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## THE PRESIDENCY

No. 425 16 May 2011

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 1 of 2011: Independent Police Investigative Directorate Act, 2011**

## IHHOVISI LIKAMONGAMELI

Ino. 425 16 May 2011

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMetho nosewuzoshicilelelwa umphakathi:—

**Ino. 1 Ka 2011: Umthetho weHovisi loMqondisi wezamaPhoyisa Eliphenya Ngokuzimele we-2011**





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4. Independence and impartiality

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**CHAPTER 1**

**DEFINITIONS, OBJECTS OF ACT, ESTABLISHMENT,  
INDEPENDENCE AND IMPARTIALITY**

**Definitions**

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1. In this Act, unless the context indicates otherwise—

- “**Committee**” means the Management Committee established under section 11;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
- “**Directorate**” means the Independent Police Investigative Directorate established in terms of section 3;
- “**Executive Director**” means the Executive Director appointed in terms of section 6(1);
- “**financial year**” means the period from 1 April in any year to 31 March in the ensuing year;
- “**fixed date**” means the date of commencement of this Act;
- “**forum**” means the Consultative Forum established under section 15;
- “**investigator**” means a person appointed under section 22;
- “**MEC**” means the Member of the Executive Council of a province who is responsible for policing in that province;
- “**Minister**” means the Minister of Police;
- “**municipal police service**” means a municipal police service established under section 64A of the South African Police Service Act;
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
- “**provincial head**” means a person appointed under section 20;
- “**Public Finance Management Act**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- “**Public Service Act**” means the Public Service Act, 1994 (Proclamation No. 103 of 1994);

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**ISIAHLUKO 1****IZINCAZELO, IZINJONGO ZOMTHETHO, UKUSUNGULWA, UKUZIMELA, KANYE NOKUNGAVUNI** 20**Izincazelo**

1. Kulo Mthetho, ngaphandle uma ingqikithi ibeka ngenye indlela—  
“iKomidi” lichaza iKomidi Lezokusingatha elisungulwe ngaphansi kwesigaba se-11  
“uMthethosisekelo” uchaza uMthethosisekelo waseRiphabhuliki yaseNingizimu Afrika, we-1996; 25  
“iHhovisi loMqondisi” lichaza iHhovisi loMqondisi wezamaPhoyisa Eliphenya Ngokuzimele elisungulwe ngokwemigomo yesigaba sesi-3;  
“uMqondisi oMkhulu” uchaza uMqondisi oMkhulu oqokwe ngokwemigomo yesigaba sesi-6(1); 30  
“unyaka wezezimali” uchaza isikhathi kusukela lu-1 Apreli kunoma omuphi unyaka kuze kufike zingama-31 Mashi onyakeni olandelayo;  
“usuku olunqunywe” lichaza usuku okuzoqalanga ukusebenza kwalo Mthetho;  
“ithimba” lichaza iThimba Lokuxoxisana elisungulwe ngaphansi kwesigaba se-15; 35  
“umphenyi” uchaza umuntu oqokwe ngaphansi kwesigaba sama-22;  
“u-MEC” uchaza iLungu loMkhandlu Weziphathimandla zesifundazwe elibheke ezokuvikeleka kuleso sifundazwe;  
“uNgqongqoshe” uchaza uNgqongqoshe wezamaPhoyisa; 40  
“uphiko lwezemisebenzi yamaphoyisa omasipala” lichaza uphiko lwezemisebenzi yamaphoyisa omasipala olusungulwe ngaphansi kwesigaba sama-64A se-South African Police Service Act;  
“igatsha lombuso” lichaza igatsha lombuso njengoba lichazwe esigatsheni sama-239 soMthethosisekelo; 45  
“inhloko yesifundazwe” ichaza umuntu oqokwe ngaphansi kwesigaba sama-20;  
“i-Public Finance Management Act” ichaza i-Public Finance Management Act, 1999 (Act No. 1 of 1999);  
“i-Public Service Act” ichaza i-Public Service Act, 1994 (Proclamation No. 103 of 1994); 50

**“Secretariat”** means the Civilian Secretariat for Police Service established in terms of section 4(1) of the Civilian Secretariat for Police Service Act, 2011;  
**“Secretary”** means the Secretary for the Police Service appointed in terms of section 7(1) of the Civilian Secretariat for Police Service Act, 2011;  
**“security clearance certificate”** means an official document issued by the Executive Director indicating the degree of security competence of a person;  
**“South African Police Service Act”** means the South African Police Service Act, 1995 (Act No. 68 of 1995); and  
**“this Act”** includes the Schedule and regulations.

## **Objects of Act** 10

2. The objects of this Act are—
- (a) to give effect to the provision of section 206(6) of the Constitution establishing and assigning functions to the Directorate on national and provincial level;
  - (b) to ensure independent oversight of the South African Police Service and Municipal Police Services; 15
  - (c) to align provincial strategic objectives with that of the national office to enhance the functioning of the Directorate;
  - (d) to provide for independent and impartial investigation of identified criminal offences allegedly committed by members of the South African Police Service and Municipal Police Services; 20
  - (e) to make disciplinary recommendations in respect of members of the South African Police Service and Municipal Police Services resulting from investigations conducted by the Directorate;
  - (f) to provide for close co-operation between the Directorate and the Secretariat; 25  
and
  - (g) to enhance accountability and transparency by the South African Police Service and Municipal Police Services in accordance with the principles of the Constitution.

## **Establishment** 30

3. (1) The Independent Police Investigative Directorate, to be structured at national level, with provincial offices, is hereby established.
- (2) The Directorate must exercise its functions in accordance with this Act and any other relevant law.
- (3) The Directorate is financed from money that is appropriated by Parliament. 35

## **Independence and impartiality**

4. (1) The Directorate functions independently from the South African Police Service.
- (2) Each organ of state must assist the Directorate to maintain its impartiality and to perform its functions effectively.

## **CHAPTER 2** 40

### **NATIONAL OFFICE**

#### **National office**

5. The national office is hereby established and is headed by the Executive Director.

“iHhovisi likaNobhala” lichaza iHhovisi likaNobhala loLuntu oPhikweni lwezamaPhoyisa elisungulwe ngaphansi kwesigaba sesi-4(1) se-*Civilian Secretariat for Police Service Act, 2011*);  
 “uNobhala” uchaza uNobhala woPhiko lwezeMisebenzi yamaPhoyisa oqokwe ngaphansi kwesigaba sesi-7(1) se-*Civilian Secretariat for Police Service Act, 2011*”;  
 “isitifiketi esigunyaza ukuthola imininingwane ethile” sichaza umqulu osemthethweni okhishwe uMqondisi oMkhulu oveza izinga lokuvikeleka komuntu”;  
 “i-South African Police Service Act” ichaza i-*South African Police Service Act, 1995 (Act No. 68 of 1995)*; futhi  
 “lo Mthetho” ubandakanya isiThasiselo nezimiso zomthetho”.

## Izinjongo zomthetho

### 2. Izinjongo zalo Mthetho—

- (a) ukusebenzisa umbandela wesigaba sama-206(6) soMthethosisekelo ngokusungula nokudlulisela imisebenzi eHhovisi loMqondisi ezingeni likazwelonke nelesifundazwe; 15
- (b) ukuqikelela ukuphatha ngokuzimela oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kanye nasoPhikweni lwezeMisebenzi yamaPhoyisa oMasipala; 20
- (c) ukuhambisa ngendlela efanayo izinjongo zamasu esifundazwe nezehhovisi likazwelonke ukuze kuqhakanjise ukusebenza kweHhovisi loMqondisi; 20
- (d) ukuhlinzekela ngokuzimela kanye nophenyo olungavuni emacaleni obulelesi aveziwe asolwa ngokuthi enziwe amalungu oPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika; 25
- (e) ukwenza izincomo zokuqondiswa kwezigwegwe kulawo malungu oPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kanye nawoPhiko lwezeMisebenzi yamaPhoyisa oMasipala ezibangelwe uphenyo olwenziwe eHhovisi loMqondisi; 25
- (f) ukuhlinzekela ngokusebenzisana phakathi kweHhovisi loMqondisi kanye neHhovisi likaNobhala; kanye 30
- (g) nokuqhakambisa ukubhekelela kanye nokuvuleleka oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kanye nasoPhikweni lwezeMisebenzi yamaPhoyisa oMasipala ngokulandela imigomo yoMthethosisekelo. 35

## Ukusungulwa

3. (1) Ngakho-ke kuzosungulwa iHhovisi loMqondisi wezamaPhoyisa Elizophenya Ngokuzimele, elizobekwa ezingeni likazwelonke, elizoba namahhovisi ezifundazweni.  
 (2) IHhovisi loMqondisi kufanele lenze imisebenzi yalo ngokulandela lo Mthetho kanye neminye imithetho eqondene. 40  
 (3) IHhovisi loMqondisi lithola imali eyabiwe ePhalamende.

## Ukuzimela kanye nokungavuni

4. (1) IHhovisi loMqondisi lisebenza ngokuzimele oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika.  
 (2) Igatsha lombuso ngalinye kufanele lisize iHhovisi loMqondisi ukuba lingavuni futhi lenze imisebenzi yalo ngempumelelo. 45

## ISAHLUKO 2

### IHHOVISI LIKAZWELONKE

#### Ihhovisi likazwelonke

5. Ngakho-ke sekusungulwe ihhovisi likazwelonke eliholwa uMqondisi oMkhulu. 50

### Appointment of Executive Director

6. (1) The Minister must nominate a suitably qualified person for appointment to the office of Executive Director to head the Directorate in accordance with a procedure to be determined by the Minister.
- (2) 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. 5
- (3) In the event of an appointment being confirmed—
- (a) the successful candidate is appointed to the office of Executive Director subject to the laws governing the public service with effect from a date agreed upon by such person and the Minister; and 10
  - (b) such appointment is for a term of five years, which is renewable for one additional term only.
- (4) When the Executive Director is unable to perform the functions of office, or during a vacancy in the Directorate, the Minister may designate another person to act as Executive Director until the Executive Director returns to perform the functions of office or the vacancy is filled. 15
- (5) In the case of a vacancy, the Minister must fill the vacancy within a reasonable period of time, which period must not exceed one year.
- (6) The Minister may, remove the Executive Director from office on account of— 20
- (a) misconduct;
  - (b) ill health; or
  - (c) inability to perform the duties of that office effectively.

