

(2) The members of the South African Police Service or Municipal Police Service must provide their full cooperation to the Directorate, including but not limited to—

- (a) the arrangement of an identification parade within 48 hours of the request made by the Directorate;
- (b) the availability of members for the taking of an affidavit or an affirmed declaration or to give evidence or produce any document in that member's possession or under his or her control which has a bearing on the matter being investigated; and
- (c) any other information or documentation required for investigation purposes.

Disciplinary recommendations

31. The National Commissioner or the appropriate Provincial Commissioner to whom recommendations regarding disciplinary matters were referred, as contemplated in section 7(6) and (7), must—

- (a) within 30 days of receipt thereof, initiate disciplinary proceedings in terms of the recommendations made by the Directorate and inform the Minister in writing, and provide a copy thereof to the Executive Director and the Secretary;

- (b) quarterly submit a written report to the Minister on the progress regarding disciplinary matters made in terms of paragraph (a) and provide a copy thereof to the Executive Director and the Secretary; and
- (c) immediately on finalisation of any disciplinary matter referred to it by the Directorate, to inform the Minister in writing of the outcome thereof and provide a copy thereof to the Executive Director and the Secretary."

CHAPTER 8

FINANCES AND ACCOUNTABILITY AND ANNUAL REPORT

Finances and accountability

- 32. (1)** The Executive Director —
- (a) must, subject to the Public Finance Management Act—
- (i) be charged with the responsibility of accounting for money received or paid out for or on account of the office of the Directorate;
- (ii) cause the necessary accounting and other related records to be kept; and
- (b) may exercise such powers and perform such duties as may from time to time be conferred upon or assigned to him or her, and in respect thereof be accountable to the Minister.

(2) The records referred to in subsection (1)(a) must be audited by the Auditor-General.

Annual report

33. (1) The Executive Director must prepare and submit to the Minister an annual report in the form prescribed by the Minister within five months after the end of the financial year .

(2) The annual report referred to in subsection (1) must include the following documents:

- (a) The audited financial statements prepared in terms of this Act;
- (b) the Auditor-General's report prepared in terms of this Act; and
- (c) a **detailed** report on the activities of the Directorate undertaken during the year to which the audit relates.

(3) The Minister must table in Parliament a copy of the annual report, financial statements and the audit report on those statements within one month after receipt thereof if Parliament is then in session, or if Parliament is not then in session, within one month after the commencement of its next ensuing session.

(4) The Executive Director must publish the annual report, financial statements and the audit report on those statements.

OFFENCES AND PENALTIES

Offences and penalties

34. (1) Any person or private entity, who interferes, hinders or obstructs the Executive Director or a member of the Directorate in the exercise or performance of his or her powers or functions, is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years.

(2) Any member of the Directorate who wilfully discloses information in circumstances in which he or she knows, or could reasonably be expected to know that such a disclosure will or may prejudicially affect the exercise or the performance by the Directorate of the powers and functions is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(3) Any police officer who fails to comply with section 30 is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(4) Any member who fails to make disclosure in accordance with section 26(2)(a), or withdraw in terms of section 26(2)(b), as the case may be is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(5) Any person who pretends to be an investigator in terms of this Act is guilty of an offence and liable on conviction to a fine or to imprisonment for period not exceeding two years.

CHAPTER 10

REGULATIONS, TRANSITIONAL ARRANGEMENTS, REPEAL AND SHORT TITLE AND COMMENCEMENT

Regulations

- 35.** (1) The Minister may, after consultation with the Executive Director, make regulations regarding—
- (a) access and control of confidential information and records pertaining to investigations instituted in terms of this Act;
 - (b) the procedure to be followed when investigating matters referred to in section **29(1)(a) to (h)**;
 - (c) the procedure to be followed when reporting on cases dealt with under this Act;
 - (d) the procedure to be followed for referring, receiving, registering, processing and disposing of complaints;
 - (e) the procedure to be followed when investigating criminal matters;
 - (f) the procedure to be followed for initiating special investigations;

