



Commentary in respect of proposed amendment:

South African Police Service Amendment Bill

By: AfriForum

1. Introduction

- 1.1 AfriForum NPC (“AfriForum”) is a civil rights organisation with a specific focus on constitutional rights, the rule of law and constitutional democracy. AfriForum currently has approximately 261 000 members nationwide.
- 1.2 AfriForum regularly assists and strengthens law enforcement and police in various ways. AfriForum has set up a total of 157 neighbourhood, smallholding and farm watches across the country, which work with and assist the police in combating crime in communities.
- 1.3 AfriForum is deeply concerned at the alarming rate of crime within South Africa and specifically in the rural areas. In the rural areas the proper functioning of neighbourhood watches without red tape should be prioritised.
- 1.4 AfriForum has studied the proposed South African Police Service Amendment Bill and hereby provides its commentary on some aspects/sections as it deems relevant.

2. Proposed amendment to Section 13 – Section 12(A)(ii) and (iii) of the draft

- 2.1 It is contended that police officials should only be able to use deadly force to protect property on the rarest of occasions. This would be in instances where the destruction of the property would be a threat to the life of the owner/possessor.

3. Proposed amendment to Section 13 – Section 12(b) of the draft

- 3.1 It is contended that automatic assault rifles should be permitted at demonstrations. The police cannot risk being outgunned when a protest turns violent. The mere presence of such weapons also serves as a deterrent to anarchists.

4. Proposed amendment to Section 13(7) – Section 12(d) of the draft

- 4.1 It is not sufficient to merely “exhibit” a copy of the written authorisation to the person concerned. That person needs to be provided with a copy of the document.

5. Proposed Section 71A, (b) and (c)

5.1 The proposed Sections would be inconsistent with the Constitution and specifically the right to freedom of expression as envisaged in Section 16 of the Constitution of the Republic of South Africa, 1996. A person might, for instance, spread untruthful information or publish hoaxes without even knowing that it would get to the attention of the Police Service and such person would have no idea whether the Police Service would act on the information if received, or not. The proposed Sections cannot be justified.

6. Proposed Section 6A:

6.1 This proposed Section unduly limits the right of community members to establish a voluntary neighbourhood watch in accordance with the right of freedom of association (Section 18 of the Constitution).

6.2 Such a neighbourhood watch should be able to perform its duties informally, as long as same remains in accordance with the law. Various sanctions exist whenever the law is possibly transgressed. In terms of the proposed Section 6A(4) and (4) only the coordinator of the neighbourhood watch association may liaise with the police. This creates unnecessary red tape. Each and every resident and member of a neighbourhood watch is entitled to liaise with the police.

6.3 The proposed Section 6A(8) and (9) are furthermore unconstitutional since it limits the right to freedom of association if the Minister is to prescribe the code of conduct for a voluntary association. No procedure for registration is indicated and it is suspected that this would only lead to further frustration and red tape, which will severely hamper community safety operations.

7. Conclusion

7.1 AfriForum respectfully hopes that its input will be considered and that the current text of the proposed Amendment Act should not be accepted without alteration.