### Responsibilities of Executive Director

7. (1) The Executive Director is the accounting officer of the Directorate and must ensure that— 25
- (a) proper records of all financial transactions, assets and liabilities of the Directorate are kept;
  - (b) the financial affairs of the Directorate comply with the Public Finance Management Act; and 30
  - (c) an annual report is prepared in the manner contemplated in section 32.
- (2) The Executive Director is responsible for the appointment of the provincial heads of each province as contemplated in section 22(1).
- (3)(a) The Executive Director must appoint such staff as may be necessary to enable the Directorate to perform its functions in terms of this Act. 35
- (b) The staff component must be established in accordance with the Public Service Act.
- (c) The conditions of service, including remuneration and allowances of such staff, are regulated in terms of the Public Service Act.
- (d) The Executive Director must direct that a register of declaration of interest by managers and investigators be kept in the prescribed form and manner. 40
- (e) The Executive Director must give guidelines with regard to—
- (i) the investigation and management of cases by officials within the respective provincial offices;
  - (ii) administration of the national and provincial offices; and 45
  - (iii) training of staff at national and provincial level.
- (4) The Executive Director must refer criminal offences revealed as a result of an investigation, to the National Prosecuting Authority for criminal prosecution and notify the Minister of such referral.
- (5) The National Prosecuting Authority must notify the Executive Director of its intention to prosecute, whereafter the Executive Director must notify the Minister thereof and provide a copy thereof to the Secretary. 50
- (6) The Executive Director must ensure that complaints regarding disciplinary matters are referred to the National Commissioner and where appropriate, the relevant Provincial Commissioner. 55
- (7) Once a month the Executive Director must submit to the Minister a summary of the disciplinary matters and provide a copy thereof to the Secretary.

**Ukuqokwa koMqondisi oMkhulu**

6. (1) UNgqongqoshe kufanele aphakamise igama lomuntu ofanele ozoqokwa eHhovisi loMqondisi oMkhulu ukuba ahole iHhovisi loMqondisi ngokulandela inqubo ezonqunywa uNgqongqoshe.
- (2) IKomidi eliqondene ePhalamende kufanele, zingakapheli izinsuku ezingama-30 zokusebenza ePhalamende ngemuva kokuphakanyiswa kwegama lomuntu ngokwemigomo yesigaba soku-(1), liqinisekise noma lichithe lowo ophakanyisiwe. 5
- (3) Uma kuqinisekisiwe ngozoqokwa—
- (a) umuntu ophumelele uqokelwa ihhovisi loMqondisi oMkhulu ngokwemithetho engamele imisebenzi kahulumeni kusukela ngosuku okuvunyelwane ngalo phakathi kwalowo muntu kanye noNgqongqoshe; futhi 10
- (b) ukuqokwa kwakhe kuzoba isikhathi esiyiminyaka emihlanu, esingavuselelwa ithemu eyodwa nje kuphela eyengeziwe.
- (4) Uma uMqondisi oMkhulu engeke akwazi ukwenza imisebenzi ehhovisi, noma ngesikhathi kusenesikhala eHhovisi loMqondisi, uNgqongqoshe angaqoka omunye umuntu ukuba asebenze njengoMqondisi oMkhulu kuze kubuye uMqondisi oMkhulu ukwenza imisebenzi yehhovisi noma kuze kugcwaliswe isikhala. 15
- (5) Uma kunesikhala, uNgqongqoshe kufanele avale leso sikhala ngesikhathi esifanele, okungafanele sidlule unyaka owodwa.
- (6) UNgqongqoshe angasusa uMqondisi oMkhulu esikhundleni ngesizathu— 20
- (a) sokungaziphathi kahle;
- (b) ukugula; noma
- (c) ukuhluleka ukwenza imisebenzi yaleso sikhundla ngempumelelo.

**Imisebenzi yoMqondisi oMkhulu**

7. (1) UMqondisi oMkhulu ubhekele iHhovisi loMqondisi futhi kufanele aqikelele ukuthi— 25
- (a) imininigwane efanele yokusetshenziswa kwezimali, izimpahla kanye nezikweletu zeHhovisi loMqondisi kuyagcinwa;
- (b) izindaba zezimali zeHhovisi loMqondisi zihambisana ne-*Public Finance Management Act* futhi 30
- (c) umbiko wonyaka uhlanganiswa ngendlela evezwe esigatsheni sama-32.
- (2) UMqondisi oMkhulu ubhekele ukuqokwwa kwezinhloko zesifundazwe ngasinye njengoba kuvezwe esigatsheni sama-22(1).
- (3) (a) UMqondisi oMkhulu kufanele aqoke abasebenzi abadingekayo ukusiza iHhovisi loMqondisi ukwenza imisebenzi yalo ngokwemigomo yalo Mthetho. 35
- (b) Kufanele kusungulwe igatsha labasebenzi ngokulandela i-*Public Service Act*.
- (c) Imibandela yokusebenza ibandakanya inkokhelo kanye nezibonelelo zabasebenzi, kunqunywa ngokwemigomo ye-*Public Service Act*.
- (d) UMqondisi oMkhulu kufanele akhiphe umyalelo wokuba kubhaliswe inzuzo evezwe abaphathi kanye nabaphenyi futhi kugcinwe esimweni nangendlela enqunyiwe. 40
- (e) UMqondisi oMkhulu kufanele akhiphe imihlahlandlela emayelana—
- (i) nophenyo kanye nokusingathwa kwamacala abasebenzi emahhovisi ezifundazwe;
- (ii) ukuphathwa kwamahhovisi kazwelonke kanye nawezifundazwe; kanye
- (iii) nokuqeqeshwa kwabasebenzi ezingeni likazwelonke kanye nasesifundazweni. 45
- (4) UMqondisi oMkhulu kufanele adlulisele oPhikweni lwezokuShushisa lukaZwelonke amacala obulelesi avezwe ngemiphumela yophenyo futhi azise uNgqongqoshe ngokudluliswa kwawo.
- (5) UPhiko lwezokuShushisa lukaZwelonke kufanele lazise uMqondisi oMkhulu ngenjongo yalo yokushushisa, emva kwalokho uMqondisi oMkhulu kufanele azise uNgqongqoshe ngalokho futhi ahlinzekele ngekhophi lalokhu kuNobhala. 50
- (6) UMqondisi oMkhulu kufanele aqikelele ukuthi izikhalazo ezimayelama nezindaba zokuqondiswa kwezigwegwe zidluliselwa kuKhomishana kaZwelonke futhi uma kufanele kuKhomishana wesiFundazwe oqondene. 55
- (7) Kanye ngenyanga UMqondisi oMkhulu kufanele ahambise kuNgqongqoshe izindaba ezifingqiwe zokuqondiswa kwezigwegwe futhi anikeze ikhophi lazo kuNobhala.

(8) All recommendations which are not of a criminal or disciplinary nature must be referred to the Minister and provide a copy thereof to the Secretary.

(9) The Executive Director may upon receipt of a complaint, cause to investigate any offence allegedly committed by any member of the South African Police Service or Municipal Police Services, and may, where appropriate, refer such investigation to the National or Provincial Commissioner concerned. 5

(10) The Executive Director must refer criminal matters which fall outside the scope of the Directorate, to the appropriate authority for further investigation in terms of applicable legislation.

(11) The Executive Director must provide strategic leadership to the Directorate. 10

(12) The Executive Director must at any time when requested to do so by the Minister or Parliament, report on the activities of the Directorate to the Minister or Parliament.

### Composition of national office

8. (1) The national office consists of—

- (a) the Executive Director who controls the office; 15
- (b) the Corporate Services Unit;
- (c) the Investigation and Information Management Unit;
- (d) the Legal Services Unit; and
- (e) any other unit established, subject to the approval of the Minister and Parliament. 20

(2) The Executive Director must appoint members at the national office.

(3) A person may not be appointed as a member of the national office unless information with respect to that member 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, 2002 (Act No. 65 of 2002). 25

(5) The Executive Director must issue a security clearance certificate in respect of such person wherein it is certified that such person has successfully undergone a security clearance and is appointed as an employee of the Directorate. 30

(6) Any member of the national directorate 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) The Executive Director, after consultation with the National Intelligence Agency, must withdraw a security clearance certificate referred to in subsection (5) if he or she obtains information which, after evaluation by him or her, causes him or her to believe that the person in question could be a security risk or acted in any manner prejudicial to the objects of this Act. 35

(8) If the security clearance certificate referred to in subsection (7) is withdrawn, the person concerned is unfit to continue to hold such office and the Executive Director must discharge him or her from the Directorate. 40

### Functions of national office

9. The functions of the national office are to—

- (a) give strategic leadership to the Directorate;
- (b) develop and implement policy for the Directorate; 45
- (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; 50
- (f) do internal auditing of the Directorate;
- (g) provide administrative support to the Directorate;
- (h) strengthen the co-operative relationship between the Directorate and the Secretariat;

(8) Zonke izincomo okungezona zobulelesi noma okungezona zokuqondiswa kwezigwegwe kufanele zidluliselwe kuNgqongqoshe futhi ikhophi lazo linikezwe uNobhala.

