Western Cape, South Africa

# Western Cape Community Safety Act, 2013

Act 3 of 2013

Legislation as at 5 April 2013

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# Western Cape
# South Africa

# Western Cape Community Safety Act, 2013
## Act 3 of 2013

Published in Western Cape Provincial Gazette 7116 on 5 April 2013

**Assented to on 3 April 2013**

**Commenced on 1 November 2013 by Western Cape Community Safety Act: Commencement**

*[This is the version of this document from 5 April 2013 and includes any amendments published up to 12 April 2024.]*

(English text signed by the Premier)

**To provide for the carrying out and the regulation of the functions of the Province and the Department of Community Safety under Chapter 11 of the Constitution of the Republic of South Africa, 1996, and Chapter 8 of the Constitution of the Western Cape, 1997; to provide for the support of and cooperation with the Civilian Secretariat and the Provincial Secretariat established in terms of the Civilian Secretariat for Police Service Act, 2011; to provide for directives for the establishment of community police forums and boards in terms of the South African Police Service Act, 1995; to provide for the accreditation of organisations and associations as neighbourhood watches; to provide for partnerships with community organisations; to establish and maintain an integrated information system and a database of organisations; to provide for the voluntary registration of security service providers on the database of organisations; to establish the Office of the Western Cape Provincial Police Ombudsman to investigate complaints regarding the police; to regulate reporting on the police service; to establish the Provincial Safety Advisory Committee; and to provide for matters incidental thereto.**

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:-

## 1. Definitions

In this Act, unless the context otherwise indicates-

"**Civilian Secretariat**" means the Civilian Secretariat for the Police Service established by section 4 of the Civilian Secretariat for Police Service Act, 2011 (Act 2 of 2011);

"**Committee**" means the Provincial Safety Advisory Committee established by section 25;

"**community police forums and boards**" means community police forums and boards established in terms of sections 19 to 21 of the South African Police Service Act, 1995 (Act 68 of 1995);

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"**Department**" means the provincial Department of Community Safety responsible for the functions referred to in Chapter 11 of the Constitution and Chapter 8 of the Constitution of the Western Cape, 1997 (Act 1 of 1998) and established under section 3A of the Public Service Act, 1994 as reflected in Schedule 2 of that Act;

"**Head of the Department**" means the head of the provincial Department of Community Safety;

"**Independent Police Investigative Directorate**" means the Independent Police Investigative Directorate established by section 3(1) of the Independent Police Investigative Directorate Act, 2011 (Act 1 of 2011);

"**Minister**" means the national cabinet member responsible for policing;

"**municipal police service**" means a municipal police service established in the Province in terms of section 64A of the South African Police Service Act, 1995;

"**neighbourhood watch**" means an organisation or association contemplated in section 6(1) and accredited in terms of section 6(5);

"**Ombudsman**" means the Western Cape Provincial Police Ombudsman appointed in terms of section 11;

"**police**" means police officials of the police service;

"**police official**" means a member of the South African Police Service deployed in the Province or a member of a municipal police service;

"**police service**" means the South African Police Service deployed in the Province or a municipal police service;

"**policing**" means the functions performed by police officials;

"**prescribe**" means prescribe by regulation;

"**Province**" means the Province of the Western Cape;

"**Provincial Cabinet**" means the Provincial Cabinet as referred to in section 42 of the Constitution of the Western Cape, 1997;

"**Provincial Commissioner**" means the provincial commissioner appointed for the Province in terms of section 207(3) of the Constitution;

"**Provincial Minister**" means the provincial minister responsible for the functions referred to in Chapter 11 of the Constitution and Chapter 8 of the Constitution of the Western Cape, 1997;

"**Provincial Secretariat**" means the provincial secretariat for the Province established in terms of section 16 of the Civilian Secretariat for Police Service Act, 2011;

"**regulation**" means a regulation made under section 31;

"**security service provider**" means a security service provider as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

"**South African Police Service**" means the South African Police Service established by section 5(1) of the South African Police Service Act, 1995, and deployed in the Province; and

"**this Act**" includes the regulations made under section 31 and any directives made under sections 3(f) and 5.

