**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 2330**

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**(INTERNAL QUESTION PAPER NO 29-2021)**

**2616. Mr A C Roos (DA) to ask the Minister of Police:**

Whether, with reference to the meeting of the Portfolio Committee on Home Affairs on 9 November 2021 at which the SA Police Service was identified as one of the departments that has not yet provided the necessary input for the section 97 Presidential Proclamation to be signed to transfer the relevant border law enforcement functions to the Minister of Home Affairs, he has been informed that this lack of input is holding up the implementation of the Border Management Authority; if not, what is the position in this regard; if so, (a) what is the reason for the delayed response and b) by what date will he provide the necessary inputs? NW3092E

**REPLY:**

(a) The South African Police Service (SAPS) provided inputs, with regard to the envisaged Section 97 Presidential Proclamation, to the Border Management Authority (BMA). The SAPS obtained a legal opinion, from counsel, which concludes that the envisaged Section g7 Presidential Proclamation will be ultra vires (beyond the powers).

Therefore, the SAPS is of the view that the sections of the legislation, mentioned in the envisaged Presidential Proclamation, do not deal with functions of the Minister of Police and may, therefore, not be transferred, in terms of Section 97, The only exception, is Section 92 of the Firearms Control Act, 2000 (Act No. 60 of 2000), which is the only section dealing with a clear power or function, assigned to the i4inister of Police. In terms of Section 92, the Minister of Police may prohibit or restrict the acquisition, disposal, possession or use of ammunition of a specified Clgss of ammunition.

(6) The SAPS and the Commissioner of the BMA are presently in a process of engagement, to find ways and means to empower border guards, to perform border law enforcement functions.

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Reply to question 2616 recommended

**GENERAL NATIONAL COMMISSIONER: SOUTH AFRICANPOLICE SERVICE
KJ SITOLE (SOEG)
Date**: 2021-12-15

Reply to question 2616 approved

**MINISTER OF POLICE
GENERAL BHCELE, MP
DATE**: 2021-12-21