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ANALYSIS OF THE 2022 DRAFT REGULATIONS OF THE CRITICAL INFRASTRUCTURE PROTECTION ACT, 2019

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1. INTRODUCTION

The protection of critical infrastructure has intensified internationally, largely due to the increasing threat of terrorism. Preventative security measures have become a major focus area of critical infrastructure protection. Countries like Singapore have recently introduced legislation specifically aimed at proactive steps to protect their critical infrastructure against terrorism.

The Critical Infrastructure Protection Act, 2019 (No. 08 of 2019) (CIPA) was assented to by the President on 20 December 2019. As per section 27 of the CIPA, the Minister of Police must table any proposed regulations in Parliament for scrutiny before promulgation. On 21 July 2022, the Speaker of the National Assembly referred the Draft Regulations to the Portfolio Committee on Police (ATC No 106-2022) for consideration and report.

This paper provides an analysis of the Draft Regulations to assist Members of the Portfolio Committee on Police during deliberations on the Draft Regulations during a scheduled meeting on 24 August 2022. **The paper highlights three amendments that must be made to the Draft Regulations, of which two are in the definitions and one is in Regulation 5(8).**

2. KEY PROVISIONS: CRITICAL INFRASTRUCTURE PROTECTION ACT, 2019

The review process of the National Key Point (NKP) Act started in 2007 based on concerns that the NKP Act was “old order legislation” and it received increasing criticism.¹ Notably, the

¹ NEDLAC (2017), p 1.



Right2Know Campaign (and others) made an application in 2013 to the High Court of South Africa (Gauteng Local Division) to release the list of NKPs after the Minister of Police refused a request. In 2014, Judge Sutherland ordered the Minister to release the requested information, as the NKP Act did not specify that the publication of NKPs is secret information.²

In May 2016, the Civilian Secretariat for Police published the CIP Bill for public comment, which was finalised in July 2016. The notice was published in the Government Gazette on 15 September 2017 and was introduced in Parliament shortly afterwards on 27 September 2017 in terms of Joint Rule 159. The Speaker referred the Bill to the Portfolio Committee on Police and Select Committee on Security and Justice for consideration.³ The tagging of the CIP Bill was as an ordinary Bill, not affecting provinces (Section 75 of the Constitution). The Critical Infrastructure Protection Act, 2019 (No. 08 of 2019) (CIPA) was assented to by the President on 20 December 2019, but has not yet been operationalised.

3. DRAFT CIPA REGULATIONS, 2022

The following administrative processes must be followed prior to the promulgation of the CIPA Regulations:

- The Minister must table any proposed regulations in Parliament for scrutiny before promulgation - Section 27(5).
- Any regulation necessary for the immediate implementation of the Act must be promulgated to coincide with the coming into operation of the Act - Section 27(6).
- The Minister must, before making any regulation, publish a notice in the Gazette setting out the draft regulations and invite written comments on the proposed regulations and consider any comments that were received - Section 27(7).
- The Minister may, after complying with the above subsections, publish the regulations in final form in the Gazette - Section 27(8).

The Draft Regulations deal with the following 14 aspects, related mainly to the functions and procedures to be followed by the Critical Infrastructure Council -

- Regulation 1: Definitions
- Regulation 2: Establishment and functions of the Critical Infrastructure Council
- Regulation 3: Ordinary meetings of the Critical Infrastructure Council
- Regulation 4: Special meetings of the Critical Infrastructure Council
- Regulation 5: Resolutions of the Critical Infrastructure Council in respect of application for declaration of infrastructure as critical infrastructure
- Regulation 6: Resolutions of the Critical Infrastructure Council to dispense with publication
- Regulation 7: Resolutions of the Critical Infrastructure Council in respect of policies, protocols and standards
- Regulation 8: Assignment of functions by the Minister
- Regulation 9: *Ad hoc* committees
- Regulation 10: Standing committees
- Regulation 11: Establishment of Critical Infrastructure Protection Regulator
- Regulation 12: Functions of the Critical Infrastructure Protection Regulator
- Regulation 13: Manner of service of notice

