms of section 76(3) of the Constitution, a Bill must be dealt with in accordance with section 76 if it falls within a functional area listed in Schedule 4. Schedule 4 to the Constitution lists functional areas of concurrent national and provincial legislative competence. In the Constitutional Court judgment of *Ex-Parte President of the Republic of South Africa In Re: Constitutionality of the Liquor Bill*<sup>1</sup> (“*Liquor Bill* judgment”), Cameron AJ held the following:

“[27] *It must be borne in mind that section 76 is headed ‘ordinary Bills affecting provinces’. This is my view, a strong textual indication that section 76(3) must be understood as requiring that any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4 be dealt with under section 76.*

[29] *Once a Bill falls within a functional area listed in Schedule 4, it must be dealt with not in terms of section 75, but by either the section 76 (1) or the section 76(2) procedure . . .”.*

1. CCT 100/09 [2010] ZACC 10.

- 6.4 Following the *Liquor Bill* judgment, the Constitutional Court in the judgment of *Tongoane and Others vs Minister for Agriculture and Land Affairs and Others*<sup>2\*</sup> (“*Tongoane* judgment”) confirmed the following:

“[59] . . . the tagging test focuses on all the provisions of the Bill in order to determine the extent to which they substantially affect functional areas listed in Schedule 4, and not on whether any of its provisions are incidental to its substance.”.

- 6.5 Furthermore, the Constitutional Court held that:

“[66] . . . procedural safeguards are designed to give more weight to the voice of the provinces in legislation substantially affecting them . . . they are fundamental to the role of the NCOP in ensuring that provincial interests are taken into account in the national sphere of government . . .”.

- 6.6 As the Court held in the *Tongoane* judgment, a Bill must be tagged as a section 76 Bill if its provisions in substantial measure deal with a Schedule 4 functional area. We are, therefore, of the view that the Bill should be classified as a section 76 Bill, which is an ordinary Bill affecting provinces, as its provisions fall within a functional area listed in Schedule 4 to the Constitution, namely “Police”.
- 6.7 The State Law Advisers are of the opinion that it is not necessary to refer the Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a)(i) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), as it does not contain any provisions which directly affect traditional or Khoi-San communities or provisions which pertain to customary law or customs of traditional or Khoi-San communities.

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2. Tongoane at paragraph 59.



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