## 2. Purpose of Act

The purpose of this Act is to-

(a) regulate and to provide for the carrying out of the functions of the Province referred to in sections 206(1), (3), (4), (5) and (9) and 207(5) and (6) of the Constitution, and sections 66, 67, 68(1), (2)(a) and (b) and 69(2) of the Constitution of the Western Cape, 1997, to-

(i) determine policing needs and priorities;

(ii) monitor police conduct;

(iii) oversee the effectiveness and efficiency of the police service, including receiving reports on the police service;

(iv) promote good relations between the police and the community;

(v) assess the effectiveness of visible policing;

(vi) investigate any complaints of police inefficiency or a breakdown in relations between the police and any community;

(vii) require the Provincial Commissioner to report to and appear before the Provincial Parliament; and

(viii) institute proceedings for the removal or transfer of, or disciplinary action against the Provincial Commissioner; and

(b) support the objects of the Civilian Secretariat and Provincial Secretariat.

## 3. Functions of Provincial Minister

The Provincial Minister may, in order to achieve the objectives of section 206(1), (3), (4) and (5) of the Constitution, and sections 66 and 68(1), (2)(a) and (b) of the Constitution of the Western Cape, 1997, exercise and perform the following powers and functions-

(a) monitor police conduct;

(b) oversee the effectiveness and the efficiency of the police service;

(c) oversee the effectiveness of policies and directives implemented by the police service in relation to appointments, training and policing;

(d) promote good relations between the police and the community;

(e) identify causes of any breakdown in relations between the police and any community and establish measures to improve the relations;

(f) issue directives for the establishment and strengthening of community police forums and boards and to facilitate their proper functioning in order to promote good relations between the police and the community;

(g) establish partnerships with any community aimed at promoting good relations between the police and the community;

(h) maintain a database of community organisations involved in the field of policing and related fields;

(i) assess the effectiveness of visible policing;

(j) establish and maintain integrated information systems in order to oversee the effectiveness and efficiency of the police service and to determine the policing needs and priorities of the Province;

(k) liaise with the Minister regarding crime and policing in the Province;

(l) record complaints relating to police inefficiency or a breakdown in relations between the police and the community;

(m) receive and analyse reports, including quantitative and qualitative information on the police service;

(n) collect empirical information on performance indicators and resource distribution;

(o) identify indicators to monitor and assess the effectiveness and efficiency ofthe police service;

(p) receive and analyse information about the funding, expenditure, activities, outputs and outcomes of policing;

(q) analyse the competence and capacity of the police service, and patterns and practices of police conduct, and identify problems and shortcomings in the policing system and make recommendations to the Minister on how to remedy it;

(r) advise the Provincial Cabinet on the policing needs and priorities of the Province as contemplated in section 23;

(s) liaise with and make recommendations to the Minister regarding the policing needs and priorities of the Province as determined by the Provincial Cabinet;

(t) evaluate how policing needs and priorities are reflected in national policing policy;

(u) identify and address specific police oversight issues which other persons involved in police oversight do not address;

(v) table an annual report in the Provincial Parliament on the exercise and performance of the powers and functions in terms of this Act;

(w) conduct research as may be required;

(x) liaise with and facilitate cooperation amongst stakeholders with an interest in the exercise and performance of the powers and functions in terms of this Act;

(y) oversee the functioning of the Provincial Secretariat;

(z) monitor complaints referred by the Provincial Cabinet to the Independent Police Investigative Directorate;

(aa) facilitate close cooperation between the Department and the Civilian Secretariat, the Provincial Secretariat, the Independent Police Investigative Directorate and the police in the performance of the functions in terms of this Act.

## 4. Monitoring, oversight and assessment of policing

(1) The Provincial Minister may in the prescribed manner. subject to section 13(11) of the South African Police Service Act, 1995, authorise employees of the Department to-

(a) attend protests, crime scenes and any other scene of police activity to observe and record the interaction between the police and the community;

(b) monitor and evaluate the allocation, distribution and use of human and other resources for policing;

(c) inspect police stations, or other police premises in order to-

(i) monitor police conduct;

(ii) oversee the effectiveness and elliciency of the police service in the area;

(iii) oversee the effectiveness and efficiency of the police service in dealing with complaints from the community regarding policing in the area;

(iv) evaluate the relations between the community and the police;

(v) monitor the treatment and conditions of persons held in police custody in order to determine the recognition by the police of the rights of detained persons in terms of section 35(2) of the Constitution.