² The *Right2Know Campaign and others v The Minister of Police and Others* [2013/32512]

³ ACT No 132-2017



- Regulation 14: Commencement

The sections below provide details on the individual regulations:

3.1. Definitions

Regulation 1 of the Draft Regulations deals with the definitions used in the Regulations, including:

- **“applicant”** means a person in control of infrastructure who submits an application for declaration of that infrastructure as critical infrastructure in terms of section 17(1) of the Act;
- **“application”** means an application contemplated in section 17 of the Act to have infrastructure declared as critical infrastructure by the Minister in terms of section 20 of the Act;
- **“Council”** means the Critical Infrastructure Council established in section 4(1) of the Act;
- **“Critical Infrastructure Protection Regulator”** means the South African Police Service Component prescribed in regulation 10, and **“Regulator”** has a corresponding meaning; and
- **“the Act”** means the Critical Infrastructure Protection Act, 2019 (Act No. 8 of 2019) (CIPA).

However, the definitions of *“applicant”* and *“application”* should include the National Commissioner of SAPS.

AMENDMENT NEEDED IN THE DEFINITIONS:

The definition of ‘applicant’ must include the National Commissioner and the definition of ‘application’ must include reference to section 18 of the CIPA.

“applicant” means:

- (a) a person in control of infrastructure who submits an application for declaration of that infrastructure as critical infrastructure in terms of section 17(1) of the Act; or
- (b) **the National Commissioner when he or she submits an application for declaration of that infrastructure as critical infrastructure in terms of section 18(1) of the Act;**

And then following, “application” should include an application by the National Commissioner and could read as follows:

*“application” means an application contemplated in section 17 **or 18** of the Act to have infrastructure declared as critical infrastructure by the Minister in terms of section 20*

This paper, at the back, provides a flow-chart of the two process for application to have infrastructure declared as critical infrastructure by a person in control of infrastructure (as per section 17 of the CIPA) and the National Commissioner (as per section 18 of the CIPA).



3.2. Establishment and functions of the Critical Infrastructure Council

Regulation 2 provides for the establishment of the Critical Infrastructure Council in terms of section 4(1) of the CIPA to advise the Minister of Police to exercise the functions in terms of the CIPA. Regulation 2 further states that the Council should perform its functions as set out in section 7(1) of the CIPA.

CIPA: Section 7: Functions of Critical Infrastructure Council

7(1) The functions of the Critical Infrastructure Council are to:

(a) subject to subsection (2), consider any application for declaration of infrastructure as critical infrastructure referred to in Chapter 3 and make recommendations on such application to the Minister;

(b) subject to subsection (3), approve guidelines regarding
(i) the assessment of an application contemplated in section 17;

(ii) the implementation of the prescribed system for categorisation of critical infrastructure in a low risk, medium risk or high risk category referred to in sections 19 (1) (b) and 20 (1) (b);

(iii) policies, protocols and standards regarding any matter necessary to achieve the purpose of this Act; and

(iv) the promotion of public private sector cooperation in the protection of critical infrastructure; and

(c) perform any other functions which may be assigned to the Council by the Minister.

Regulation 8 deals with the “**Assignment of functions by the Minister**” as provided for in section 7(1)(c) of the CIPA (above). The Regulation does not give clarity on what functions can be assigned, and only provides that the Chairperson of the Council may call a special meeting of the Council in urgent matters to be dealt with speedily when so assigned by the Minister. If the Council takes a resolution that the matter cannot be dealt with at such special meeting, the Council may consult with any person within 14 days, inform the Minister of the resolution and report the matter in the bi-annual report to the Minister as stipulated in section 7(6) of the CIPA.

