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## GENERAL NOTICE

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### DEPARTMENT OF POLICE

No. 147

24 February 2012

#### **PUBLICATION OF THE EXPLANATORY SUMMARY OF THE SOUTH AFRICAN POLICE SERVICE AMENDMENT BILL, 2012**

The Minister of Police intends to formally introduce the South African Police Service Amendment Bill, 2012, in the National Assembly, as soon as possible. The explanatory summary of the Bill is hereby published in accordance with Rule 241 (c) of the Rules of the National Assembly.

The Bill is introduced to amend the South African Police Service Act, 1995 (Act No. 68 of 1995.)

The Bill seeks to amend the South African Police Service Act, 1995, in order to align the provisions relating to the Directorate for Priority Crime Investigation with a judgment of the Constitutional Court; to amend those provisions in order to ensure that the Directorate has the operational independence to fulfil its mandate without undue interference; and to provide for matters connected therewith

The Bill, as to be introduced, is available at the Government printer in Cape Town and Pretoria, as well as on the Internet at the following websites:

[www.policesecretariat.gov.za](http://www.policesecretariat.gov.za) and  
[www.saps.gov.za](http://www.saps.gov.za) , from 27 February 2012.

## **EXPLANATORY SUMMARY**

### **SOUTH AFRICAN POLICE SERVICE AMENDMENT BILL, 2012**

The Constitutional Court found that Chapter 6A of the South African Police Service Act, 1995 (Act No. 68 of 1995), is inconsistent with the Constitution and invalid to the extent that it fails to secure an adequate degree of independence for the Directorate for Priority Crime Investigation. The declaration of constitutional invalidity is suspended for 18 months in order to give Parliament the opportunity to remedy the defect.

The Bill seeks to amend the South African Police Service Act, 1995, in order to provide establishment and functioning of the Directorate for Priority Crime Investigation in line with the decision of the Constitutional Court. The Directorate is responsible for the investigation of priority crimes, including international crimes such as terrorism, mercenary crimes, crimes relating to the proliferation of weapons of mass destruction, organised crime and corruption.

The Constitutional Court requires the following issues to be addressed, namely the issue of the powers of the Ministerial Committee which may determine guidelines for the selection of cases by the Head of the Directorate; the referral of cases by the National Commissioner of the South African Police Service; the lack of security of tenure of both the Head of the Directorate for Priority Crime Investigation and members of the Directorate; the need for an oath of office for members of the Directorate to uphold and protect the Constitution and the Bill of Rights entrenched therein, to enforce the Law of the Republic without fear, favour or prejudice and as the circumstances of any particular case may require, in accordance with the Constitution; to establish the Directorate for Priority Crime Investigation to ensure that it has the operational independence to fulfil its mandate without undue interference as required by the Constitution of the Republic of South Africa, 1996, as well as to fulfil the obligations contained in international counter-corruption instruments.