

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**CIVILIAN SECRETARIAT FOR  
POLICE SERVICE BILL**

**[B 16—2010]**

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*(As agreed to by the Portfolio Committee on Police  
(National Assembly))*

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**[B 16A—2010]**

ISBN 978-1-77037-692-2

No. of copies printed ..... 800

## PROPOSED AMENDMENTS

### CIVILIAN SECRETARIAT FOR POLICE BILL

[B 16—2010]

#### CLAUSE 1

1. On page 4, in line 22, to omit the heading and to substitute with the following:

**“INTERPRETATION, APPLICATION AND OBJECTS OF ACT”**

2. On page 4, after line 24, to insert the following definition:

**“Civilian Secretariat** means the national Civilian Secretariat for the Police Service established in terms of section 4(1) of this Act;”

3. On page 4, from line 43 up to and including line 44, to omit the definition of “organ of state” and to substitute the following definition:

**“organ of state”** means an organ of state concerned with matters relating to the police service;”

4. On page 5, in line 5, after “services” to insert “falling under the relevant MEC”.

5. On page 5, after line 5, to insert the following definition:

**“provincial secretariat”** means a provincial secretariat established in terms of section 16;”

6. On page 5, from line 7 up to and including line 8, to omit the definition of “Secretariat” .

#### CLAUSE 2

1. Clause rejected.

#### NEW CLAUSE

1. On page 5, after line 15, after section 1 to insert the following clause:

**“Application of Act**

**2.** All organs of state must accord such assistance as may be reasonably required to ensure the effective functioning of the Civilian Secretariat in terms of this Act.”

## NEW CLAUSE

1. On page 5, after line 17, after section 2 to insert the following clause:

**“Objects of Act**

3. The objects of this Act are to—
  - (a) give effect to section 208 of the Constitution by establishing the Civilian Secretariat to function under the direction of the Minister;
  - (b) provide for civilian oversight of the police service;
  - (c) provide for the functions and powers of the Civilian Secretariat;
  - (d) provide for the establishment, composition and functions of the ministerial executive committee as required by section 206(8) of the Constitution;
  - (e) provide for the establishment, composition and functions of the senior management forum;
  - (f) provide for co-operation with the Independent Police Investigative Directorate and the South African Police Service; and
  - (g) provide for intervention by the Civilian Secretariat into the affairs of a provincial secretariat.”

## CLAUSE 3

1. On page 5, after line 22, to insert the following subsections:

“(2) The Civilian Secretariat is hereby established as a designated department at the national level.

(3) The Secretary is the accounting officer of the Civilian Secretariat and must comply with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”

2. On page 5, in line 23, 28 and 29, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
3. On page 5, after line 31, to insert the following subsection:

“(6) The Civilian Secretariat is financed from monies appropriated by Parliament”.

## CLAUSE 4

1. On page 5, in line 32, 33, 42, 44 and 46, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 5, after line 33, to insert the following paragraph:

“(a) exercise civilian oversight over the police service;”

3. On page 5, after line 47, to insert the following paragraph:

“(h) provide guidance to community police fora and associated structures and facilitate their proper functioning.”

4. On page, 5, in line 48, to omit paragraph (h).

## CLAUSE 5

1. On page 6, in line 1, 2, 25 and 53, to omit “Secretariat” and to substitute with “Civilian Secretariat”.

2. On page 6, in line 3, to omit “conduct of members and, where necessary, recommend” and to substitute “performance of the police service and regularly assess the extent to which the police service has adequate policies and effective systems and to recommend corrective measures;”.
3. On page 6, from line 6 up to and including line 8, to omit “and the Public Finance Management Act, 1999 (Act No. 1 of 1999), and Treasury regulations”.
4. On page 6, after line 8, to omit paragraph (c).
5. On page 6, after line 11, to insert the following paragraph:
 