CIPA: Section 7(6): Bi-annual Report to the Minister of Police

7(6) The Council must, on a biannual basis, submit a report to the Minister regarding -

(a) the activities of the Council during the period preceding the report;

(b) particulars pertaining to the number of declarations as critical infrastructure, including the names of the critical infrastructure;



(c) particulars pertaining to any decision by the Council to depart from publication of the notice contemplated in section 17 (7) (b);

(d) particulars pertaining to any limitations or revocation as critical infrastructure;

(e) the level and extent of public private sector cooperation; and

(f) any other matter that may impact on the protection of critical infrastructure or the functioning of the Council.

3.3. Ordinary meetings of the Critical Infrastructure Council

The Draft Regulations provide extensive details for the administrative processes to be followed in ordinary and special meetings of the Council as section 8 of the CIPA provides for the basic provisions for meetings of the Council, in terms of the quorum and frequency of meetings, amongst others. The section states -

CIPA: Section 8: Meetings of Critical Infrastructure Council

(1) The Critical Infrastructure Council must meet at least quarterly.

(2) The Secretary for the Police Service must ensure that secretarial services are provided to the Critical Infrastructure Council.

(3) The chairperson may at any time convene a special meeting of the Council and must also convene such a meeting at the written request of the Minister.

(4) If at least three members of the Council request a special meeting in writing, the chairperson must convene such a meeting within seven days after receiving the request.

(5) Seven members of the Council, which must include the chairperson or deputy chairperson, will constitute a quorum at any meeting of the Council.

(6) Decisions of the Council must be taken by majority of votes, and in the case of an equality of votes the chairperson has a casting vote in addition to his or her deliberative vote.

Regulation 3 deals with **ordinary meetings** of the Council and provides the details for meetings such as the timeframes in which notice of meetings must be communicated (no less than 30 days prior to a meeting) and that the notice must be accompanied by copies of documents/applications that will be discussed, including applications for declaration, requests to dispense with publication, proposed policies, protocols or standards and assignment of functions by the Minister. The Chairperson of the Council must ensure that these documents are adequately sealed, and where it is electronic document, such must be password protected to ensure the confidentiality thereof.



Regulation 3(6) provides that the Council will determine its own rules of debate subject to the provisions of the CIPA. During an ordinary Council meeting, a quorum consists of seven members of the Council (from a total of 13 members), which must include the Chairperson or Deputy Chairperson.

Sub-regulations 3(8) to 3(19) deal with the detailed procedures to be followed during ordinary meetings of the Council, including that -

- The first act of an ordinary meeting, after being constituted, is to **read** and confirm by the signature of the Chairperson the **minutes** of the last preceding ordinary meeting and of any special meeting subsequently held. The meeting may consider the minutes as read, provided that objections or proposed amendments to the minutes of the last preceding ordinary or special meeting are raised and decided upon before confirmation of the minutes. Sub-regulation 3(8).
- The meeting must deal with the **business of which notice has been given** and **any other business** which a majority of the total membership of the Council agrees to consider. Sub-regulation 3(9).
- Every **motion must be seconded** and must, if the Chairperson requires this, be in writing and a **motion that is not seconded falls away**. Sub-regulation 3(10).
- Except where the Act requires a different procedure, and where consensus cannot be reached, each **question must be decided by the majority of votes** of the members present and voting and unless the meeting decides otherwise, **voting must be by show of hands**. Sub-regulation 3(11).
- Should the majority of members present **abstain from voting**, the matter to be decided on must be **deferred to the next meeting**. Sub-regulation 3(12).
- The Chairperson may, in the case of any **procedural matter** or any matter not contemplated in section 7(1) of the Act, refer such matter by letter or electronic means **for consideration** by members of the Council. Sub-regulation 3(13).
- When a majority of the members of the Council reaches agreement on a matter referred to in sub-regulation (13) without convening a meeting, **such resolution is equivalent to a resolution of the Council** and must be recorded in the minutes of the subsequent ordinary meeting. Sub-regulation 3(14).
- The **views of a member of the Council who is unable to attend** a meeting may be **submitted to the meeting in writing for consideration** but **may not count as a vote** of such member. Sub-regulation 3(15).
- The **number of members voting for or against a motion**, as well as the number of members abstaining from voting, **must be recorded in the minutes**, and at the request of any member the Chairperson must direct that the vote of such member be likewise recorded. Sub-regulation 3(16).



