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**INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE AMENDMENT BILL (IPID) SUBMISSIONS**

**SELECT COMMITTEE ON SECURITY AND JUSTICE**

**6 NOVEMBER 2019**

**(RESPONSES FROM LEGAL SERVICES)**

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|  | **ORGANISATION** | **SUBMISSION** | **COMMENTS** | **RESPONSES FROM LEGAL** | **COMMITTEE’S DECISION** |
| **1.** | **Helen Suzman Foundation** | **The proposed section 6A (1)**The proposed subsection 1 of the new Section 6A of the Bill makes reference to “a Committee of the National Assembly”. This wording is drawn directly from Section 17DA (3) of the SAPS Act. The use of the words “a Committee” is ambiguous for the following reasons:1. a) Section 1 of the SAPS Act makes reference to “the Standing Committees of the National Assembly and the Senate *[sic]* responsible for safety and security issues”;
2. b) “Committee” is defined in the IPID Act as follows: ““**Committee**” means the Management Committee established under section 11”;
3. c) Section 6(2) of the existing IPID Act states, “The relevant Parliamentary Committee must, within a period of 30 parliamentary working days of the nomination in terms of subsection (1), confirm or reject such nomination.”

This Section makes clear reference to a Committee distinct from the Management Committee, through use of the words “relevant Parliamentary”. This anomaly must be addressed.  **Proposed section 6A(3)(a)** The proposed wording of this clause is drawn from Section 17DA (5) of the SAPS Act. The use of the word “Committee” is ambiguous for the same reasons set out above.**Recommendations** 1. a) Insertion of the words “relevant Parliamentary” before the word “Committee” in the proposed Section 6A 1(a) to bring the clause in line with the wording in Section 6(2) of the IPID Act.
 | The Foundation recommends specific changes to the IPID Act broadly as has been raised by the other organisations supporting such a broad review of the Act. These recommendations fall outside of the ambit of the current amendments before the Committee.Substantive Comments for consideration by the Committee during its deliberations on the Bill. | The wording is clear. It will not be confused with the term “committee” as defined in the principal Act, as the term “committee” in the proposed clause is qualified with the words “of the National Assembly”.However, should the Select Committee agree on further amendments, I would support the proposal of inserting the words “relevant Parliamentary”. |  |
| **2.** | **IPID** | * The committee bill in its current form will not pass Constitutional muster and may be declared inconsistent with the Constitution.
* IPID proposes a review of the IPID Act as a whole in terms of a draft bill which they attach to their submission marked Annexure E.
* The Committee Bill does not provide for the appointment of the Executive Director
* The Bill should include provisions about the remuneration and conditions of service of the Executive Director
* A new Section 6 A should be included in the Bill which deals with remuneration and conditions of service of the Executive Director
* Section 6 B should be inserted to align it with the *Mcbride* Judgement to ensure parliamentary oversight of the suspensions and removal of the Executive Director as set out in par.4.13.2 of the Submission.
* Section 6 A of the Committee Bill – the decision whether or not to suspend the Executive Director should be made by the Committee and not by the Minister.
 | The submission largely contains recommendations pertaining to the review of the IPID Act as a whole which falls outside the ambit of the current amendments before the Committee.Substantive Comments in relation to Section 6 of the amendment bill for consideration by the Committee during its deliberations on the Bill. | The Court found that the section 6(3)(a) (which deals with the PSA being applicable to the ED), certain sections in the PSA Act and the IPID Regulations (which applied the disciplinary code to the removal of the ED) were unconstitutional **in so far as they were being applied to the removal of the ED.**The Committee, could, however, proposes further amendments to the Bill to also deal with the appointment of the Executive Director.Any proposed amendments from this Committee would be referred back to the National Assembly for reconsideration. We submit that in such an instance the Portfolio Committee would have to approach the National Assembly afresh to request permission to extent the original mandate given to that Committee to draft legislation within a specific framework.Furthermore, Parliament would have to subject any further substantial amendments to public participation involvement as provided for in section 59 of the Constitution. |  |
| **3.** | **Western Cape Government:****Community Safety** | * Broadly the submission refers to amendments to the entire Act and reflects the sentiments of most of the other submissions made that the Act requires amendments of various sections to comply with the Constitutional Court’s findings.

Specific recommendations to the Bill before the Committee is limited to the following:* Section 6A(3)(b), the reference to “a resolution calling for the removal of the Executive Director’s removal” should be “the resolution” so that it refers to the resolution of the NA referred to in sections 6A(1)(b) and 6A(2) which precedes section 6A(3)(b)
1. Therefore, the recommendation is to delete “a” in “a resolution” and replace with “the”.
2. Delete the comma in line 2 of the proposed Section 6A(5).
 | The recommendations are technical in nature. | 1. Agree
2. Agree

These proposed amendment would make the draft clearer.Very technical amendment.  |  |