(2) The Provincial Minister may authorise any other person in the prescribed manner to perform any of the functions referred to in subsection (1) at the remuneration determined by the Provincial Minister with the concurrence of the Provincial Minister responsible for finance.

(3) In order to perform the functions in terms of this Act, the Provincial Minister or any employee or person authorised in terms of subsection (1) or (2)-

(a) may request and obtain information and documents under the control of the police service or a municipality in question;

(b) may enter any building, premises, vehicle or property under the control of the police service or a municipality in question;

(c) is entitled to assistance by any member of the police service.

(4) Any dispute relating to a request, access or assistance contemplated in subsection (3) must be reported to the Provincial Minister.

## 5. Directives for establishment of community police forums and boards

(1) In order to promote good relations between the South African Police Service and the community, the Provincial Minister may issue directives regarding the establishment of community police forums and boards in terms of sections 19(1), 20(1) and 21(1) of the South African Police Service Act, 1995, including directives relating to-

(a) the requirements for identifying relevant community organisations, institustions and interest groups to form part of a community police forum or board;

(b) the procedures for the establishment of a community police forum or board;

(c) the term of office of members of a community police forum or board;

(d) the adoption of a constitution for a community police forum or board and the minimum content thereof;

(e) dispute resolution procedures applicable to any dispute in respect of the establishment of a community police forum or board.

(2) The Head of the Department must-

(a) evaluate the level of functionality ofcommunity police forums and boards and the relations between the police and the community police forums and boards;

(b) regularly attend the meetings of the community police forums and boards in order to promote the objectives of section 18(1) of the South African Police Service Act, 1995; and

(c) annually report his or her findings in respect of paragraphs (a) and (b) to the Provincial Minister.

(3) The Head of the Department may assist community police forums and boards by providing funding, training or resources.

## 6. Accreditation of and support to neighbourhood watches

(1) Any organisation or association that-

(a) operates not for gain as a voluntary organisation or association:

(b) comprises members who are residents, tenants or owners of immovable property or with any other relevant interest in the area where the organisation or association operates: and

(c) has the purpose of safeguarding its members, their immovable and other property against crime and other safety concerns in the area where the organisation or association operates,

may apply to the Provincial Minister in the prescribed form for accreditation as a neighbourhood watch.

(2) The Provincial Minister-

(a) must request the police official in charge of the police station in the area within which the organisation or association operates; and

(b) may request any other organisation,

to comment, within the period stated in the request, on the proposed accreditation of the organisation or association as a neighbourhood watch in that area.

(3) If the police official or an organisation fails to comment within the stated period referred to in subsection (2), the police or the organisation is regarded as having no comment on the proposed accreditation of the organisation or association.

(4) The Provincial Minister may require further information from the organisation or association in support of the application.

(5) The Provincial Minister may accredit an organisation or association as a neighbourhood watch after considering, within the prescribed period-

(a) an application;

(b) any further information provided by the applicant;

(c) any comment received from the police or an organisation as contemplated in subsection (2);

(d) whether the organisation or association conducts its activities according to the prescribed standards relating to-

(i) criteria for membership of a neighbourhood watch and the conduct of members;

(ii) the structures of a neighbourhood watch; and

(iii) the control and use of funds of a neighbourhood watch; and

(e) whether the organisation or association cooperates with the community police forum in the area.

(6) If the Provincial Minister decides-

(a) to accredit an organisation or association as a neighbourhood watch, the Provincial Minister must-

(i) enter the name of the neighbourhood watch in the register of neighbourhood watches;

(ii) issue a certificate of accreditation in the name of the neighbourhood watch stating the period of accreditation, the area within which the neighbourhood watch operates and other terms of accreditation; and

(iii) send the certificate of accreditation to the neighbourhood watch, the community police forum and the police official in charge of the police station in the area; or

(b) not to accredit the organisation or association as a neighbourhood watch, the Provincial Minister must advise the unsuccessful applicant, the police officer in charge of the police station in the area and the community police forum in the area in writing of his or her decision and the reasons for the decision.