- The **ruling of the Chairperson** on any question of order or procedure **is binding unless immediately challenged by a member**, in which event such ruling must be submitted for discussion to the meeting whose decision is final. Sub-regulation 3(17).
- The **Council may**, on an *ad hoc* basis, **invite persons or entities who are not members but with a direct interest in a matter before the Council**, to attend meetings and allow them to take part in discussions on the matters in which such a person has an interest, provided that **they are not allowed to vote**. Sub-regulation 3(18).
- The Chairperson may direct that an **ordinary meeting** of the Council **be conducted on an electronic virtual platform**. Sub-regulation 3(19).

3.4. Special meetings of the Council

The Chairperson of the Council may convene a special meeting of the Council in the following five circumstances when a matter cannot stand over until the next ordinary meeting of the Council, including –

- 1) Within 30 days of the receipt of an application adopt a resolution to declare infrastructure as critical as per Regulation 5(6);
- 2) Within 30 days after the receipt of an application to dispense with publication to adopt a final resolution as per Regulation 6(7);
- 3) Assignment of function from the Minister of Police as provided in section 7(1)(c) of the CIPA and Regulation 8(1);
- 4) Upon written request for a special meeting from the Minister of Police as per Section 8(3) of the CIPA; and
- 5) If at least three members of the Council request a special meeting in writing Section 8(4) of the CIPA.

In case of a special meeting, Council members must be informed, in writing, no less than seven days prior to such meeting. As in ordinary meetings, the notice must include the agenda, date, time, venue and copies of all documents for consideration. The agenda must provide detail on the matters up for discussion and when a Council member regards there to be insufficient information or details, may request addition details from the Chairperson at least three days prior to the special meeting. As is the case in ordinary meetings of the Council, special meeting may be held on a virtual platform and the procedures stipulated in Regulation 3(5) to 3(18) apply to special meetings.

3.5. Resolutions of the Council in respect of applications

After consideration of an application the Council must adopt a resolution whether or not it intends to recommend declaration of such infrastructure as critical infrastructure and recommend an



appropriate risk category for the infrastructure in question. All the reasons that informed the recommendation must be recorded, including those of dissenting members.

The applicant must be informed within 14 days of the resolution being taken and the applicant must make representation to the Council within 30 days of the notice being received. Once received, the Council must consider the representation at a special meeting convened within 30 days of receipt, to decide the declaration and risk category. The resolution of the Council must be recorded including the reasons of dissenting members.

The Chairperson of the Council must then submit the application to the Minister of Police accompanied by the recommendation of the Council, together with the reasons for the decision, any written comments by interested persons, the assessment of the National Commissioner in terms of section 17(4)(b)⁴ of the CIPA, submissions made by the applicant regarding the risk category and any other representation made by the applicant. This should include any submission made by the Head of a Government Department in terms of section 18(3)(b) of the CIPA.

AMENDMENT NEEDED:

Regulation 1: Definitions. The definition of ‘application’ must be amended to include an application by the National Commissioner in terms of section 18 of the CIPA. The definition of an application should read - *“application” means an application contemplated in section 17 **or 18** of the Act to have infrastructure declared as critical infrastructure by the Minister in terms of section 20*

Regulation 5(8) should read:

(8) The Chairperson must submit the application to the Minister for consideration accompanied by—

(a) the recommendation based on the final resolution of the Council referred to in sub-regulation (6)(a), (b) and where applicable (c), together with the reasons referred to in sub-regulation (7) which must include the reasons recorded for any dissenting vote;

(b) any written comments made by interested persons in terms of section 17(4)(a)(ii) of the Act;

(c) the assessment of the National Commissioner in terms of section 17(4)(b) of the Act;

⁴ CIPA Section 17(4) Subject to subsection (5), the National Commissioner must (a) upon receipt of an application, publish a notice of the application in the *Gazette* (i) stating the name of the applicant and the address of the premises in respect of which the application is made; and (ii) inviting interested persons to submit written comments in relation to the application;