(9) UMqondisi oMkhulu uma esethole isikhhalazo, enze kuphenywe icala okusolwa ukuthi lenziwe ilungu loPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika noma uPhiko lwezeMisebenzi yamaPhoyisa oMasipala, uma kunesidingo angaphinda adlulisele lolo phenyo kuKhomishana kaZwelonke noma wesiFundazwe oqondene. 5

(10) UMqondisi oMkhulu kufanele adlulisele izindaba zobulelesi ezingahambisani nomsebenzi weHhovisi loMqondisi, emkhandlwini ofanele ukuba ziphenywe futhi ngokwemigomo yomthetho osebenzayo oshayiwe. 10

(11) UMqondisi oMkhulu kufanele ahlinzekele ngamasu obuholi eHhovisi loMqondisi.

(12) UMqondisi oMkhulu noma nini uma eceliwe ukuba enze njalo uNgqongqoshe noma iPhalamende, abike ngokwenizwa iHhovisi loMqondisi kuNgqongqoshe noma ePhalamende. 15

### Ukwakheka kwehhovisi likazwelonke

#### 8. (1) Ihhovisi likazwelonke lakhiwe—

- (a) uMqondisi oMkhulu olawula ihhovisi;
- (b) iGatsha Losizo Lwezamabhizinisi;
- (c) iGatsha Elisingethe Upheno Nemininingwane; 20
- (d) iGatsha Losizo lwezoMthetho; kanye
- (e) nelinye igatsha elisunguliwe, ngokugunyazwa uNgqongqoshe kanye nePhalamende.

(2) UMqondisi oMkhulu kufanele aqoke amalungu ehhovisi likazwelonke.

(3) Umuntu ngeke aqokwe njengelungu lehhovisi likazwelonke ngaphandle uma imininingwane ephathelene nalelo lungu isiqokelelwe ophenyweni lwemvelaphi oluqondene njengoba kunqume uNgqongqoshe. 25

(4) Upheno ngemvelaphi oluvezwe esigatshaneni sesi-(3), kufanele lwenziwe ngokuhlanganyela noPhiko lwezoBunhloli lukaZwelonke, njengoba kushiwo esigatsheni sesi-3 se-*Intelligence Service Act, 2002 (Act No. 65 of 2002)*. 30

(5) UMqondisi oMkhulu kufanele akhiphe isitifiketi sokugunyaza ukuthola imininingwane ethile kulowo muntu esizofakazela ukuthi lowo muntu usegunyaziwe ukuba athole imininingwane ethile futhi useqokwe njengomsebenzi weHhovisi loMqondisi.

(6) Ilungu lehhovisi lomqondisi likazwelonke ngezikhathi ezithile noma ngemikhawulo ejwayelekile enganqunywa uMqondisi oMkhulu, liphinde lihlole imvelaphi yalo njengoba kuveziwe esigatshaneni sesi-(3). 35

(7) UMqondisi oMkhulu, ngemuva kokuxoxisana noPhiko lwezoBunhloli lukaZwelonke, kufanele ahoxise isitifiketi sokugunyaza ukuthola imininingwane ethile esishiwo esigatshaneni sesi(5) uma ethola imininingwane azothi uma eyihlola, imenze akholelwe ukuthi lowo muntu okukhulunywa ngaye angaba ingozi kwezokuvikeleka noma usebenze ngendlela engahambisani nezinjongo zalo Mthetho. 40

(8) Uma isitifiketi esishiwo esigatshaneni sesi-(7) sihoxiswa, umuntu oqondene engakulungele ukuqhubeka abambe isikhundla, uMqondisi oMkhulu kufanele amkhiphe eHhovisi loMqondisi. 45

### Imisebenzi yehhovisi likazwelonke

#### 9. Imisebenzi yehhovisi likazwelonke uku—

- (a) nikeza isu lobuholi eHhovisi loMqondisi;
- (b) thuthukisa nokusebenzisa inqubomgomo eHhovisi loMqondisi;
- (c) ngamela kanye nokuqapha indlela okuqhutshwa ngayo ezingeni lesifundazwe kanye nokungenelela ukuze lisombulule izinselelo uma kunesidingo; 50
- (d) qokelela, ukugcina kanye nokuhlaziya imininingwane ehambisana nopheno;
- (e) veza kanye nokubuyekeza izidingo zomthetho kanye nokubika lezo zindaba eHhovisi likaNobhala;
- (f) hlola amabhuki angaphakathi eHhovisi loMqondisi; 55
- (g) hlinzekela ngokweseka ezokuphatha eHhovisi loMqondisi;
- (h) dlondlobalisa ubudlelwano bokubambisana phakathi kweHhovisi loMqondisi kanye neHhovisi likaNobhala;

- (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 to Parliament;
- (k) implement information measures to develop public awareness of the provisions of this Act; 5
- (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 and type of cases investigated, the recommendations, the detail and outcome of those recommendations. 10

### Delegations

10. (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. 15
- (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. 20
- (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, 20, 22, 31(2), 32(1) and (2), and 34 of this Act.

## CHAPTER 3

### MANAGEMENT COMMITTEE 25

#### Establishment of Management Committee

11. There is hereby established a Management Committee.

#### Composition of Committee

12. (1) The Committee established in terms of section 11 consists of— 30
- (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 35

13. (1) The Committee is responsible for the following functions:
- (a) To ensure co-ordination and alignment within each province regarding— 40
    - (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; 45
  - (d) to raise national management issues within the Directorate; and
  - (e) to ensure regular reporting on matters specific to the performance of the functions of the respective provincial directorates.

- (i) bika ku-MEC oqondene ngezindaba ezidluliselwe kuMqondisi oMkhulu zidluliswa u-MEC;
- (j) hambisa umbiko wonyaka kuNgqongqoshe nasePhalamende;
- (k) sebenzisa izinyathelo zeminingwane ukuze kuthuthukiswe ukuqwashiswa komphakathi ngemibandela yalo Mthetho; 5
- (l) dingida ezinye izindaba ezidluliselwe kulona uNgqongqoshe;
- (m) kwenza izincomo oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika ebangelwe uphenyo olwenziwe iHhovisi loMqondisi; kanye
- (n) nokubika kabili ngonyaka ePhalamende ngenani kanye nohlobo lwamacala aphenyiwe, izincomo, iminingwane kanye nomphumela walezo zincomo. 10

### Ukunikezela ngamandla

10. (1) Ngokwesigatshana sesi-(2) nese-(3), uMqondisi oMkhulu anganikezela ngemisebenzi ethweswe uMqondisi oMkhulu ngaphansi kwalo Mthetho kunoma ubani onolwazi olufanele kanye nolwazi lomsebenzi ongaphansi koMqondisi oMkhulu. 15
- (2) Ukunikeza ngamandla ngaphansi kwesigatshana soku-(1) kufanele kubhalwe phansi futhi—
- (a) kungalandela imibandela noma imikhawulo enqunywe uMqondisi oMkhulu;
  - (b) akuvimbela ukusebenzisa amandla oMqondisi oMkhulu; futhi
  - (c) kungahoxiswa noma kuchitshiyelwe uMqondisi oMkhulu.
- (3) UMqondisi oMkhulu ngeke anikezele ngamandla akhe, imisebenzi noma 20 ngezibophezelo ezishiwo ezigatsheni zesi-7(1), (2), (3), (5), (6), (7), (8), (9), kanye nese-(10), (8), 20, 22, 31(2), 32(1) kanye nese-(2), kanye nesama-34 salo Mthetho.

## ISAHLUKO 3

### IKOMIDI LEZOKUSINGATHA

#### Ukusungulwa kweKomidi Lezokusingatha 25

11. Ngakho-ke sekusungulwe iKomidi Lezokusingatha.

#### Ukwakheka kweKomidi

12. (1) IKomidi elisungulwe ngokwemigomo yesigaba se-11 lakhiwe—
- (a) uMqondisi oMkhulu; kanye
  - (b) nenhloko yesifundazwe esifundazweni ngasinye. 30
- (2) UMqondisi oMkhulu ungusihlalo weKomidi.
- (3) UMqondisi oMkhulu angamema noma ubani ongabaluliwe esigatshaneni soku-(1) emhlanganweni weKomidi.

#### Imisebenzi yeKomidi

13. (1) IKomidi libhekele le misebenzi elandelayo: 35
- (a) Ukuqikelela ukuhleleka kanye nokuhambisana esifundazweni mayelana—
    - (i) namasu kanye nendlela yokuqhuba umsebenzi;
    - (ii) okusemqoka, izinjongo kanye namasu emazingeni kazwelonke nasezifundazweni;
    - (iii) ukulandela okudingekayo ezimalini ezinqunywe ngokwemigomo ye- 40 *Public Finance Management Act*; kanye
    - (iv) nokusebenzisana phakathi kwamahhovisi abaqondisi ahlukene ezifundazwe;
  - (b) ukuveza noma oluphi udaba lwamasu olusemqoka ngokusebenza kweHhovisi loMqondisi esifundazweni ngasinye; 45
  - (c) ukuxoxisana ngendlela okuqhutshwa ngayo ekunikezeleni ngezinsiza ukuze kutholwe izingqinamba futhi kuthathwe nezinyathelo zokuvikela noma zokulungisa uma kunesidingo;
  - (d) ukuveza izindaba ezisingethwe uzwelonke eHhovisi loMqondisi; kanye
  - (e) nokuqikelela ukubika njalo ngezindaba ezithile zokuqhuba imisebenzi 50 eqondene namahhovisi abaqondisi ezifundazwe.

### Meetings of Committee

14. (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

5

### CONSULTATIVE FORUM

#### Establishment of Consultative Forum

15. There is hereby established a Consultative Forum.

#### Composition of forum

16. (1) The forum established in terms of section 15 consists of— 10  
(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

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17. The functions of the forum are to—  
(a) facilitate closer cooperation between the Secretary and the Executive Director; and  
(b) discuss, amongst other, issues relating to trends, recommendations and implementation of such recommendations. 20

#### Meetings of forum

18. (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. 25  
(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

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19. 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 20(1).