(7) The Provincial Minister must annually publish a list of neighbourhood watches in the *Provincial Gazette*.

(8) The Provincial Minister may provide funding, training or resources to a neighbourhood watch.

(9) The Provincial Minister must keep a register of neighbourhood watches and make the register available for inspection to any interested person at his or her request and on payment of the prescribed fee.

(10) A neighbourhood watch must-

(a) renew its accreditation every two years in the prescribed manner, failing which the accreditation will lapse;

(b) report in the prescribed manner and within the prescribed period to the Provincial Minister on-

(i) safety concerns and crime incidents in the area where the neighbourhood watch operates;

(ii) the activities of the neighbourhood watch; and

(iii) any prescribed matter required by the Provincial Minister to determine policing needs and priorities and the cflectiveness and efficiency of the police service;

(c) keep record of the matters contemplated in paragraph (b)(i) to (iii); and

(d) preserve the records contemplated in paragraph (c) for at least five years from the date of recording.

(11) An employee of the Department, authorised by the Provincial Minister, has access to any records kept by or on behalf of a neighbourhood watch and may examine, make extracts from or copies of, the records to obtain further information in respect of a report made in terms of subsection (10)(b) and to verify whether the neighbourhood watch is complying with the standards contemplated in subsection (5)(d) and (e).

(12) If a neighbourhood watch fails to comply with the standards contemplated in subsection (5)(d) and (e) or with subsection (10)(b), (c) or (d), the Provincial Minister may by written notice direct the neighbourhood watch to comply with those sections within the period mentioned in the notice.

(13) If the neighbourhood watch fails to give effect to the notice within the period mentioned therein, the Provincial Minister may withdraw the accreditation of that neighbourhood watch.

## 7. Database and partnerships with community organisations

(1) To promote good relations between the police and communities in the Province, the Head of the Department may-

(a) maintain a database of community organisations involved in the field of policing, support of victims of crime, crime prevention or community safety;

(b) assist community organisations on the database by providing support, information, training or resources;

(c) subject to any law governing the award of contracts by the Province, enter into a contract with any party to design, finance or operate any community safety initiative or partnership to achieve the purpose of this Act.

(2) A community organisation listed on the database must report to the Head of the Department, in the prescribed form, on safety concerns and crime incidents dealt with by the organisation.

(3) The Provincial Minister may facilitate the establishment of specialised units in response to specific categories of crime in order to promote good relations between the police and communities in the Province.

## 8. Integrated information system

(1) In order to oversee the effectiveness and the efficiency of the police service and to determine the policing needs and priorities of the Province, the Provincial Minister must establish and maintain an integrated information system.

(2) The Head of the Department must authorise employees of the Department to collect information and to administer and maintain the integrated information system.

(3) The Provincial Minister may consult with the Civilian Secretariat and the Provincial Secretariat regarding the integrated information system to ensure the integration of information with any

safety models and monitoring tools developed by the Provincial Secretariat as contemplated in section 17(2) of the Civilian Secretariat for Police Service Act, 2011.

(4) The integrated information system must provide for-

(a) the collection of data from relevant organs of state or institutions, security service providers registered in terms of subsection (6) and the police service;

(b) the analysis of the data;

(c) the recording of safety concerns in communities of the Province;

(d) the incorporation of information in a report contemplated by sections 6(10)(b), 7(2) and 8(7)(a); and

(e) the analysis of the number and nature of complaints relating to the police received by the Ombudsman in terms of section 16. organs of state, community police forums and other institutions.

(5) The Head of the Department may refer information relating to crime or criminal activities received through the integrated information system to the Provincial Commissioner.

(6) The Provincial Minister may request a security service provider that operates in the Province to register on the database referred to in section 7.

(7) A registered security service provider must-

(a) report in the prescribed manner and within the prescribed period to the Provincial Minister on-

(i) safety concerns and crime incidents in the area where the security service provider operates;

(ii) firearms that are lost or stolen whilst in the possession of the security service provider; and

(iii) any prescribed matter required by the Provincial Minister to determine policing needs and priorities and to oversee the effectiveness and efficiency of the police service;

(b) keep record of the matters contemplated in paragraph (a)(i) to (iii); and

(c) preserve the records contemplated in paragraph (b) for at least five years from the date of recording.