(b) within 30 days of receipt of an application conduct a physical security assessment of the infrastructure in order to (i) verify the information in the application; (ii) assess the risk category in which such infrastructure or parts thereof may be categorised; (iii) confirm whether the physical security measures proposed by the person in control of the infrastructure comply with the prescribed measures and standards for the protection of the infrastructure; (iv) provide the person in control of that infrastructure with an opportunity to make written submissions regarding the physical security assessment which is conducted in terms of this subsection; and

(c) within 60 days after the physical security assessment has been conducted or the submissions contemplated in paragraph (b) (iv) are received, whichever occurs last, submit to the Council for consideration (i) the written physical security assessment report together with the application; (ii) any comments contemplated in paragraph (a) (ii); and (iii) any written submissions in terms of paragraph (b) (iv).



(d) any submissions made by the applicant regarding the risk category referred to in section 17(4)(b)(iv) of the Act;

(e) any submissions by the Head of a Government Department in terms of section 18(3)(b);

(f) any other representations made by the applicant or any other person in terms of section 19(3)(b) of the Act.

3.6. Resolutions of the Council to dispense with publication

Regulation 6 provides for the Council to approve dispensing from section 17(4) of the CIPA that stipulates that the National Commissioner must publish a notice of application (containing the name of the applicant and address of the premises) in the Gazette for comment in relation to the application.

CIPA: Publication of notice of application in the Gazette

17(4) Subject to subsection (5), the National Commissioner must -

(a) upon receipt of an application, publish a notice of the application in the Gazette

(i) stating the name of the applicant and the address of the premises in respect of which the application is made; and

(ii) inviting interested persons to submit written comments in relation to the application;

(b) within 30 days of receipt of an application conduct a physical security assessment of the infrastructure in order to -

(i) verify the information in the application;

(ii) assess the risk category in which such infrastructure or parts thereof may be categorised;

(iii) confirm whether the physical security measures proposed by the person in control of the infrastructure comply with the prescribed measures and standards for the protection of the infrastructure;

(iv) provide the person in control of that infrastructure with an opportunity to make written submissions regarding the physical security assessment which is conducted in terms of this subsection; and

(c) within 60 days after the physical security assessment has been conducted or the submissions contemplated in paragraph (b) (iv) are received, whichever occurs last, submit to the Council for consideration -

(i) the written physical security assessment report together with the application;

(ii) any comments contemplated in paragraph (a) (ii); and

(iii) any written submissions in terms of paragraph (b) (iv).



(5) In the event that the applicant shows good cause why the procedure in subsection (4)(a) should not be followed, the National Commissioner must refer the request to the Council who may dispense with the publication as referred to in subsection (4)(a) after considering the factors in subsection (6).

(6) For purposes of subsections (4) and (5), the applicant must show that a departure from the procedure in subsection (4) (a) is reasonable and justifiable in the circumstances, taking into account all relevant factors, including -

(a) the objects of declaration as critical infrastructure;

(b) the nature, purpose and likely effect of the declaration as critical infrastructure;

(c) the nature and the extent of the departure from subsection (4)(a);

(d) the relation between the departure and its purpose;

(e) the importance of the purpose of the departure; and

(f) the need to promote an efficient administration and good governance.

Comments and questions

Regulation 6 states that an applicant may request the Council to dispense with the publication process (as provided in section 17(4) of the CIPA). As per Regulation 1: Definitions, an applicant is defined as “a person in control of infrastructure who submits an application for declaration of that infrastructure as critical infrastructure in terms of section 17(1) of the CIPA”. Section 17(1) requires a person in control of infrastructure (applicant – although not defined in the CIPA) to lodge an application with the National Commissioner to have infrastructure declared as critical infrastructure, who in turn conducts all relevant inspections and evaluations, after which the application is referred to the Council for recommendation and then to the Minister of Police for final decision.

