

- (a) give strategic leadership to the Directorate;
- (b) develop and implement policy for the Directorate;
- (c) oversee and monitor performance at provincial level and intervene to rectify challenges where necessary;
- (d) gather, keep and analyse information in relation to investigations;
- (e) identify and review legislative needs and report on such matters to the Secretariat;
- (f) do internal auditing of the Directorate;
- (g) provide administrative support to the Directorate;
- (h) strengthen the co-operative relationship between the Directorate and Secretariat;
- (i) report to the relevant MEC on matters referred to the Executive Director by the MEC;
- (j) submit an annual report to the Minister and Parliament;
- (k) implement information measures to develop public awareness of the provisions of this Act;
- (l) deal with any other matter referred to it by the Minister;
- (m) make recommendations to the South African Police Service resulting from investigations done by the Directorate; and
- (n) report twice a year to Parliament on the number of cases, the recommendations and the detail and the outcome thereof.

Reporting on cases

10. (1) The Directorate must provide reports to the Secretariat on an ongoing basis on the finalisation of investigations and on its findings and recommendations made.

(2) The Secretariat must monitor implementation by the South African Police Services of the recommendations made by the Directorate and provide the Executive Director with regular reports on steps taken by it to ensure compliance.

Delegations

11. (1) Subject to subsections (2) and (3), the Executive Director may delegate functions entrusted to the Executive Director under this Act to any other person with appropriate knowledge and experience who is under the control of the Executive Director.

(2) A delegation under subsection (1) must be in writing and—

- (a) may be subject to any conditions or restrictions determined by the Executive Director;
- (b) does not prevent the exercise of any power of the Executive Director; and
- (c) may be withdrawn or amended by the Executive Director.

(3) The Executive Director may not delegate any of the powers, functions or duties referred to in sections 7(1), (2), (3), (5), (6), (7), (8), (9) and (10), 8, 21, 23, 32(2), 33(1) and (2), and 35 of this Act.

CHAPTER 3

MANAGEMENT COMMITTEE

Establishment of Management Committee

12. There is hereby established a Management Committee.

Composition of Committee

13. (1) The Committee established in terms of section 12 consists of—

- (a) the Executive Director; and
- (b) the provincial head for each province.

(2) The Executive Director is the chairperson of the Committee.

(3) The Executive Director may invite any person not mentioned in subsection (1) to a meeting of the Committee.

Functions of Committee

- 14.** (1) The Committee is responsible for the following functions:
- (a) To ensure co-ordination and alignment within each province regarding—
 - (i) strategic and performance plans;
 - (ii) priorities, objectives and strategies across national and provincial levels;
 - (iii) adherence to financial requirements prescribed in terms of the Public Finance Management Act; and
 - (iv) interaction between the various provincial directorates;
 - (b) to identify any other matter of strategic importance to the functioning of the Directorate within each province;
 - (c) to discuss performance in the provision of services in order to detect failures and to initiate preventative or corrective action when necessary;
 - (d) to raise national management issues; and
 - (e) to ensure regular reporting on matters specific to the performance of the functions of the respective provincial directorates.

Meetings of Committee

15. (1) The Committee meets as often as circumstances require, but at least four times every year, at such time and place as the Executive Director may determine.

(2) The Committee may determine its own procedure for its meetings.

CHAPTER 4

CONSULTATIVE FORUM

Establishment of forum

16. There is hereby established a Consultative forum.

Composition of forum

17. (1) The forum established in terms of section **16** consists of—

- (a) the Executive Director; and
- (b) the Secretary.

(2) The Executive Director or Secretary, in consultation with one another, may invite any person not mentioned in subsection (1) to a meeting of the forum.

Functions of forum

18. The functions of the forum are to—

- (a) facilitate closer cooperation between the Secretary and the Executive Director; and
- (b) discuss at least trends, recommendations and implementation of recommendations.

Meetings of forum

- 19.** (1) The Secretary must convene the first meeting of the forum and preside at that meeting.
- (2) The Secretary and the Executive Director must alternate as chairperson at meetings.
- (3) The forum determines its own procedure and agenda for its meetings.
- (4) The forum must meet at least four times a year on issues of common interest.