(8) An employee of the Department, authorised by the Provincial Minister, has access to any records kept by or on behalf of a registered security service provider in terms of subsection (7)(b), and may examine, make extracts from or copies of, the records for the purposes of obtaining further information in respect of a report made in terms of subsection (7)(a).

## 9. Confidentiality and disclosure

(1) No personal information collected for the purpose of this Act by the Provincial Minister, the Head of the Department or an employee or person authorised in terms of this Act, concerning-

(a) an individual;

(b) a household;

(c) a business; or

(d) a private organisation,

may, subject to the laws regulating state information and subsections (2) and (3), be disclosed to any other person.

(2) Subject to section 8(5), the information contemplated in subsection (1) may be disclosed-

(a) to any organ of state-

(i) for a purpose relating to the functions in this Act;

(ii) in accordance with the directions of the Provincial Minister;

(iii) on condition that the name, address or any other means by which a specific individual, household, business or private organisation may be identified is deleted;

(iv) if its disclosure is not reasonably expected to endanger the life or physical safety of an individual, or prejudice or impair the security of property; and

(v) the Provincial Minister is satisfied that the confidentiality of that information or data will not be impaired; or

(b) to the person from whom the information was collected or his or her representative;

(c) with the prior written consent of the person from whom the information was collected or his or her representative;

(d) where the information is already available to the public from the individual, household, business or private organisation concerned; or

(e) if it is regarded as necessary or expedient in the interests of justice.

(3) Despite the confidentiality constraints applicable to the Provincial Minister, the Head of the Department and authorised employees or persons, the Ombudsman is entitled to information or sight of documentation referred to in subsection (1) and in the Provincial Minister's possession which may be relevant in the consideration of a complaint.

(4) The Provincial Minister, the Head of the Department and every employee or person authorised in terms of this Act-

(a) must take all reasonable steps to ensure that-

(i) information which is collected for the purposes of this Act is accurate, up-to-date and as complete as possible;

(ii) the confidentiality of that information is protected; and

(iii) the information is secured against unauthorised access; and

(b) may not record or deal with information referred to in subsection (1) other than for the purposes of this Act and in accordance with this section.

(5) The Provincial Minister must ensure that the confidentiality of information referred to in subsection (1) which is reflected in a record of the Department is protected when that record is disposed of.

## 10. Establishment of Office of Western Cape Provincial Police Ombudsman

(1) The Office of the Western Cape Provincial Police Ombudsman is established in the Department.

(2) The staff members required for the performance of the functions of the Ombudsman are appointed in terms of the Public Service Act, 1994.

(3) The police and employees of the Department and of any other organ of state must cooperate with and assist the Ombudsman and staff members of the Ombudsman in the performance of their functions in terms of this Act, which includes providing them with reasonable access to any building, premises, vehicle, property, information or document under the control of the organ of state concerned.

## 11. Appointment of Ombudsman

(1) The Premier must appoint a suitably qualified person, with experience in the field of law or policing, as the Western Cape Provincial Police Ombudsman.

(2) The Ombudsman is appointed by the Premier-

(a) after consultation with the Provincial Minister, the Provincial Commissioner and the executive heads of municipal police services; and

(b) subject to approval by the Provincial Parliament's standing committee responsible for community safety by a resolution adopted in accordance with its rules.

(3) The remuneration and other terms of appointment of the Ombudsman must be determined by the Premier with the concurrence of the Provincial Minister responsible for finance.

(4) The Ombudsman is appointed for a non-renewable term not exceeding five years.

(5) The Ombudsman may at any time resign by submitting a written resignation to the Premier at least three months prior to the intended date of vacation of office, unless the Premier allows a shorter period.

(6) The Premier may on good cause shown-

(a) after consultation with the persons referred to in subsection (2)(a); and

(b) subject to approval by the Provincial Parliament's standing committee responsible for community safety by a resolution adopted in accordance with its rules,

remove the Ombudsman from office on the ground of misbehaviour, incapacity or incompetence, after affording him or her a reasonable opportunity to be heard.