An applicant, as defined in the Draft Regulations, is not intended to approach the Council directly in any application and as such, Regulation 6 should rather refer to the National Commissioner, who in this case is the ‘applicant’. Section 17(5) of the CIPA states that the National Commissioner must refer the request to the Council who may dispense with the publication. The request to deviate comes to the Council indirectly from the applicant through the National Commissioner.

This necessitates the amendment of the definition of applicant in the Regulation to include the National Commissioner.

3.7. Resolutions of the Council in respect of policies, protocols and standards

The Council must approve the uniform standards guidelines and protocols developed by the National Commissioner and may consult any person or entity who the Council deems suitably qualified to assist the Council. The guidelines in respect of uniform standards, guideline or



protocol as approved by the Council must be published on the website of the Civilian Secretariat for Police Service with 14 days of the resolution being taken.

Importantly, the Regulations provide that where the Council considers guidelines in respect of any policy affecting the functioning of the SAPS, the Civilian Secretariat for Police Service must be consulted.

3.8. *Ad hoc* and standing committees

The Council may, from time to time, establish (through a resolution) an *ad hoc* committee with a specific task to assist the Council in the performance of its functions. The resolution must be in writing and clearly state the following – (1) the terms of reference and tasks of the *ad hoc* committee, (2) the name of the convener of the *ad hoc* committee, (3) the names of the Council members designated to serve on the *ad hoc* committee, and (4) the timeframe of the *ad hoc* committee. An *ad hoc* committee dissolves after completion of the task outlined in the terms of reference, unless the Council by resolution extends the timeframe.

An *ad hoc* committee is not expected to reflect the composition of the Council as contemplated in the CIPA and must research a specific matter in order to advise the Council for consideration at a meeting of the Council. After finalising a task assigned to it, an *ad hoc* committee must compile a report on the matter for submission to the Council for consideration within the stipulated timeframe and the Council is not bound by the report of an *ad hoc* committee.

As with the establishment of *ad hoc* committees, the Council may, from time to time, establish **standing committees** to assist the Council in the performance of its functions, through a resolution of the Council, under the same conditions as an *ad hoc* committee and performs the same functions. A standing committee must submit a report on its activities to the Council at each meeting for consideration. A standing committee dissolves by resolution of the Council.

Comments and questions

Standing Committees are expected to submit a report to the Council at each meeting, however, this provision presumably only applies to ordinary meetings of the Council and not special meetings, unless otherwise stipulated. Special meetings can be called regularly to discuss urgent matters.

3.9. Establishment of Critical Infrastructure Protection Regulator

Section 9(1)(a) of the CIPA requires the National Commissioner to establish and maintain the administrative systems and procedures necessary for the implementation and enforcement of the CIPA. This function will be conducted through the establishment of the **Critical Infrastructure Protection Regulator** as a component within the structures of the SAPS. The component will be headed by a suitably qualified and experienced police official of a rank not less than level 14 (Major General or higher). The Regulator will also effect cooperation between the SAPS, other organs of state and the private sector insofar as it relates to the protection of critical infrastructure.



The Regulator must develop uniform standards, guidelines and protocols for submission to the National Commissioner, as well as structures and mechanisms to facilitate coordination in, and management of, the protection of critical infrastructure, including:

- The manner in which infrastructure may be identified, categorised and declared critical infrastructure to supplement any regulations made in terms of the Act;
- Any physical security assessment of critical infrastructure and potential critical infrastructure is conducted and coordinated between officials of the Regulator and officials from any other government department, including the State Security Agency and the National Disaster Management Centre;
- Information which may be relevant to critical infrastructure protection is shared between the relevant stakeholders; or any committee or forum referred to in the Act or these regulations must function and report.

The uniform standards, guidelines and protocols must be consulted with Government Departments in the Justice, Crime Prevention and Security (JCPS) Cluster, other relevant Government Departments, the National Intelligence Co-ordinating Committee or any other person or entity that has an interest in the protection of critical infrastructure. The Interim Regulation provides that the Regulator may dispense with the consultation process in instances where the uniform standard, guideline or protocol is of a purely internal administrative nature.

