

REPUBLIC OF SOUTH AFRICA

**INDEPENDENT POLICE
INVESTIGATIVE DIRECTORATE
AMENDMENT BILL**

*(As introduced in the National Assembly (section 75); initiated by the Portfolio Committee
on Police; Bill and prior notice of its introduction published in Government
Gazette No. 41667 of 1 June 2018)
(The English text is the official text of the Bill)*

(PORTFOLIO COMMITTEE ON POLICE)

[B 25—2018]

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(4) The Minister may allow the Executive Director, at his or her request, to vacate his or her office—

(a) on account of continued ill-health; or

(b) for any other reason which the Minister deems sufficient.

(5) The Executive Director must address the request contemplated in subsection (4) to the Minister, at least six calendar months prior to the date on which the Executive Director wishes to vacate his or her office, unless the Minister grants a shorter period in a specific case.”

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Short title and commencement

3. This Act is called the Independent Police Investigative Directorate Amendment Act, 2018, and comes into operation on a date to be determined by the President by proclamation in the *Gazette*. 10

**MEMORANDUM ON THE OBJECTS OF THE INDEPENDENT
POLICE INVESTIGATIVE DIRECTORATE AMENDMENT BILL,
2018**

1. INTRODUCTION

The Constitutional Court in the matter of *McBride v Minister of Police and Another* [2016] ZACC 30 found certain legislative provisions invalid to the extent that these provisions authorised the Minister of Police to suspend the Executive Director of the Independent Police Investigative Directorate, to take any disciplinary steps pursuant to such suspension, or to remove the Executive Director of the Independent Police Investigative Directorate from office. These provisions are—

- 1.1. section 6(3)(a) and 6(6) of the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011);
- 1.2. sections 16A(1), 16B, 17(1) and 17(2) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); and
- 1.3. regulation 13 of the Independent Police Investigative Directorate Regulations for the Operation of the Independent Police Investigative Directorate (GN R98 of Government Gazette No. 35018 of 10 February 2012).

The Constitutional Court further provided a reading in for section 6(6) of the the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011), with reference to subsections 17DA(3) to 17DA(7) of the South African Police Service Act, 1995 (Act No. 68 of 1995).

The Constitutional Court directed Parliament to correct these defects in the legislation within 24 months from the date of the order, which was handed down on 6 September 2016. This Bill intends to correct these defects identified by the Constitutional Court.

2. OBJECTS OF THE BILL

The purpose of the Bill is to amend the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011), in order to provide for parliamentary oversight in relation to the suspension, discipline or removal of the Executive Director.

3. CONTENTS OF THE BILL

- 3.1 Clause 1 amends section 6 of the Act by the repeal of subsection (6) which deals with the removal of the Executive Director.
- 3.2 Clause 2 inserts section 6A into the Act. This section sets out the process to be followed to remove the Executive Director. The process is subject to parliamentary scrutiny.
- 3.3 Clause 3 is the short title of the Bill.

4. FINANCIAL IMPLICATIONS FOR THE STATE

There will be no financial implications in connection with the Bill.

5. DEPARTMENTS, BODIES OR PERSONS CONSULTED

The following stakeholders were consulted—

- The Civilian Secretariat for Police Service
- The Independent Police Investigative Directorate

6. PARLIAMENTARY PROCEDURE

- 6.1 The Committee proposes that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution as its provisions do not in a substantial manner deal with any functional area of concurrent national and provincial legislative competence listed under Schedule 4 to the Constitution, nor do they deal with any other matter contained in sections 76(3), (4) or (5).
- 6.2 The Committee is of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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