#### Appointment of provincial heads

20. (1) The Executive Director appoints the provincial head for each province in accordance with the laws governing the public service. 35  
(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. 40  
(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; 45

**Imihlangano yeKomidi**

14. (1) IKomidi lihlangana njalo uma izimo ziphoqa, kodwa okungenani izikhathi ezine unyaka nonyaka, ngesikhathi futhi endaweni enganqunywa uMqondisi oMkhulu.  
(2) IKomidi linganquma inqubo yalo ezolandelwa emihlanganweni.

**ISAHLUKO 4**

5

**ITHIMBA LOKUXOXISANA****Ukusungulwa kweThimba Lokuxoxisana**

15. Ngakho-ke sekusungulwe iThimba Lokuxoxisana.

**Ukwakheka kwethimba**

16. (1) Ithimba elisungulwe ngokwemigomo yesigaba se-15 lakhiwe— 10  
(a) uMqondisi oMkhulu; kanye  
(b) noNobhala.  
(2) UMqondisi oMkhulu noma uNobhala ngokuxoxisana, bangamema noma ubani ongabaluliwe esigatshaneni soku-(1) emhlanganweni wethimba.

**Imisebenzi yethimba**

15

17. Imisebenzi yethimba—  
(a) ukwenza lula ukusebenzisana ngokubambisana phakathi kukaNobhala kanye noMqondisi oMkhulu; kanye  
(b) nokuxoxisana, phakathi kwabo, ngezindaba ezihambisana nenkambiso, izincomo kanye nokulandela izincomo eziphakanyisiwe. 20

**Imihlangano yethimba**

18. (1) UNobhala kufanele abambe umhlangano wokuqala wethimba futhi ahole lowo mhlango. 25  
(2) UNobhala kanye noMqondisi oMkhulu kufanele bashintshane ngokuba usihlalo emihlanganweni.  
(3) Ithimba linquma ngenqubo yalo kanye nokuzodingidwa emihlanganweni.  
(4) Ithimba kufanele lihlangane njalo okungenani izikhawu ezine onyakeni mayelana nezindaba ezijwayelekile.

**ISAHLUKO 5****AMAHHOVISI EZIFUNDAZWE**

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**Amahhovisi ezifundazwe**

19. Ihhovisi lesifundazwe ngasinye liholwa inhloko yesifundazwe eqokwe—  
(a) ezingeni loMqondisi oMkhulu; futhi  
(b) ngokugcwele ngokwemigomo yesigaba sama-20(1).

**Ukuqoka izinhloko zezifundazwe**

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20. (1) UMqondisi oMkhulu uqoka inhloko yesifundazwe esifundazweni ngasinye ngokulandela imithetho engamele imisebenzi kahulumeni.  
(2) Inhloko yesifundazwe kufanele iphothule isivumelwano esibhaliwe sendlela yokuqhuba umsebenzi noMqondisi oMkhulu— 40  
(a) esikhathini esifanele ngemuva kokuqokwa kwenhloko yesifundazwe; futhi  
(b) ngemuva kwalokho, njalo ngonyaka ingakapheli inyanga eyodwa uqalile unyaka wezezimali ngamunye.  
(3) Isivumelwano sendlela yokuqhuba umsebenzi esishiwo esigatshaneni sesi-(2) kufanele sibandakanye—  
(a) izinjongo ezikalekayo zokuqhuba umsebenzi kanye nokuphokophelwe 45  
okufanele kuhlangatshezwane nakho, futhi kufanele sihlinzekele ngezikhawu

(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

(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 six months.

## **Responsibilities of provincial head** 10

21. (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; 15

(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 refer disciplinary matters to the Provincial Commissioner;

(g) to facilitate cooperation between the provincial head and the provincial police secretariat; 20

(h) to report to the Executive Director on recommendations and finalisation of cases;

(i) to report to the Executive Director on the management of provincial offices and their finances; 25

(j) to report to the relevant MEC on matters referred to the Provincial Head by that MEC;

(k) 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; 30

(l) to keep proper financial records in accordance with the prescribed norms and standards;

(m) to prepare financial statements for submission to the Executive Director within two months after the end of the financial year;

(n) to ensure compliance with administrative guidelines issued by the Executive Director; and 35

(o) to manage the provincial office.

## **CHAPTER 6**

### **APPOINTMENT, REMUNERATION, FUNCTIONS AND POWERS OF INVESTIGATORS** 40

#### **Appointment of investigators**

22. (1) The Executive Director, in consultation with the relevant 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— 45

(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; or

(ii) 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. 50

- zesikhathi lapho lezo zinjongo zendlela yokuqhuba umsebenzi kanye nokuphokophelwe kufanele kuhlangukshwane nakho;
- (b) amazanga kanye nenqubo yokuhlola indlela yokuqhuba umsebenzi kanye nezikhawu zokuhlola; kanye
- (c) nomthelela wokuqhuba umsebenzi ngendlela engekho ezingeni. 5
- (4) Uma inhloko yesifundazwe ingakwazi ukuqhuba imisebenzi yehhovisi, noma ngesikhathi kusenesikhala ehhovisi lesifundazwe, uMqondisi oMkhulu angaqoka omunye umuntu ukuba abambe njengenhloko yesifundazwe kuze kubuye inhloko yesifundazwe yenze imisebenzi yehhovisi noma kuze kuvalwe isikhala.
- (5) Esimweni lapho kunesikhala, uMqondisi oMkhulu kufanele avale leso sikhala esikhathini esifanele, leso sikhathi akufanele sidlule izinyanga eziyisithupha. 10

### Imisebenzi yezinhloko zezifundazwe

- 21.** (1) Inhloko yesifundazwe ibhekele lokhu okulandelayo:
- (a) ezokuqasha kanye nokusingatha indlela abasebenzi abaqhuba ngayo umsebenzi ezingeni lesifundazwe; 15
- (b) ukwenza lula uphenyo lwamacala kanye nokuqhuba omunye umsebenzi ohambisana nalolu phenyo;
- (c) ukulawula kanye nokuqapha amacala adingidwayo;
- (d) ukudlulisela amacala aphenywe ihhovisi lesifundazwe ngaphansi kwalo Mthetho kuZwelonke noma ophikweni lwezokushushisa lwesifundazwe oluqondene ukushushisa ezobulelesi, 20
- (e) ukubika kuMqondisi oMkhulu ngezindaba eziphenywayo;
- (f) ukudlulisela izindaba zokuqondiswa kwezigwegwe kuKhomishana wesiFundazwe;
- (g) hlinzekela ngokusekela ngezokuphatha eHhovisi likaMqondisi; 25
- (h) ukubika kuMqondisi oMkhulu ngezincomo kanye nokuphuthulwa kwamacala;
- (i) ukubika kuMqondisi oMkhulu ngokusingatha amahhovisi ezifundazwe kanye nezimali zazo;
- (j) ukubika ku-MEC oqondene ngezindaba ezidluliselwe eNhlokweni yesiFundazwe zidluliswa u-MEC; 30
- (k) ukuqikelela ukulandela imihlahlandlela ekhishwe ihhovisi likazwelonke ohlobene nokuphenya kanye nokusingathwa kwamacala abasebenzi ngaphakathi emahhovisi ezifundazwe eziqondene;
- (l) ukugcina imininingwane yezezimali efanele ngokulandela inkambiso namazinga anqunyiwe; 35
- (m) ukulungisa izitatimende zezimali ukuba zihanjiswe kuMqondisi oMkhulu zingakapheli izinyanga ezimbili ngemuva kokuphela konyaka wezezimali;
- (n) ukuqikelela ukulandela imihlahlandlela yezokuphatha ekhishwe uMqondisi oMkhulu; kanye 40
- (o) nokusingatha ihhovisi lesifundazwe.

## ISAPHLUKO 6

### UKUQOKA, INKOKHELO, IMISEBENZI KANYE NAMANDLA ABAPHENYI

#### Ukuqoka abaphenyi

- 22.** (1) UMqondisi oMkhulu, ngokuxoxisana nenhloko yesifundazwe, kufanele baqoke umuntu ofanele futhi okulungele ukuba umphenyi eHhovisi loMqondisi, ngokwesigatshana sesi-(2), (3) nesesi-(4). 45
- (2) Umuntu oqokwe njengomphenyi—
- (a) okungenani kufanele abe nesitifiketi sebanga leshumi noma, neziqu eziqondene; futhi 50
- (b) kufanele abe—
- (i) nolwazi kanye nolwazi lomsebenzi oluqondene lokuphenya ngezobulelesi; noma
- (ii) nolunye ulwazi oluqondene.
- (3) Akekho umuntu ozoqokwa njengomphenyi ngaphandle uma sekuqokelelwe imininingwane yalowo muntu emayelana nophenyo lwemvelaphi yakhe njengoba kunqume uNgqongqoshe. 55

(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, 2002 (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. 5

(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). 10

(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 24(2) by the Minister, within three months after his or her appointment.

(9) The Executive Director must issue a document in the prescribed form, which shall serve as proof to certify that an investigator has been duly authorised to exercise the powers and perform the functions as contemplated in section 24. 15

### **Remuneration and conditions of service of investigators**

23. 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. 20

### **Functions and investigative powers**

24. (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. 25

(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— 30

- (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; 35
- (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. 40

(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. 45

(4) A person questioned by an investigator conducting an investigation must answer each question truthfully and to the best of that person's ability, but—

- (a) a person is not obliged to answer any question if the answer is self-incriminating; and
- (b) the person asking the questions must inform that person of the right set out in paragraph (a). 50

(5) No self-incriminating answer given or statement made by any person to an investigator exercising powers in terms of this Act will be admissible as evidence against that person in criminal proceedings instituted against that person in any court, except in criminal proceedings for perjury. 55

(4) Uphenyo ngemvelaphi yomuntu olushiwo esigatshaneni sesi-(3), kufanele lwenziwe ngokuhlanganyela noPhiko lwezoBunhloli lukaZwelonke, njengoba kushiwo esigatsheni sesi-3 se-*Intelligence Service Act, 2002 (Act No. 65 of 2002)*.