In instances where any uniform standard, guideline or protocol requires to be classified in accordance with the Minimum Information Security Standards (MISS), the Head of the Regulator may restrict the consultation to persons or officials in other Departments who have the relevant security clearance.

Comments and questions

The SAPS should provide clarity on which Budget Programme the Regulator will be established “as a component within the structures of the SAPS.” This will presumably be in Programme 5: Protection and Security Services, as it currently deals with National Key Points which will fall away once the CIPA is implemented and becomes operational. The SAPS has an established Government Security Regulator, which will presumably incorporate the Critical Infrastructure Protection Regulator (or will replace it).

4. APPOINTMENT OF THE COUNCIL

In accordance with the CIPA, the Portfolio Committee on Police interviewed prospective candidates to serve on the CIC from 8 to 10 June 2021. The Committee’s report, in which 10 individuals from the private sector were recommended for appointment to the Council (by the Minister of Police), was published on 05 August 2021 (ATC No. 102 – 2021). The table below shows the candidates that were recommended for appointment and those the Minister of Police appointed to the Council. On 06 December 2021, the Minister of Police, directed a communique to the Speaker of the National Assembly, submitting the members of the inaugural Council that will serve for a five-year term.



Since, the Speaker of the National Assembly has been in contact with the Minister of State Security to fast-track the security clearance of the Council Members. Prior to appointment the Members should obtain top secret security clearance as stipulated in section 4(7)(c) of the CIPA. The clearance is currently still outstanding. **The Council cannot start its functions before the clearance is obtained.**

5. ROLE OF THE CIVILIAN SECRETARIAT FOR POLICE SERVICE (CSPS)

The Civilian Secretariat for Police Service plays a significant role in the functioning of the Critical Infrastructure Council, including the following:

- The Secretary for Police Service serves as the Chairperson of the Council – Sections 4(1)(a) and 4(11) of the CIPA.
- Section 8(2) of the CIPA requires the Secretary for Police Service to ensure that secretarial services are provided to the Council.
- Section 6 of the CIPA requires that the expenses incurred in connection with the exercise of the powers, the carrying out of the duties and the performance of the functions of the Critical Infrastructure Council, including the remuneration and expenses contemplated in section 4(17), must be defrayed from the budget allocation of the Civilian Secretariat for the Police Service.

The relevant government departments and institutions will be responsible for the remuneration and costs of participation at meetings of their employees who serve on the Council. The SAPS will be responsible for the expenses relating to the activities of the National Commissioner.

CIPA: Section (17): Remuneration of Council Members

Members of the Council who are appointed in terms of subsection (8) (five members from the private sector) may be paid such remuneration and allowances as the Minister may, with the written concurrence of the Minister of Finance, determine.

Comments and questions

- 1) Both the Office of the Directorate for Priority Crime Investigation Judge (DPCI Judge) and the National Forensic Oversight and Ethics Board (DNA Board) are funded from the budget of the Civilian Secretariat for Police Service. In 2022/23, a total allocation of R10.9 million was made towards these two bodies (R7.2 million to the DPCI Judge and R3.75 million to the DNA Board), which is 7.3% of the Secretariat's total budget allocation for 2022/23 (R150.2 million).
- 2) Will the Secretariat be able to afford to pay the remuneration of civilian council members and also provide secretarial services to the council from an already constrained personnel capacity and budget?
- 3) When, and how will the remuneration of the civilian members of the Council be determined? Has the Minister of Police consulted with the Minister of Finance on this remuneration?



4) The secretarial services that must be provided by the Secretary is of a high-level nature, as the Council must compile and submit an annual report to the Minister for submission in Parliament.

5) The Secretariat should submit a report to the Committee on the various Boards/Councils under its responsibility and indicate the resources, including personnel and financial, allocated to the establishment and maintenance of the Councils/Boards.

6. REFERENCES

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7. ANNEXURE: FLOWCHART OF APPLICATION PROCESS FOR DECLARATION AS CRITICAL INFRASTRUCTURE