CHAPTER 5**PROVINCIAL OFFICES****Provincial offices**

- 20.** Each provincial office is headed by a provincial head who is appointed—
- (a) at the level of Chief Director; and
- (b) on a permanent basis in terms of section **21(1)**.

Appointment of provincial heads

21. (1) The Executive Director appoints the provincial head for each province in accordance with the laws governing the public service.

(2) The provincial head must conclude a written performance agreement with the Executive Director—

- (a) within a reasonable time after the appointment of the provincial head; and
- (b) thereafter, annually within one month of the commencement of each financial year.

(3) The performance agreement referred to in subsection (2) must include—

- (a) measurable performance objectives and targets that must be met, and must provide for the time-frames within which those performance objectives and targets must be met;
- (b) standards and procedures for evaluating performance and intervals for evaluation; and
- (c) the consequences of substandard performance.

(4) When the provincial head is unable to perform the functions of office, or during a vacancy in the provincial office, the Executive Director may designate another person to act as provincial head until the provincial head returns to perform the functions of office or the vacancy is filled.

(5) In the case of a vacancy, the Executive Director must fill the vacancy within a reasonable period of time, which period shall not exceed one year.

Responsibilities of provincial head

22. (1) A provincial head is responsible for the following:

- (a) Appointment and performance management of staff at provincial level;
- (b) to facilitate investigation of cases and to perform any other function incidental to such investigations;
- (c) to control and monitor active cases;
- (d) to refer matters investigated by the provincial office under this Act to the National or relevant provincial prosecuting authority for criminal prosecution;
- (e) to report to the Executive Director on matters investigated;
- (f) to facilitate cooperation between the provincial head and the provincial police secretariat;
- (g) to report to the Executive Director on recommendations and finalisation of cases;
- (h) to report to the Executive Director on the management of provincial offices and finances;
- (i) to report to the relevant MEC on matters referred to the Provincial Head by the MEC;
- (j) to ensure adherence to guidelines issued by the national office relating to the investigation and management of cases by officials within the respective provincial offices;

- (k) to keep proper financial records in accordance with the prescribed norms and standards;
- (l) to prepare financial statements for submission to the Executive Director within two months after the end of the financial year;
- (m) to ensure compliance with administrative guidelines issued by the Executive Director; and
- (n) to manage the provincial office.

CHAPTER 6

APPOINTMENT, REMUNERATION, FUNCTIONS AND POWERS OF INVESTIGATORS

Appointment of investigators

23. (1) The Executive Director, in consultation with the provincial head, must appoint a fit and proper person as an investigator of the Directorate, subject to subsections (2), (3) and (4).

(2) A person appointed as an investigator—

- (a) must have at least a grade 12 certificate or, a relevant diploma or degree; and
- (b) must have—
 - (i) knowledge and relevant experience of criminal investigation;
 - (ii) knowledge and relevant experience of legal process;

- (iii) knowledge and relevant experience of human rights; or
- (iv) any other relevant experience.

(3) A person may not be appointed as an investigator unless information with respect to that person has been gathered in an appropriate security screening investigation as prescribed by the Minister.

(4) The security screening investigation contemplated in subsection (3), must be done in conjunction with the National Intelligence Agency, as referred to in section 3 of the Intelligence Services Act, 2001 (Act No. 65 of 2002).

(5) The Executive Director or official so delegated by him or her must issue a security screening certificate in respect of such person wherein it is certified that such person has successfully undergone a security clearance and is appointed as an investigator in terms of this Act.

(6) Any investigator may from time to time, or at such regular intervals as the Executive Director may determine, be subjected to a further security screening as contemplated in subsection (3).

(7) A person must be discharged from his or her position as an investigator if he or she fails to conform to the security clearance prescripts.

(8) An investigator is given policing powers contemplated in section 25(2) by the Minister, within three months after his or her appointment with the Directorate.

Remuneration and conditions of service of investigators

24. The conditions of service, including the salary and allowances payable to an investigator appointed under this Act, must be on par with members appointed as detectives in terms of the South African Police Service Act.