(5) UMqondisi oMkhulu noma umsebenzi adlulisele amandla kuyena kufanele akhiphe isitifiketi esigunyaza ukuthola imininingwane ethile salowo muntu esigunyaza ukuthi lowo muntu usegunyaziwe ukuba athole imininingwane ethile futhi useqokwe njengomphenyi ngokwemigomo yalo Mthetho. 5

(6) Umphenyi ngezikhathi ezithile, noma ngezikhawu ezijwayelekile ezinganqunywa uMqondisi oMkhulu, angaphinda aphenywe ngemvelaphi yakhe njengoba kuveziwe esigatshaneni sesi-(3). 10

(7) Umuntu angakhishwa esikhundleni sakhe njengomphenyi uma ehluleka ukulandela okunqunyiwe mayelana nokuthola imininingwane ethile.

(8) Umphenyi unikezwa amandla enqubomgomo uNgqongqoshe avezwe esigatsheni sama-24(2) zingakapheli izinyanga ezintathu eseqokiwe.

(9) UMqondisi oMkhulu kufanele akhiphe umqulu ngendlela enqunyiwe, okufanele usebenze njengobufakazi obufakazela ukuthi umphenyi usegunyaziwe ukuba asebenzise amandla futhi aqhube imisebenzi evezwe esigatsheni sama-24. 15

### Inkokhelo kanye nemibandela yokusebenza kwabaphenyi

23. Imibandela yomsebenzi, kubandakanya umholo kanye nezibonelelo ezikhokhelwa umphenyi oqokwe ngaphansi kwalo Mthetho, kufanele zifane nezamalungu aqokwe njengabaseshi ngokwemigomo ye-*South African Police Service Act*. 20

### Imisebenzi namandla okuphenya

24. (1) Umphenyi, ngokulawulwa futhi nangomyalelo woMqondisi oMkhulu noma inhloko yesifundazwe eqondene, angasebenzisa amandla futhi enze imisebenzi anikezwe yoma noma athweswe yona ngaphansi kwalo Mthetho noma omunye umthetho futhi kufanele alandele imiyalelo yomthetho angayithola ngezikhathi ezithile kumuntu onegunya lokunikeza leyo miyalelo ngaphansi kwalo Mthetho. 25

(2) Umphenyi unamandla anikezwe i-*Criminal Procedure Act, 1977 (Act No. 51 of 1977)*, athweswe osebenza ukuqapha ezokuthula noma iphoyisa, ahlobene noku— 30

(a) phenya amacala;

(b) thola izici zomzimba zomsolwa;

(c) ngena futhi ahlole izindawo;

(d) bamba futhi alahle okuthile;

(e) bopha; 35

(f) khipha incwadi yemvume; kanye

(g) nokubona umsolwa enkantolo.

(3) (a) Uma kuqhutshwa uphenyo, umphenyi angayalelo noma ubani ukuba anikezele ngombhalo ofungelwe noma isimemezelo esiqinisekisiwe noma avele kuyena ukuba anikeze ubufakazi noma akhiphe imiqulu ekulowo muntu noma elawulwa ngaphansi kwakhe enomthelela odabeni oluphenywayo, futhi angafaka lowo muntu imibuzo ngalokho. 40

(b) Umphenyi noma ubani amgunyazela lokho angacele incazelo kunoma ubani amsolayo ukuthi unolwazi olunomthelela odabeni oluphenywayo noma oluzophenywa. 45

(4) Umuntu ohlatshwa imibuzo umphenyi owenza uphenyo kufanele aphenyule umbuzo ngeqiniso futhi nangalo lonke ulwazi analo, kodwa—

(a) umuntu akabophezelwe ukuba aphenyule umbuzo uma impendulo yawo imfaka ecaleni; futhi

(b) umuntu obuza lowo mbuzo kufanele azise lowo muntu ngelungelo elibalulwe endimeni (a). 50

(5) Ayikho impendulo ezinikeziwe noma isitatimende esenziwe umuntu kumphenyi osebenzisa igunya lakhe ngokwemigomo yalo Mthetho ozothathwa njengobufakazi obuchaphazela lowo muntu ezinyathelweni ezenziwayo zobulelesi ezithathelwe lowo muntu enkantolo, ngaphandle kwezinyathelo zobulelesi zokuqamba amanga komuntu ofungile. 55

### Conflict of interest and disclosure of interest

25. (1) No member of the Directorate may conduct an investigation, or render assistance with an investigation, in respect of a matter in 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. 5

(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 10
- (b) withdraw from any further involvement in that investigation.

### Integrity measures

26. (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. 15

(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). 20

### Limitation of liability

27. An investigator is not liable in respect of any act or omission in good faith and without gross negligence in performing a function in terms of this Act. 25

### Type of matters to be investigated

28. (1) The Directorate must investigate—

- (a) any deaths in police custody;
- (b) deaths as a result of police actions;
- (c) any complaint relating to the discharge of an official firearm by any police officer; 30
- (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 against a police officer in the execution of his or her duties; 35
- (g) corruption matters within the police initiated by the Executive Director on his or her 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 by the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case may be, 40

in the prescribed manner.

(2) The Directorate may investigate matters relating to systemic corruption involving the police. 45

**Ukushayisana ngemibono kanye nokudalula izinzuzo**

25. (1) Alikho ilungu leHhovisi loMqondisi elingenza uphenyo noma linikezele ngosizo ophenyweni, odabeni elithola kulo izimali noma enye inzuzo engalivimbela ukuba lisebenzise amandla alo, noma lenze izibophezelo kanye nemisebenzi ngendlela engavuni. 5

(2) Uma ngesikhathi sopenyo, kuvela elungwini leHhovisi loMqondisi ukuthi udaba oluthinta ezezimali noma enye inzuzo yalelo lungu njengoba kushiwo esigatshaneni soku-(1), lelo lungu kufanele—

- (a) ngokushesha lidalule ngokugcwele lolo daba kanye nomsuka waleyo nzuzo kuMqondisi oMkhulu; futhi 10
- (b) lihoxe ukuzibandakanya nopenyo futhi.

**Izinyathelo zobuqotho**

26. (1) UNgqongqoshe anganquma izinyathelo zokuhlola ubuqotho kumalungu eHhovisi loMqondisi, ezingabandakanya ukucupha ngezikhathi ezithile, ukuhlola ukusetshenziswa kotshwala ngokweqile noma izidakamizwa, noma asebenzise isitholamfihlo noma ithuluzi elifanayo ukuthola, ukuqiniseka noma ukuhlola ngendlela yezobuchwepheshe ubumsulwa besitatimende esenziwe umuntu. 15

(2) Amasampula afanele adingeka uma kuhlolwa ashiwo esigatshaneni soku-(1) angathathwa, kodwa amasampula athathwa emzimbeni welungu angathathwa kuphela umsebenzi wezempilo obhalisiwe noma umhlengikazi obhalisiwe. 20

(3) UNgqongqoshe kufanele anqume izinyathelo ukuqikelela ukuthi imininingwane etholwe ngesikhathi kuhlolwa ubuqotho iba imfihlo, uma lezi zinyathelo zinqunywe ngokwemigomo yesigatshana soku-(1).

**Umkhawulo wokubeka icala**

27. Umphenyi akabhekene nesenzo noma okungenziwe kungahlosiwe okubi futhi 25 ngaphandle kobudedengu ekwenzeni imisebenzi ngokwemigomo yalo Mthetho.

**Uhlobo lwezindaba ezizophenywa**

28. (1) IHhovisi loMqondisi kufanele liphenye—

- (a) ngabadlula amhlabeni begcinwe amaphoyisa; 30
- (b) abadlula emhlabeni ngezenzo zamaphoyisa;
- (c) isikhalazo esimayelana nokuthathwa kwesibhamu esisemthethweni iphoyisa;
- (d) ukunukubezwa iphoyisa, uma lisemsebenzini noma lingekho emsebenzini;
- (e) ukunukubezwa komuntu ogcinwe amaphoyisa;
- (f) isikhalazo sokuzwiswa ubuhlungu noma ukushaywa kwephoyisa uma lenza umsebenzi walo; 35
- (g) izindaba zekukhwabanisa emaphoyiseni eziqalwe uMqondisi oMkhulu ngokwakhe, noma ngemuva kokuthola isikhalazo elungwini lomphakathi, noma oludluliselwe eHhovisi loMqondisi uNgqongqoshe, u-MEC noma uNobhala, noma omunye wabo; kanye
- (h) nodaba oludluliselwe kulona ngesizathu sesinqumo soMqondisi oMkhulu, noma uma ecelwe uNgqongqoshe, u-MEC noma uNobhala noma omunye wabo, 40

ngendlela enqunyiwe.

(2) IHhovisi loMqondisi lingaphenya izindaba ezihlobene nokukhwabanisa okuhleliwe okubandakanya iphoyisa. 45

## CHAPTER 7

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

#### Reporting obligations and cooperation by members 5

29. (1) The Station Commander, 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 28(1)(a) to (f); 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). 10
- (2) The members of the South African Police Service or Municipal Police Services 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; 15
  - (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. 20

#### Disciplinary recommendations

30. 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; 25
  - (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 30
  - (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 35

### FINANCES AND ACCOUNTABILITY AND ANNUAL REPORT

#### Finances and accountability

31. (1) The Executive Director—
- (a) must, subject to the Public Finance Management Act— 40
    - (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. 45
- (2) The records referred to in subsection (1)(a) must be audited by the Auditor-General.