(7) The Ombudsman may, in the performance of his or her functions, also be assisted by a person whose service the Ombudsman requires for the purpose of a particular investigation.

## 12. Finances of Ombudsman

(1) Expenditure in connection with the functions of the Ombudsman must be funded from monies appropriated by the Provincial Parliament for that purpose, as part of the budget vote of the Department.

(2) The Department must, subject to the laws governing the public service, make available human and other resources to enable the Ombudsman to perform his or her functions.

## 13. Reporting by Ombudsman

(1) The Ombudsman must report annually to the Provincial Minister on the activities of the Ombudsman during the previous financial year including-

(a) the number of complaints investigated;

(b) the number of complaints determined to be manifestly frivolous or vexatious under section 17(1);

(c) the outcome of investigations into the complaints; and

(d) the recommendations regarding the investigated complaints.

(2) The Ombudsman must report to the Provincial Minister on his or her activities in terms of this Act as and when requested to do so by the Provincial Minister.

(3) The Provincial Minister must table the report contemplated in subsection (1) in the Provincial Parliament.

## 14. Independence and impartiality of Ombudsman

(1) The Ombudsman and staff members of the Ombudsman must serve independently and impartially and must perform their functions in good faith and without fear, favour, bias or prejudice, subject to the Constitution and the law.

(2) The Ombudsman and staff members of the Ombudsman must preserve confidentiality in respect of any information acquired in terms of this Act.

## 15. Functions of Ombudsman

The Ombudsman must-

(a) receive and may investigate complaints submitted in terms of section 16, regarding inefficiency of the police or a breakdown in relations between the police and any community; and

(b) perform the other functions assigned to him or her under this Act.

## 16. Submitting complaints

(1) Any person may submit a complaint in the prescribed manner and form to the Ombudsman regarding alleged police inefficiency or a breakdown in relations between the police and any community.

(2) Any member of the Provincial Parliament may, on becoming aware of a complaint regarding alleged police inefficiency or a breakdown in relations between the police and any community, submit it to the Ombudsman for investigation.

(3) The Ombudsman must issue guidelines that are publicly accessible in respect of the procedures to submit a complaint and the type of complaints that may be submitted to the Ombudsman.

## 17. Investigations by Ombudsman

(1) The Ombudsman may, if a complaint which is not manifestly frivolous or vexatious is submitted, institute any investigation that is necessary into alleged police inefficiency or a breakdown in relations between the police and any community.

(2) If a member of the Provincial Parliament refers a matter contemplated in subsection (1) to the Ombudsman, he or she must conduct an investigation into that matter.

(3) The Ombudsman may by notice in the *Provincial Gazette*, make known any investigation which he or she is conducting and state that any person may, within a period specified in the notice, make written representations to the Ombudsman regarding the investigation.

(4) If the Ombudsman is of the opinion that a complaint may more appropriately be dealt with by another competent authority, including a national authority, a community police forum, a constitutional institution or the Provincial Commissioner, he or she may at any time refer a complaint or aspect thereof to that other authority.

(5) The Ombudsman may, after consultation with the authority to which the matter has been referred and if the matter could not be resolved by that authority, at any time resume the investigation into that matter.

(6) If the Ombudsman is of the opinion that a complaint is of a serious nature or that it may more appropriately be dealt with by a commission of inquiry, the Ombudsman may recommend to the Premier that a commission of inquiry into the complaint be appointed in terms of the Western Cape Provincial Commissions Act, 1998 (Act 10 of 1998).

(7) If the Ombudsman decides not to initiate an investigation, the Ombudsman must inform the complainant of his or her decision and the reasons therefor.

(8) Upon completion of an investigation and if the matter could not he resolved, the Ombudsman must submit a recommendation on the investigation and his or her findings to the Provincial Minister and inform the complainant that he or she has done so.

(9) The Provincial Minister must make a recommendation to the Minister on any investigated complaint that could not be resolved by the Ombudsman, and must inform the complainant of the recommendation made.

(10) In order to avoid unnecessary duplication, the Ombudsman must coordinate his or her functions and activities in terms of this Act with other authorities that have jurisdiction in respect of the investigation of complaints against the police.