Functions and investigative powers

25. (1) An investigator may, subject to the control and direction of the Executive Director or the relevant provincial head, exercise such powers and must perform such duties as are conferred or imposed upon him or her by or under this Act or any other law and must obey all lawful directions which he or she may from time to time receive from a person having the authority to give such directions under this Act.

(2) An investigator has the powers as provided for in the Criminal Procedure Act, 1977 (Act No. 51 of 1977), which are bestowed upon a peace officer or a police official, relating to—

- (a) the investigation of offences;
- (b) the ascertainment of bodily features of an accused person;
- (c) the entry and search of premises;
- (d) the seizure and disposal of articles;
- (e) arrests;
- (f) the execution of warrants; and

(g) the attendance of an accused person in court.

(3) (a) For the purposes of conducting an investigation, an investigator may direct any person to submit an affidavit or affirmed declaration or to appear before him or her to give evidence or to produce any document in that person's possession or under his or her control which has a bearing on the matter being investigated, and may question such person thereon.

(b) An investigator or any person duly authorised thereto by him or her may request an explanation from any person whom he or she reasonably suspects of having information which has a bearing on a matter being or to be investigated.

Conflict of interest and disclosure of interest

26. (1) No member of the Directorate may conduct an investigation, or render assistance with an investigation, in respect of a matter which he or she has a financial or any other interest which might preclude him or her from exercising or performing his or her powers, duties and functions in an objective manner.

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

(a) immediately and fully disclose the fact and nature of that interest to the Executive Director; and

- (b) withdraw from any further involvement in that investigation.

Integrity measures

27 (1) The Minister may prescribe measures for integrity testing of members of the Directorate, which may include random entrapment, testing for the abuse of alcohol or drugs, or the use of a polygraph or similar instrument to ascertain, confirm or examine in a scientific manner the truthfulness of a statement made by a person.

(2) The necessary samples required for any test referred to in subsection (1), may be taken, but any sample taken from the body of a member may only be taken by a registered medical practitioner or a registered nurse.

(3) The Minister shall prescribe measures to ensure the confidentiality of information obtained through integrity testing, if such measures are prescribed in terms of subsection (1).

Limitation of liability

28 Whenever any person is conveyed in or makes use of any vehicle, aircraft or vessel, being the property or under the control of the Directorate, the Directorate or any member is not be liable to such person or his or her spouse, parent, child or other dependant for any loss or damage resulting from any bodily injury, loss of life or loss of or damage to property caused by or arising out of or

in any way connected with the conveyance in or the use of such vehicle, aircraft or vessel, unless such person is so conveyed or makes use thereof in the interest or performance of the functions of the Directorate: Provided that the provisions of this section does not affect the liability of a member who wilfully causes the said loss or damage.

Type of matters to be investigated

29. (1) The Directorate must investigate—

- (a) any deaths in police custody whether that police officer is on or off duty;
- (b) deaths as a result of police actions whether that police officer is on or off duty;
- (c) any discharge of an official firearm by any police officer where there is a complainant, whether that police officer is on or off duty;
- (d) rape by a police officer, whether the police officer is on or off duty;
- (e) rape of any person while that person is in police custody;
- (f) any complaint of torture or assault whether that police officer is on or off duty;
- (g) corruption matters within the police initiated by the Executive Director on its own, or after the receipt of a complaint from a member of the public, or referred to the Directorate by the Minister, an MEC or the Secretary, as the case may be; and

(h) any other matter referred to it as a result of a decision of the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be, in the prescribed manner.

(2) The Directorate may investigate matters relating to systemic corruption involving the police.

CHAPTER 7

REPORTING OBLIGATIONS AND COOPERATION BY MEMBERS OF THE SOUTH AFRICAN POLICE SERVICE AND MUNICIPAL POLICE SERVICE AND DISCIPLINARY RECOMMENDATION

Reporting obligations and cooperation by members

30. (1) The Station Commissioner, or any member of the South African Police Service or Municipal Police Service must—

- (a) immediately after becoming aware, notify the Directorate of any matters referred to in section 29 (a) to (h); and
- (b) within 24 hours thereafter, submit a written report to the Directorate in the prescribed form and manner of any matter as contemplated in paragraph (a).