**ISIAHLUKO 7****IZIBOPHEZELO ZOKUBIKA NOKUSEBENZISANA KUMALUNGU  
OPHIKO LWEZEMISEBENZI YAMAPHOYISA ASENINGIZIMU AFRIKA  
KANYE NAWOPHIKO LWEZEMISEBENZI YAMAPHOYISA OMASIPALA  
KANYE NEZIPHAKAMISO ZOKUQONDISWA KWEZIGWEGWE**

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**Izibophezelo zokubika kanye nokusebenzisana kumalungu**

**29.** (1) UKhomanda wesiTeshi, noma ilungu loPhiko lezeMisebenzi yamaPhoyisa aseNingizimu Afrika noma loPhiko lwezeMisebenzi yamaPhoyisa oMasipala kufanele—

- (a) ngemuva kokuthola ulwazi, lazise iHhovisi loMqondisi ngodaba olushiwo esigatsheni sama-28(1)(a) kuya ku-(f); futhi 10
- (b) engakapheli amahora angama-24 ngemuva kwalokho, ahambise umbiko obhaliwe eHhovisi loMqondisi ngendlela enqunyiwe nangendlela yanoma oluphi udaba njengoba kuveziwe endimeni (a).

(2) Amalungu oPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kanye noma loPhiko lwezeMisebenzi yamaPhoyisa oMasipala kufanele asebenzisane ngokugcwele neHhovisi loMqondisi, kubandakanya kodwa kungacini ngoku—

- (a) lungiselela ukukhomba umuntu owenze icala engakapheli amahora angama-48 iHhovisi loMqondisi lenze isicelo; 15
- (b) tholakala kwamalungu azokwenza isitatimende esifungelwe noma ukuqinisekisa noma isimemezelo esiqinisekisiwe noma ukunikeza ubufakazi noma ukunikezela ngomqulu okulelo lungu noma olawulwa ngaphansi kwalelo lungu onomthelela odabeni oluphenywayo; kanye 20
- (c) neminye imininingwane noma imiqulu edingeka ophenyweni.

**Iziphakamiso zokuqondiswa kwezigwegwe**

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**30.** UKhomishana kaZwelonke noma uKhomishana wesiFundazwe oqondene okwadluliselwa kuyena izincomo zezindaba ezithinta ukuqondiswa kwezigwegwe, njengoba kuveziwe esigatsheni sesi-7(6) kanye nesesi-(7), kufanele—

- (a) zingakapheli izinsuku ezingama-30 esezitholile, aqale izinyathelo zokuqondiswa kwezigwegwe ngokwemigomo yezincomo ezenziwe iHhovisi loMqondisi futhi azise uNgqongqoshe ngenchwadi, futhi ahlinzekele ngekhophi yazo kuMqondisi oMkhulu nakuNobhala; 30
- (b) ahambise umbiko obhaliwe kuNgqongqoshe izikhawu ezine onyakeni omayelana nenqubekela phambili ngezindaba zokuqondiswa kwezigwegwe ezenziwe ngokwemigomo yendima (a) futhi anikezele ngekhophi yawo kuMqondisi oMkhulu nakuNobhala; futhi 35
- (c) ngokushesha uma sekuphuthulwe udaba lokuqondiswa kwezigwegwe oludluliselwe kuyena iHhovisi loMqondisi, azise uNgqongqoshe ngenchwadi umpfumela walo futhi ahlinzekele ngekhophi yalo kuMqondisi oMkhulu nakuNobhala. 40

**ISIAHLUKO 8****EZEZIMALI NOKUBHEKELELA KANYE NOMBIKO WONYAKA****Ezezimali nokubhekelela**

**31.** (1) UMqondisi oMkhulu—

- (a) ngokwe-*Public Finance Management Act*, kufanele— 45
- (i) abekwe ukubhekela ukubalwa kwezimali ezitholakele noma ezikhokhwe noma ezikhokhelwe iHhovisi loMqondisi;
- (ii) abale ngokufanele futhi agcine imininingwane ehlobene nalokhu; futhi
- (b) angasebenzise leli gunya futhi aqhube le misebenzi angathweswa yona noma engadluliselwa kuyena ngezikhathi ezithile, emayelana nokuqondene noNgqongqoshe; 50

(2) Imininingwane eshiwo esigatshaneni soku-(1)(a) kufanele ucwaningwe uMcwaningimabhuku oMkhulu.

### **Annual report**

**32.** (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 and 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.

## **CHAPTER 9**

### **OFFENCES AND PENALTIES**

#### **Offences and penalties**

**33.** (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 29 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 25(2)(a), or fails to withdraw in terms of section 25(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**

**34.** (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 28(1)(a) to (h);
- (c) the procedure to be followed when reporting on cases dealt with under this Act;

**Umbiko wonyaka**

32. (1) UMqondisi oMkhulu kufanele alungise futhi ahambise kuNgqongqoshe umbiko wonyaka ngendlela enqunye uNgqongqoshe zingakapheli izinyanga eziyisihlanu ngemuva kokuphela konyaka wezezimali.

(2) Umbiko wonyaka oshiwo esigatshaneni soku-(1) kufanele ubandakanye le miqulu elandelayo: 5

(a) izitatimende zezimali ezicwaningiwe ezihlanganiswe ngokwemigomo yalo Mthetho;

(b) umbiko ohlanganiswe uMcwaningimabhuku oMkhulu ngokwemigomo yalo Mthetho; kanye 10

(c) nombiko onzulu wobekwenziwa onyakeni eHhovisi loMqondisi wokuhlobene nocwaningo.

(3) UNgqongqoshe kufanele athule ePhalamende ikhophi yombiko wonyaka, izitatimende zezezimali kanye nombiko wocwaningo walezo zitatimende ingakapheli inyanga eyodwa etholiwe uma iPhalamende ngaleso sikhathi lisebenza noma, uma iPhalamende ngaleso sikhathi lingasebenzi, ingakapheli inyanga eyodwa ngemuva kokuqala ukusebenza esikhathini esizayo. 15

(4) UMqondisi oMkhulu kufanele ashicilele umbiko wonyaka, izitatimende zezezimali, kanye nombiko wocwaningo walezo zitatimende.

**ISAHLUKO 9**

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**AMACALA NEZIGWEBO****Amacala nezigwebo**

33. (1) Umuntu noma igatsha elizimele, ogxambukela, ovimbela noma ophazamisa uMqondisi oMkhulu noma ilungu leHhovisi loMqondisi ukusebenzisa igunya lalo noma emsebenzini, unecala futhi uzolahlwa icala lokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili. 25

(2) Ilungu leHhovisi loMqondisi elidalula imininingwane ngamabomu ezimweni elaziyo, noma okufanele ukuthi liyazi ukuthi, lokhu elikudalulayo kuzothikameza noma kungathikameza ukusebenzisa amandla noma ukwenza imisebenzi yeHhovisi loMqondisi, unecala futhi uzolahlwa icala lokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili. 30

(3) Iphoyisa elihluleka ukulandela isigaba sama-29 linecala futhi lizolahlwa icala lokukhokha inhlawulo noma liboshwe isikhathi esingadlulile eminyakeni emibili.

(4) Ilungu elihluleka ukudalula ngokulandela isigaba sama-25(2)(a), noma elihluleka ukuhoxisa ngokwemigomo yesigaba sama-25(2)(b), noma okunye kwalokhu, unecala futhi uzolahlwa icala lokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili. 35

(5) Umuntu ozenza umphenyi ngokwemigomo yalo Mthetho, unecala futhi uzolahlwa icala lokukhokha inhlawulo noma aboshwe isikhathi esingadlulile eminyakeni emibili. 40

**ISAHLUKO 10****IZIMISO ZOMTHETHO, AMALUNGISELELO ESIKHASHANA, OKUCHITHIWE NESIHLOKO ESIFINGQIWE KANYE NOKUQALA UKUSEBENZA****Izimiso zomthetho**

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34. (1) UNgqongqoshe, ngemuva kokuxoxisana noMqondisi oMkhulu, angenza izimiso zomthetho eziphatelene—

(a) nokufinyelela kanye nokulawula imininingwane eyimfihlo kanye nemininingwane egciniwe ephathelene nophenyo olwenziwe ngokwemigomo yalo Mthetho; 50

(b) inqubo ezolandelwa uma kuphenywa izindaba ezishiwo esigatsheni sama-28(1)(a) kuya ku-(h);

(c) inqubo ezolandelwa uma kubikwa amacala adingidwe ngaphansi kwalo Mthetho;

- (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 26(1);
  - (h) the measures to ensure the confidentiality of information obtained as contemplated in section 26(3);
  - (i) any issues to be contained in the annual report contemplated in section 32;
  - (j) the procedure and format to be followed regarding reporting to the Directorate as contemplated in section 29(1);
  - (k) the procedure to be followed for the arrangement and the holding of identification parades, as contemplated in section 29(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 29(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 29(2)(c);
  - (n) the procedure to be followed in respect of disciplinary recommendations as contemplated in section 30;
  - (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 it is necessary to prescribe for the proper implementation or administration of this Act.
- (2) The regulations referred to in subsection (1)(a) to (o) must be submitted to Parliament for scrutiny at least one month before promulgation—
- (a) while it is in session; or
  - (b) after the next session starts.
- (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**