“(d)make recommendations to the police service on disciplinary procedures and measures with regard to non-compliance with the Domestic Violence Act, 1998;”
6. On page 6, in line 20, after “functions;” to omit “and”.
7. On page 6, after line 24, after “Minister” to insert ”; and“
8. On page 6, after line 24, to insert the following paragraph:
 

“(j) assess and monitor the police service’s ability to receive and deal with complaints against its members.”.
9. On page 6, in line 32, after “resource” to insert “information”.
10. On page 6, from line 32 up to and including line 33, to omit “as an information hub and information dissemination source”.
11. On page 6, in line 34, after “develop” to omit “a” and to insert “at least one”.
12. On page 6, from line 34 up to and including line 35, after “group” to omit “to engage policies and best practices;”
13. On page 6, in line 40, before “for” to omit “develop plans” and to substitute with “recommend steps”.
14. On page 6, in line 41, to omit “and”.
15. On page 6, in line 42, to omit ”, strategies and plans” and to insert “and strategies”.
16. On page 6, in line 50, to omit subparagraph (v) and to substitute the following:
 

“(v) facilitate pro-active and interventionist models in communities;”
17. On page 6, in line 51, to omit “and blockages within” and to insert “faced by”.
18. On page 6, in line 52, after “service” in insert “as requested by the Minister;
19. On page 6, in line 52, after “service;” to omit “and”.

20. On page 6, after line 52, to insert the following subparagraph:

“(vii) develop frameworks and strategies to ensure uniformity, accountability and enhancement of community police fora and associated structures; and“

#### CLAUSE 7

1. On page 7, in line 10, 12, 14, 16, 19, 20, 21, 22, 26, 41 and 42, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 7, in line 12, to omit subparagraph (i) and to substitute with the following sub-paragraph:

“(i) head and accounting officer of the Civilian Secretariat; and”.

3. On page 7, in line 21, after “head” to insert “and accounting officer”.
4. On page 7, in line 25, to omit the first “the”.
5. On page 7, in line 26, to omit “and ”.
6. On page 7, from line 27 up to and including line 28, to omit paragraph (d) and to substitute with the following paragraphs:

“(d) establishment of the staff component in accordance with the laws governing the public service; and

(e) appointment of such staff as may be necessary to enable the Civilian Secretariat to perform its functions in terms of this Act.”

7. On page 7, in line 36, after “Minister” to omit “and”.
8. On page 7, in line 38, after “oversight” to insert “; and”.
9. On page 7, after line 38, to insert the following paragraph:

“(f) any other function assigned to the Secretary as may be determined by the Minister.”

10. On page 7, after line 42, to add the following subsection:

“(5) The provisions of this section, in so far as it relates to the Secretary as accounting officer of the Civilian Secretariat, will only come into operation when the Civilian Secretariat becomes a designated department.”

#### CLAUSE 8

1. On page 7, in line 45 and 55, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 7, in line 50, to omit “services” and to substitute with “assistance”.
3. On page 7, in line 50 after “of” to omit “any person, including”.
4. On page 7, in line 51, after “function” to insert “within the competency of the Civilian Secretariat”.

## CLAUSE 9

1. On page 8, in line 1, to omit “Assignment of powers and functions” and to substitute with “Delegation of powers and assignment of duties”.
2. On page 8, in line 3 and 6, to omit “Secretariat” and to substitute with “Civilian Secretariat”.

## CLAUSE 10

1. On page 8, in line 13, after “may” to omit “, in consultation with the President,”.
2. On page 8, in line 14, to omit “if the Minister has lost confidence in the Secretary”.

## CLAUSE 11

1. On page 8, in line 19, after “is” to omit “absent or otherwise”.
2. On page 8, in line 23, to omit subsection (2) and to substitute with the following subsection:

“(2) 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”.

## CLAUSE 12

1. On page 8, in line 26, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 8, from line 27 up to and including line 28, to omit subsection (2).