- (g) the measures for integrity testing of members of the Directorate as contemplated in section 27(1);
- (h) the measures to ensure the confidentiality of information obtained as contemplated in section 27(3);
- (i) any issues to be contained in the annual report contemplated in section 33;
- (j) the procedure and format to be followed regarding reporting to the Directorate as contemplated in section 28(1);
- (k) the procedure to be followed for the arrangement and the holding of identification parades, as contemplated in section 30(2)(a);
- (l) the procedure to be followed for the taking of an affidavit or an affirmed declaration or to give evidence or produce any document in that member's possession or under his or her control which has a bearing on the matter being investigated, as contemplated in section 30(2)(b);
- (m) the procedure to be followed for the submission of any other information or documentation required for investigation purposes, as contemplated in section 30(2)(c);
- (n) the procedure to be followed in respect of disciplinary recommendations as contemplated in section 31;
- (o) the manner and procedure to secure a crime scene to be investigated by the Directorate; and
- (p) in general, any ancillary or incidental matter that is necessary to prescribe for the proper implementation or administration of this Act.

(2) The regulations referred to in terms of in subsection (1)(a) to (o) must be submitted to Parliament, while it is in session, for Parliamentary scrutiny at least one month before promulgation.

(3) Regulations with regard to the implementation of this Act must be submitted to the Minister by the Executive Director within three months of the commencement of this Act.

Transitional arrangements

36. (1) As from the fixed date—

- (a) all powers exercised and functions performed by investigators immediately before the fixed date, must be exercised and performed by the Directorate;
- (b) any investigation instituted in terms of the previous Act which was pending must be disposed of as if this Act had not been passed; and
- (c) the allocated budget, assets and liabilities of the Directorate as agreed upon between the accounting officers of the Independent Complaints Directorate and the Directorate, must be transferred to the Directorate in accordance of section 42 of the Public Finance Management Act.

(2) The Registrar of Deeds must make the necessary entries and endorsements for the transfer of any property in terms of this section.

(3) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of the employer must be regarded as having taken place when

the investigators and administrative and support personnel are transferred to take up employment with the Directorate.

(4) For as long as remuneration, allowances and other conditions of service under the South African Police Service Act are more favourable than those determined under this Act, the remuneration, allowances and other conditions of service under the South African Police Service Act prevails.

(5) The security clearance issued before the fixed date, remains valid until such time it is reissued in terms of this Act.

(6) (a) This Act does not affect the validity of any investigation or prosecution conducted, pending or under investigation by the Independent Complaints Directorate on or before the fixed date.

(b) All matters which relate to service complaints of the South African Police Service will be transferred to the South African Police Service and where appropriate, the Secretariat.

Amendment and repeal of laws

37. (1) The laws mentioned in Schedule 1 are hereby amended to the extent set out in the third column of that Schedule.

(2) The laws set out in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule.

Short title and commencement

38. This Act is called the Independent Police Investigative Directorate Act, 2010 and comes into operation on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE 1
LAWS AMENDED

No. and year of law	Short Title	Extent of amendment
Act 68 of 1995	South African Police Service Act	<p>Amendment of section 1 of Act 68 of 1995, as amended by section 1 of Act 41 of 1997 and section 1 of Act 83 of 1998</p> <p>1. Section 1 of the South African Police Service Act, 1995 is hereby amended—</p> <p>(a) by the substitution for the definition of “secretariat” of the following definition: “ secretariat” means the Secretariat for [Safety and Security] Police established under section 2(1);”</p> <p>(b) by the substitution for the definition of “Secretary” of the following definition: “ Secretary” means the Secretary [for Safety and Security] of Police appointed under section 2(2);”</p> <p>Amendment of section 2 of Act 68 of 1995</p> <p>1. Section 2 of the</p>