## 18. Investigating powers and officers

(1) For the purposes of an investigation, the Ombudsman 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 that person thereon.

(2) The Ombudsman may request an explanation from any person whom he or she reasonably suspects of having information which has a bearing on the matter being investigated or to be investigated.

(3) The Ombudsman may designate staff members of the Ombudsman or other suitable persons as investigating officers to perform the functions referred to in subsections (1) and (2).

(4) An investigating officer who is not in the full-time service of the state must be appointed on the prescribed conditions and at the prescribed remuneration.

(5) An investigating officer must be provided with a certificate of appointment signed by or on behalf of the Ombudsman in which it is stated that he or she is an investigating officer appointed in terms of this Act.

(6) An investigating officer must have a certificate of appointment on his or her person when performing a function in terms of this Act.

## 19. Reporting by Provincial Commissioner

(1) In order for the Provincial Minister to oversee the effectiveness and efficiency of the police service and to monitor police conduct, the Provincial Commissioner must, within and in respect of the period prescribed, report in writing to the Provincial Minister on the following matters:

(a) with regard to the South African Police Service-

(i) the number of firearms issued to police officials which have been lost or stolen and the circumstances under which they have been lost or stolen;

(ii) the number of persons arrested by the police service, the number of cases relating to those arrests that have been referred to court, the number of those cases that have been prosecuted and the number of convictions in respect of those cases;

(iii) the allocation of funds and resources to safety objectives, the methods used to achieve the objectives and measurable outcomes achieved;

(iv) the number of disciplinary and criminal cases instituted against police officials, the names of those officials, the case reference numbers, the charges laid in respect thereof and the outcome of those cases;

(v) the number and nature of complaints received by the police regarding poor service delivery and police misconduct and how those complaints have been resolved;

(vi) statistical information regarding the number and nature of crimes reported to the police;

(vii) the circumstances regarding incidents where the police fires a weapon, allows a weapon to be fired or orders the firing of a weapon;

(viii) the number of cases reported in terms of section 29 of the Independent Police Investigative Directorate Act, 2011 and the outcome of the investigations into those cases; and

(ix) any other matter, as may be prescribed. relating to police conduct, efficiency and effectiveness of the police service or relations between the police and the community; and

(b) with regard to a municipal police service, the number of persons arrested by the municipal police service, the number of cases relating to those anests that have been referred to court, the number of those cases that have been prosecuted and the number of convictions in respect of those cases.

(2) The Provincial Commissioner must without delay inform the Provincial Minister of any deaths of police officials in the execution of their duties, any deaths caused by police officials in the execution of their duties, any persons that have died whilst in police custody and the circumstances under which they have died.

(3) The Provincial Commissioner must report to the Provincial Parliament on policing and the matters contemplated in this section.

(4) The Provincial Minister may request the Provincial Commissioner to furnish any other report required by the Provincial Minister to perform his or her functions in terms of this Act.

(5) The Provincial Parliament may require the Provincial Commissioner to appear before it or any of its committees to answer questions.

(6) If the Provincial Commissioner fails to comply with any request by the Provincial Minister for information, the Provincial Minister must report the failure to the Provincial Parliament, which in turn must require the Provincial Commissioner to appear before it to explain the failure to comply with the request.

## 20. Loss of confidence in Provincial Commissioner

If the Provincial Cabinet loses confidence in the Provincial Commissioner, the Provincial Cabinet must, except in exceptional circumstances, require the Provincial Commissioner to appear before it or a committee of its members as contemplated in section 69(2) of the Constitution of the Western Cape, 1997, prior to instituting proceedings for the removal or transfer of, or disciplinary action against the Provincial Commissioner.

## 21. Reporting by executive head of municipal police service

(1) In order for the Provincial Minister to oversee the effectiveness and the efficiency of a municipal police service and to monitor the conduct of the municipal police, an executive head of a municipal police service must, within and in respect ofthe period prescribed, report in writing to the Provincial Minister on the following matters in respect of the municipal police service under his or her control-

(a) the matters referred to in section 19(1)(a)(i) and (iii) to (ix) read with the necessary changes; and

(b) the number of persons arrested by the municipal police service.