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

- (d) inqubo ezolandelwa ukudlulisa, ukwamukela, ukubhalisa, ukucubungula kanye nokuhlela izikhalazo;
- (e) inqubo ezolandelwa uma kuphenywa izindaba zobulelesi;
- (f) inqubo ezolandelwa uma kwenziwa uphenyo olukhethekile;
- (g) izinyathelo zokuhlola ubuqotho kumalungu eHhovisi loMqondisi njengoba kuvezwe esigatsheni sama-26(1); 5
- (h) izinyathelo zokuqikelela ukuthi imininingwane etholiwe iyimfihlo njengoba kuvezwe esigatsheni sama-26(3);
- (i) noma oluphi udaba okufanele kufakwe embikweni wonyaka ovezwe esigatsheni sama-32; 10
- (j) inqubo kanye nendlela ezolandelwa mayelana nokubika eHhovisi loMqondisi njengoba kuvezwe esigatsheni sama-29(1)
- (k) inqubo ezolandelwa uma kulungiselelwa futhi kuzokhonjwa owenze icala, njengoba kuvezwe esigatsheni sama-29(2)(a)
- (l) inqubo ezolandelwa uma kwenziwa ubufakazi obufungelwe noma isimemezelo esiqinisekisiwe noma ukunikeza ubufakazi noma ukunikeza imiqulu ephethwe ilelo lungu noma elawulwa ngaphansi kwalo enomthelela odabeni oluphenywayo, njengoba kuveziwe esigatsheni sama-29(2)(b); 15
- (m) inqubo ezolandelwa uma kuhanjiswa imininingwane noma imiqulu eceliwe ophenyweni, njengoba kuveziwe esigatsheni sama-29(2)(c); 20
- (n) inqubo ezolandelwa ezinconyweni zokuqondiswa kwezigwegwe njengoba kuveziwe esigatsheni sama-30;
- (o) indlela kanye nenqubo yokuvikela indawo okwenzeka kuyo isigameko sobulelesi obuzophenywa iHhovisi loMqondisi; kanye
- (p) ngokujwayelekile, noma oluphi udaba oluhambisanayo noma lokuseka okufanele lunqunywe ukuze kusetshenziswe noma kusingathwe lo Mthetho. 25
- (2) Izimiso zomthetho ezishiwo esigatshaneni soku-1(a) ukuya ku-(o) kufanele zihanjiswe ePhalamende ukuze zihlaziywe ingakapheli inyanga eyodwa ngaphambi kokuba zimenyezwe—
- (a) uma lisebenza; noma 30
- (b) ngemuva kokuqala ukusebenza okulandelayo.
- (3) Izimiso zomthetho eziphathelene nokusetshenziswa kwalo Mthetho kufanele zihanjiswe kuNgqongqoshe uMqondisi oMkhulu zingakapheli izinyanga ezintathu usuqalile ukusebenza lo Mthetho.

### Amalungiselelo esikhashana

35

#### 35. (1) Kusukela ngosuku olunqunyiwe—

- (a) wonke amandla asetshenziwe kanye nemisebenzi eyenziwe abaphenyi ngokushesha ngaphambi kosuku olunqunyiwe, kufanele asetshenziwe futhi nemisebenzi yenziwe iHhovisi loMqondisi;
- (b) uphenyo olwenziwe ngokwemigomo yoMthetho waphambilini obelusaqhutshwa kufanele luqhutshwe sengathi lo Mthetho awukagunyazwa; futhi 40
- (c) isabelomali esabiwe, izimpahla kanye nezikweletu zeHhovisi loMqondisi njengoba kuvunyelwene phakathi kwabasebenzi ababala izimali zeHhovisi loMqondisi Wezikhalazo Elizimele kanye neHhovisi loMqondisi, kufanele kudluliselwe eHhovisi loMqondisi ngokulandela isigaba sama-42 se-*Public Finance Management Act*. 45
- (2) OBhalisa amaTayitela kufanele abhalise ngokufanele futhi enze izincomo zokudlulisa impahla ngokwemigomo yalesi sigaba.
- (3) Ngokwe-*Income Tax Act, 1962 (Act No. 58 of 1962)*, akufanele kuthathwe ngokuthi umqashi ushintshiwe uma abaphenyi kanye nabasebenzi abangomabhalane kanye nabasekayo sebedluliselwa ukuba basebenze eHhovisi loMqondisi. 50
- (4) Inqobo nje uma inkokhelo, izibonelelo kanye neminye imibandela yokusebenza ngaphansi kwe-*South African Police Service Act* kungecono uma kuqhathaniswa naleyo enqunywe ngaphansi kwalo Mthetho, inkokhelo, izibonelelo kanye neminye imibandela yokusebenza ngaphansi kwe-*South African Police Service Act* izoqhubeka isebenze. 55
- (5) Imvume yokuthola imininingwane ethile ekhishwe ngaphambi kosuku olumenyezwe, izoqhubeka isebenze kuze kufika isikhathi sokuba iphinde ikhishwe ngokwemigomo yalo Mthetho.

(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**

**36.** (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**

**37.** This Act is called the Independent Police Investigative Directorate Act, 2011, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

(6) (a) Lo Mthetho awuchaphazeli uphenyo noma ukushushiswa okwenziwe, okusaqhutshwa noma olusaphenywa eHhovisi loMqondisi Wezikhhalazo Elizimele ngosuku noma ngaphambi kosuku olunqunyiwe.

(b) Zonke izindaba ezihlobene nomsebenzi wezikhhalazo zoPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika zizodluliselwa oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika uma kunesidingo iHhovisi likaNobhala. 5

#### **Imithetho echitshiyelwe kanye nechithiwe**

36. (1) Ngakho-ke imithetho ebalulwe esiThasiselweni soku-1 ichitshiyelwe ngale ndlela ebekwe kukholamu yesithathu yaleso siThasiselo.

(2) Ngakho-ke imithetho ebekwe esiThasiselweni sesi-2 ichithiwe ngale ndlela ebekwe ngayo kukholamu yesithathu yaleso siThasiselo. 10

#### **Isihloko esifingqiwe kanye nokuqala ukusebenza**

37. Lo Mthetho ubizwa ngokuthi uMthetho weHhovisi loMqondisi wezamaPhoyisa Eliphenya Ngokuzimele, wezi-2011, futhi uzoqala ukusebenza ngosuku olunqunywe uMongameli ngesimemezelo kuSomqulu. 15

## SCHEDULE 1

## LAWS AMENDED

Number and year of law	Short title	Extent of repeal or amendment	
Act 68 of 1995	South African Police Service Act	<p data-bbox="831 432 1262 555"><b>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</b></p> <p data-bbox="831 589 1262 678">1. Section 1 of the South African Police Service Act, 1995 is hereby amended—</p> <p data-bbox="855 685 1262 775">(a) by the substitution for the definition of “<b>secretariat</b>” of the following definition: “<b>secretariat</b>” means the Secretariat for [<b>Safety and Security</b>] <u>Police</u> established under section 2(1);”;</p> <p data-bbox="855 904 1262 994">(b) by the substitution for the definition of “<b>Secretary</b>” of the following definition: “<b>Secretary</b>” means the Secretary [<b>for Safety and Security</b>] <u>of Police</u> appointed under section 2(2);”.</p> <p data-bbox="831 1155 1262 1216"><b>Amendment of section 2 of Act 68 of 1995</b></p> <p data-bbox="831 1249 1262 1373">1. Section 2 of the South African Police Service Act, 1995, is hereby amended by the substitution for subsection (1) of the following subsection: “(1) (a) The Minister shall establish a secretariat to be called the Secretariat for [<b>Safety and Security</b>] <u>Police</u>.”</p> <p data-bbox="855 1503 1262 1780">(b) A provincial government may establish a provincial secretariat to be called the Provincial Secretariat for [<b>Safety and Security</b>] <u>Police</u>: 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>	<p data-bbox="1294 398 1318 421">5</p> <p data-bbox="1294 528 1318 551">10</p> <p data-bbox="1294 685 1318 707">15</p> <p data-bbox="1294 842 1318 864">20</p> <p data-bbox="1294 999 1318 1021">25</p> <p data-bbox="1294 1155 1318 1178">30</p> <p data-bbox="1294 1312 1318 1335">35</p> <p data-bbox="1294 1469 1318 1491">40</p> <p data-bbox="1294 1626 1318 1648">45</p>

## ISITHASISELO 1

## IMITHETHO ECHITSHIYELWE

Inombolo nonyaka womthetho	Isihloko Esifingqiwe	Indlela ochithwe ngayo noma ochitshiyelwe ngayo
Act 68 of 1995	i-South African Police Service Act	<p><b>Ukuchibiyela isigaba soku-1 soMthetho wama-68 we-1995, njengoba uchitshiyelwe ngesigaba soku-1 soMthetho wama-41 we-1997 kanye nesigaba soku-1 soMthetho wama-83 we-1998</b></p> <p><b>1.</b> Ngakho-ke isigaba soku-1 se-South African Police Service Act, 1995 sichitshiyelwe—</p> <p>(a) ngokufaka endaweni yencazelo “<b>ihhovisi likanobhala</b>” le ncazelo elandelayo: “<b>ihhovisi likanobhala</b>” lichaza iHhovisi likaNobhala <b>[wezokuPhepha nokuVikeleka]</b> <u>wezamaPhoyisa</u> elisungulwe ngaphansi kwesigaba sesi-2(1);”;</p> <p>(b) ngokufaka endaweni yencazelo “<b>uNobhala</b>” le ncazelo elandelayo: “<b>uNobhala</b>” uchaza uNobhala <b>[wezokuPhepha nokuVikeleka]</b> <u>wezamaPhoyisa</u> oqokwe ngaphansi kwesigaba sesi-2(2);”.</p> <p><b>Ukuchibiyela isigaba sesi-2 soMthetho wama-68 we-1995</b></p> <p><b>1.</b> Ngakho-ke isigaba sesi-2 se-South African Police Service Act, 1995 sichitshiyelwe ngokufaka endaweni yesigatshana soku-(1) lesi sigatshana esilandelayo:</p> <p>“(1) (a) UNgqongqoshe kufanele asungule ihhovisi likanobhala elizobizwa ngokuthi iHhovisi likaNobhala <b>[wezokuPhepha nokuVikeleka]</b> <u>wezamaPhoyisa</u>.</p> <p>(b) Uhulumeni wesifundazwe angasungula ihhovisi likanobhala wesifundazwe elizobizwa ngokuthi iHhovisi likaNobhala wesiFundazwe <b>[wezokuPhepha nokuVikeleka]</b> <u>wezamaPhoyisa</u>: Inqobo nje uma usuku lokuqala ukusebenza kwehhovisi likanobhala wesifundazwe lizonqunywa uhulumeni wesifundazwe ngokuxoxisana noNgqongqoshe.”.</p>