No. and year of law	Short Title	Extent of amendment
		<p>South African Police Service Act, 1995 is hereby amended by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 40px;">“(1) (a) The Minister shall establish a secretariat to be called the Secretariat for [Safety and Security] Police.</p> <p style="padding-left: 80px;">(b) A provincial government may establish a provincial secretariat to be called the Provincial Secretariat for [Safety and Security] Police:</p> <p>Provided that the date on which a provincial secretariat will come into operation shall be determined by a provincial government in consultation with the Minister.”</p>
Act 112 of 1998	Witness Protection Act	<p>Amendment of section 1 of Act 112 of 1998</p> <p>1. Section 1 of the Witness Protection Act, 1998 is hereby amended—</p> <p>(a) by the substitution of the definition of “Complaints</p>

No. and year of law	Short Title	Extent of amendment
		<p>Directorate” of the following definition: “Complaints Directorate” means the Independent [Complaints] Police Investigative Directorate, established under section [50] 2 of the [South African Police Service Act, 1995 (Act No. 68 of 1995)] Independent Police Investigative Directorate Act, 2010.”</p> <p>2. The substitution for the words “Complaints Directorate” wherever it occurs in the Act, of the word “Directorate”.</p>
Act 116 of 1998	Domestic Violence Act	<p>Amendment of section 18 of Act 116 of 1998</p> <p>1. Section 18 of the Domestic Violence Act, 1998, is hereby amended— (a) by the substitution in subsection (4) for the following subsection: “(4) (a) Failure by a member of the South African Police Service to comply with an obligation imposed in terms of this Act or the national</p>

No. and year of law	Short Title	Extent of amendment
		<p>instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police Service Act, 1995, and the [Independent Complaints Directorate] Secretariat, established in terms of [that Act] section 3(1) of the Civilian Secretariat for Police Service Act, 2010, must forthwith be informed of any such failure reported to the South African Police Service.</p> <p>(b) Unless the [Independent Complaints Directorate] Secretariat directs otherwise in any specific case, the South African Police Service must institute disciplinary proceedings against any member who allegedly failed to comply with an obligation referred to in paragraph (a).";</p> <p>(b) by the substitution in subsection (5) for paragraphs (c) and (d) of the following paragraphs respectively:</p> <p>"(5) (c) The [Independent Complaints Directorate] Secretariat must, every six months, submit a report to Parliament regarding the number and particulars of matters</p>

No. and year of law	Short Title	Extent of amendment
		<p>reported to it in terms of subsection (4) (a), and setting out the recommendations made in respect of such matters.</p> <p>(d) The National Commissioner of the South African Police Service must, every six months, submit a report to Parliament regarding—</p> <p>(iii) steps taken as a result of recommendations made by the [Independent Complaints Directorate] Secretariat.</p>
Act 70 of 2002	Regulation of Interception of Communications and Provision of Communication Related Information Act	<p>Amendment of section 1 of Act 70 of 2002, as amended by the schedule of Act 36 of 2005 and section 1 of Act 48 of 2008</p> <p>1. Section 1 of the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 is hereby amended—</p> <p>(a) by the substitution of the definition of “Executive Director” of the following definition:</p> <p>“Executive Director” means the Executive Director appointed in terms of section [51] 5(1) of the</p>

No. and year of law	Short Title	Extent of amendment
		<p>[South African Police service Act] <u>Independent Police Investigative Directorate Act, 2010.</u>"</p> <p>(b) by the substitution for the definition of "Independent Complaints Directorate" of the following definition: "Independent Complaints Directorate" means the Independent [Complaints] Police Investigative Directorate established by section [50(1)] 2 of the [South African Police Service Act] Independent Police Investigative Directorate Act, 2010."</p> <p>2. The substitution for the words "Independent Complaints Directorate" wherever it occurs in the Act, of the word "Directorate".</p>



SCHEDULE 2
LAWS REPEALED

No. and year of law	Short Title	Extent of repeal
Act 68 of 1995	South African Police Service Act, 1995	Chapter 10