## NEW CLAUSES

1. On page 8, after line 28, to insert the following clauses:

**“Finances and accountability**

**14.** (1) The Secretary—

(a) must, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999)—

(i) be charged with the responsibility of accounting for money received or paid out for or on account of the office of the Civilian Secretariat;

(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**

**15.** (1) The Secretary must prepare and submit to the Minister an annual report in a 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; and
- (c) a detailed report on the activities of the Civilian Secretariat 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 Secretary must publish the annual report, financial statements and the audit report on those statements."

#### CLAUSE 13

1. On page 8, in line 33, after "province," to insert "within 18 months after the commencement of this Act,".
2. On page 8, in line 34, to omit "Secretariat" and to substitute with "Civilian Secretariat".

#### CLAUSE 14

1. On page 8, in line 37, 41, 43 and 50, to omit "Secretariat" and to substitute with "Civilian Secretariat".
2. On page 8, in line 48, to omit "investigate" and to substitute "monitor".
3. On page 9, in line 1, to omit "Secretariat" and to substitute with "Civilian Secretariat".

#### CLAUSE 15

1. On page 9, after line 13, to insert the following paragraph:
 

“(4) The head of a provincial secretariat must not be a member or former member of the police service of the Republic contemplated in section 199(1) of the Constitution.”

#### CLAUSE 16

1. On page 9, from line 25, up to and including line 31, to omit paragraphs (d) and (e) and substitute with the following paragraphs:
 

“(d) must monitor that national policing policies and directives issued or made by the Minister are implemented by the police service in the province and reports thereon are submitted to the head of a provincial department, the MEC and the Secretary;

(e) must evaluate and review practices, methodologies and performance of the police service in the province, submit reports thereon to the head of a provincial department and the MEC and submit copies thereof to the Secretary; and”

#### CLAUSE 17

1. On page 9, from line 36 up and including line 39, to omit the subsection (1).

2. On page 9, in line 40, to omit “(2) Despite the provisions of subsection (1), the” and to substitute “The”.
3. On page 9, in line 40, to omit “in” and to substitute with “after”.
4. On page 9, in line 49, after second “the” to insert “head of a”.

#### CLAUSE 18

1. On page 9, in line 46, to omit “absent or otherwise”.
2. On page 9, in line 48, to omit “in” and to substitute with “after”.
3. On page 9, from line 51 up and including line 52, to omit subsection “(2)” and to substitute with the following subsection:

“(2) In the case of a vacancy, the MEC must fill the vacancy within a reasonable period of time, which period must not exceed six months”.

#### CLAUSE 20

1. On page 10, in line 20, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 10, in line 25, to omit “services by”.
3. On page 10, in line 26, after first “to” to insert “identify best practices, to”.
4. On page 10, in line 26, after “to” to omit “initiate” and to substitute “recommend”.
5. On page 10, in 28, to omit paragraph “(d)”.
6. On page 10, after line 35, to insert the following subsection:

“(3) The Secretary may invite any person as he or she may consider necessary to attend the meetings referred to in subsection (1)”.

#### CLAUSE 22

1. On page 10, in line 44, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 10, from line 49 up to and including line 50, to omit subsection (3) and to substitute with the following subsections:

“(3) The Secretary convenes, determines the agenda for and presides at the meetings referred to in subsection (2), and his or her office is responsible for providing administrative and other support services to the meetings.

“(4) The Secretary may invite any person as he or she may consider necessary to attend meetings referred to in subsection (2).”

#### CLAUSE 23

1. On page 11, in line 2, 3, and 16, to omit “Secretariat” and to substitute with “Civilian Secretariat”.

2. On page 11, in line 4, to omit “Secretariat” and to substitute with “Minister”.
3. On page 11, from line 4 up to and including line 5, to omit “on the instructions of the Minister,” and to substitute with “after consultation with the relevant MEC, instruct the Civilian Secretariat to”.
4. On page 11, from line 12 up to and including line 13, to omit subsection “(2)” to substitute with the following subsection:

“(2) The instructions of the Minister contemplated in subsection (1) may only be granted after the Minister has approved the scope and plans for such intervention”.