Number and year of law	Short title	Extent of repeal or amendment	
Act 112 of 1998	Witness Protection Act	<p><b>Amendment of section 1 of Act 112 of 1998</b></p> <p>1. Section 1 of the Witness Protection Act, 1998, is hereby amended by the substitution for the definition of “<b>Complaints Directorate</b>” of the following definition:</p> <p>“<b>Complaints Directorate</b>” means the Independent [<b>Complaints</b>] <u>Police Investigative Directorate</u>, established under section [50] 2 of the [<b>South African Police Service Act, 1995 (Act No. 68 of 1995)</b>] <u>Independent Police Investigative Directorate Act, 2010;</u>”.</p> <p>2. The substitution for the words “<b>Complaints Directorate</b>”, wherever they occur in the Act, of the word “<b>Directorate</b>”.</p>	5 10 15 20
Act 116 of 1998	Domestic Violence Act, 1998	<p><b>Amendment of section 18 of Act 116 of 1998</b></p> <p>1. Section 18 of the Domestic Violence Act, 1998, is hereby amended—</p> <p>(a) by the substitution in subsection (4) for the following subsection:</p> <p>“(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 instructions referred to in subsection (3), constitutes misconduct as contemplated in the South African Police Service Act, 1995, and the [<b>Independent Complaints Directorate</b>] <u>Secretariat</u>, established in terms of [<b>that Act</b>] <u>section 4(1) of the Civilian Secretariat for Police Service Act, 2010</u>, must forthwith be informed of any such failure reported to the South African Police Service.</p>	25 30 35 40 45

Inombolo nonyaka womthetho	Isihloko Esifingqiwe	Indlela ochithwe ngayo noma ochitshiyelwe ngayo
Act 112 of 1998	i-Witness Protection Act	<p><b>Ukuchibiyela isigaba soku-1 soMthetho we-112 we-1998</b></p> <p>1. Ngakho-ke isigaba soku-1 se-Witness Protection Act, 1998 sichitshiyelwe ngokufaka endaweni yencazelo “<b>iHhovisi loMqondisi Wezikhhalazo</b>” le ncazelo elandelayo: “<b>iHhovisi loMqondisi Wezikhhalazo</b>” lichaza iHhovisi loMqondisi <b>[Wezikhhalazo]</b> wezamaPhoyisa Eliphenya Ngokuzimele, elisungulwe ngaphansi kwesigaba sama-[50] 2 se-[<i>South African Police Service Act, 1995 (Act No. 68 of 1995)</i>] <u>Independent Police Investigative Directorate Act, 2010;</u>”.</p> <p>2. Ukufaka endaweni yamagama “<b>iHhovisi loMqondisi Wezikhhalazo</b>”, noma kuphi lapho evela khona eMthethweni, amagama “<b>iHhovisi loMqondisi</b>”.</p>
Act 116 of 1998	i-Domestic Violence Act, 1998	<p><b>Ukuchibiyela isigaba se-18 soMthetho we-116 we-1998</b></p> <p>1. Ngakho-ke isigaba se-18 se-Domestic Violence Act, 1998, sichitshiyelwe—</p> <p>(a) ngokufaka endaweni yesigatshana sesi-(4) lesi sigatshana esilandelayo: “(4) (a) Ukuhluleka kwelungu loPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika ukulandela isibophezelo esithweswe ngokwemigomo yalo Mthetho noma ngokwemiyalelo kazwelonke eshiwo esigatshaneni sesi-(3), kuwukungaziphathi ngendlela efanele njengoba kuveziwe ku-<i>South African Police Service Act, 1995</i>, futhi [<b>iHhovisi loMqondisi Wezikhhalazo Elizimele</b>] iHhovisi likaNobhala, elisungulwe ngokwemigomo <b>[yalowo Mthetho]</b> yesigaba sesi-4 (1) se-Civilian Secretariat for Police Act, 2010, kufanele ngaphandle kokupholisa amaseko laziswe ngalokho kuhluleka okubikwe oPhikweni lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika.</p>

Number and year of law	Short title	Extent of repeal or amendment
		<p>(b) Unless the <b>[Independent Complaints Directorate] Secretariat</b> 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 <b>[Independent Complaints Directorate] Secretariat</b> must, every six months, submit a report to Parliament regarding the number and particulars of matters 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 <b>[Independent Complaints Directorate] Secretariat</b>.”.</p>

Inombolo nonyaka womthetho	Isihloko Esifingqiwe	Indlela ochithwe ngayo noma ochitshiyelwe ngayo
		<p>(b) Ngaphandle uma <b>[iHhovisi loMqondisi Wezikhhalazo Elizimele]</b> iHhovisi likaNobhala likhipha omunye umyalelo ecaleni elithile, uPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kufanele luqale izinyathelo zokuqondiswa kwezigwegwe kulelo lungu elisolwa ngokuhluleka ukulandela isibophezelo esishiwo endimeni (a).”;</p> <p>(b) ngokufaka endaweni yesigatshana sesi-(5) sendima (c) kanye no-(d) lezi zindima ezilandelayo ngokulandelana:</p> <p>“(5) (c) <b>[iHhovisi loMqondisi Wezikhhalazo Elizimele]</b> iHhovisi likaNobhala kufanele, njalo ezinyangeni eziyisithupha, lihambise umbiko ePhalamende omayelana nenani kanye neminingwane yezindaba elibikelwe zona ngokwemigomo yesigatshana sesi-(4)(a), futhi oveza izincomo ezenziwe ngalezo zindaba.</p> <p>(d) UKhomishana kaZwelonke woPhiko lwezeMisebenzi yamaPhoyisa aseNingizimu Afrika kufanele, njalo ezinyangeni eziyisithupha, ahambise umbiko ePhalamende omayelana—</p> <p>(iii) nezinyathelo ezithathiwe ngezincomo ezenziwe <b>[iHhovisi loMqondisi Wezikhhalazo]</b> iHhovisi likaNobhala.”.</p>

Number and year of law	Short title	Extent of repeal or amendment	
Act 70 of 2002	Regulation of Interception of Communications and Provision of Communication-Related Information Act	<p data-bbox="834 311 1289 432"><b>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</b></p> <p data-bbox="834 465 1289 618"><b>1.</b> Section 1 of the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002, is hereby amended—</p> <p data-bbox="863 629 1289 904">(a) by the substitution for the definition of “<b>Executive Director</b>” of the following definition:  “<b>Executive Director</b>” means the Executive Director appointed in terms of section [51] 5(1) of the [South African Police Service Act] <u>Independent Police Investigative Directorate Act, 2010;</u>”;</p> <p data-bbox="863 916 1289 1285">(b) by the substitution for the definition of “<b>Independent Complaints Directorate</b>” of the following definition:  “<b>Independent Complaints Directorate</b>” means the Independent [Complaints] Police Investigative Directorate established by section [50(1)] 2 of the [South African Police Service Act] <u>Independent Police Investigative Directorate Act, 2010;</u>”.</p> <p data-bbox="834 1319 1289 1442"><b>2.</b> The substitution for the words “<b>Independent Complaints Directorate</b>”, wherever they occur in the Act, of the word “<b>Directorate</b>”.</p>	<p data-bbox="1297 338 1331 398">10 5</p> <p data-bbox="1297 499 1331 528">15</p> <p data-bbox="1297 656 1331 685">20</p> <p data-bbox="1297 813 1331 842">25</p> <p data-bbox="1297 969 1331 999">30</p> <p data-bbox="1297 1126 1331 1155">35</p> <p data-bbox="1297 1283 1331 1312">40</p>

Inombolo nonyaka womthetho	Isihloko Esifingqiwe	Indlela ochithwe ngayo noma ochitshiyelwe ngayo
Act 70 of 2002	i-Regulation of Interception of Communications and Provision of Communication Related Information Act	<p><b>Ukuchibiyela isigaba soku-1 soMthetho wama-70 wezi-2002, njengoba uchitshiyelwe ngesithasiselo soMthetho wama-36 wezi-2005 kanye nesigaba soku-1 soMthetho wama-48 wezi-2008</b></p> <p><b>1. Ngakho-ke isigaba soku-1 se-Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002 sichitshiyelwe—</b></p> <p>(a) ngokufaka endaweni yencazelo <b>“uMqondisi oMkhulu”</b> le ncazelo elandelayo: <b>“uMqondisi oMkhulu”</b> uchaza uMqondisi oMkhulu oqokwe ngokwemigomo yesigaba sama-[51] 5(1) se-[<i>South African Police Service Act</i>] soMthetho weHovisi loMqondisi wezamaPhoyisa Eliphenya Ngokuzimele, wezi-2010;”;</p> <p>(b) ngokufaka endaweni yencazelo <b>“iHhovisi loMqondisi Wezikhhalazo Elizimele”</b> le ncazelo elandelayo: <b>iHhovisi loMqondisi Wezikhhalazo Elizimele”</b> lichaza iHhovisi loMqondisi [Wezikhhalazo] wezamaPhoyisa Eliphenya Ngokuzimele elasungulwa ngesigaba sama-[50(1)] 2 [se-<i>South African Police Service Act</i>], soMthetho weHovisi loMqondisi wezamaPhoyisa Eliphenya Ngokuzimele, wezi-2010;”.</p> <p><b>2. Ukufaka endaweni yamagama “iHhovisi loMqondisi Eliphenya Ngokuzimele”, noma kuphi lapho evela khona eMthethweni, amagama “iHhovisi loMqondisi”.</b></p>

**SCHEDULE 2****LAWS REPEALED**

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

**ISITHASISELO 2****IMITHETHO ECHITHIWE**

<b>Inombolo nonyaka womthetho</b>	<b>Isihloko Esifingqiwe</b>	<b>Indlela ochithwe ngayo</b>
<i>Act 68 of 1995</i>	<i>i-South African Police Service Act, 1995</i>	Isahluko 10