5. On page 11, in line 18, after subsection (4) to insert the following subsections:

“(5) The Minister must regularly inform the relevant MEC on the progress of the intervention referred to in subsection (4).

(6) Nothing in this Part precludes the Minister from instructing the Civilian Secretariat to perform such functions contemplated by this Act in a province.”

#### CLAUSE 24

1. Clause rejected.

#### CLAUSE 27

1. On page 11, in line 37, to omit “Secretariat” and to substitute with “Civilian Secretariat”.

#### CLAUSE 29

1. On page 12, in line 9, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 12, in line 10, after “section” to omit “10(1)” and to substitute with “9(1)”.
3. On page 12, from line 11 up to and including line 15, to omit subsections “(2)” and “(3)” and to substitute with the following subsection:

“(2) The Civilian Secretariat must monitor the implementation by the police service of the recommendations made by the Directorate and provide the Minister with regular reports on steps taken by it to ensure compliance, and a copy thereof must be sent to the Executive Director”.

4. On page 12, after line 15, to add the following subsection:

“(3) The Secretary and the Executive Director must ensure the necessary co-operation for the proper functioning of the Consultative Forum contemplated in Chapter 4 of the Independent Police Investigative Directorate Act, 2010.”

## NEW CLAUSE

1. On page 12, after line 15, to insert the following clause:

*“Part 6*

*Co-operation with South African Police Service*

**Co-operation with South African Police Service**

**30.** The members must provide their full co-operation to the Civilian Secretariat and where so required to a provincial secretariat, including but not limited to—

- (a) assisting the Civilian Secretariat with the necessary information and records in the manner prescribed to perform its monitoring function in relation to oversight of the police service in terms of this Act;
- (b) assisting the Civilian Secretariat to monitor and evaluate compliance with the Domestic Violence Act, 1998 (Act No. 116 of 1998); and
- (c) any other information or documentation as may be required by the Civilian Secretariat in order to fulfil its functions in terms of this Act.

## CHAPTER 6

1. On page 12, in line 17, to omit the heading and to substitute with the following:

**“REGULATIONS, TRANSITIONAL PROVISIONS, AMENDMENT AND REPEAL OF LAWS, SHORT TITLE AND COMMENCEMENT”**

## CLAUSE 30

2. On page 12, after line 26, to add the following subsection:

“(3) The regulations referred to in subsection (1) must be submitted to Parliament for notification purposes before promulgation.”

## CLAUSE 31

1. On page 12, in line 42, 47, 50 and 51, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 12, in line 43, after “section” to omit “7(4)” and to substitute with 8(2)(e) and 8(4).
3. On page 12, after line 51, to insert the following subsection:

“(7) The reports of the Secretary in terms of section 12 must include progress made in respect of the establishment of provincial secretariats until such time as provincial secretariats are established and functioning in the provinces.”

## CLAUSE 33

1. On page 13, in line 6, to omit “fixed” and to substitute with “determined”.

2. On page 13, after line 6, to add the following subsections:

“(2) The provisions of sections 4(2) and (3), and 14 shall come into operation on a date determined by the President by proclamation in the *Gazette*.

(3) Different dates may be determined under subsection (2) in respect of different provisions of this Act.”

#### LONG TITLE

1. On page 2, in the second, third, fourth, ninth and tenth line, to omit “Secretariat” and to substitute with “Civilian Secretariat”.
2. On page 2, in the ninth line, after “Directorate;” to insert “to provide for co-operation between the Civilian Secretariat and the South African Police Service;”.

#### SCHEDULE

1. On page 14, in the nineteenth line, to omit “3(1)” and to substitute with “4(1)”.