(2) An executive head of a municipal police service must without delay inform the Provincial Minister of any deaths of municipal police officials in the execution of their duties, any deaths caused by municipal police officials in the execution of their duties, any persons that have died whilst in the custody of municipal police officials and the circumstances under which they have died.

(3) The Provincial Minister may request an executive head of a municipal police service to furnish any other report required by the Provincial Minister to perform his or her functions in terms of this Act.

(4) The Provincial Parliament may require the executive head of a municipal police service to appear before it or any of its committees to answer questions.

(5) If the Provincial Minister is satisfied that a municipal police service has failed to comply with the conditions subject to which the municipal service was established or with national standards, the Provincial Minister may take the appropriate steps contemplated in section 64N of the South African Police Service Act, 1995.

## 22. Recording of requests and recommendations

(1) The Provincial Minister must keep a register recording the following-

(a) any written report or recommendation made to the Minister in terms of this Act;

(b) any request for information given in writing to the Provincial Commissioner or an executive head of a municipal police service in terms of this Act; and

(c) any written comment or response received from the Minister. the Provincial Commissioner or an executive head of a municipal police service in respect of a report or recommendation referred to in paragraph (a) or a request referred to in paragraph (b).

(2) The Provincial Minister must annually table a certified copy of the register in the Provincial Parliament.

## 23. Policing needs and priorities

(1) The Provincial Minister must annually report to the Provincial Parliament on his or her functions in terms of this Act and the findings in relation thereto.

(2) The Provincial Parliament must refer the report referred to in subsection (1) to its standing committee responsible for community safety.

(3) The standing committee must consider and debate the report and may hold public hearings and request representations from stakeholders with an interest in the report.

(4) The Provincial Parliament must afford the Provincial Commissioner and the executive heads of municipal police services an opportunity to respond to the report, representations and any other comments received.

(5) The findings and comments of the standing committee must be taken into account by the Provincial Minister when he or she formulates a recommendation on the policing needs and priorities of the Province for approval by the Provincial Cabinet.

(6) The Provincial Minister must submit the approved policing needs and priorities of the Province to the Minister to be taken into account when the policing policies and plans for the Province are formulated, as contemplated in sections 206(1) and (2) of the Constitution.

## 24. Cooperation and intergovernmental relations

(1) The Provincial Minister, the Head of the Department, authorised persons and employees of the Department, investigating officers and the Ombudsman must perform their functions in terms of this Act in accordance with the principles of cooperative government and intergovernmental relations referred to in Chapter 3 of the Constitution.

(2) The Provincial Minister may make recommendations regarding the police and policing matters to the Civilian Secretariat or enter into agreements to strengthen the cooperation between the various role players as contemplated in section 6(1)(g) of the Civilian Secretariat for Police Service Act, 2011.

(3) The Provincial Minister must regularly liaise and consult with the Civilian Secretariat and the Provincial Secretariat regarding any matter relating to mutual administrative support and the coordination of their respective functions to avoid unnecessary duplication.

## 25. Provincial Safety Advisory Committee

(1) The Provincial Safety Advisory Committee is established.

(2) The Committee advises and makes recommendations to the Provincial Minister at his or her request, with regard to-

(a) the functions of the Province in terms of Chapter 11 of the Constitution and Chapter 8 of the Constitution of the Western Cape, 1997;

(b) strategies, policies, budgets and annual performance plans in respect of the functions in terms of Chapter 11 of the Constitution and Chapter 8 of the Constitution of the Western Cape, 1997;

(c) regulations in terms of this Act that may be necessary; or

(d) any other matter arising from the application of this Act.

## 26. Composition of Committee

(1) The members of the Committee must be appointed by the Provincial Minister and consist of-

(a) a representative of the business community;

(b) a member of the judiciary, the Cape Bar or the Cape Law Society;

(c) a senior member of an academic institution with experience in the field of criminology:

(d) a representative from a non-governmental organisation involved in policing or related areas; and

(e) the Head of the Department as an ex officio member.

(2) Employees of the Department designated by the Provincial Minister must provide administrative support to the Committee.

(3) The members of the Committee referred to in subsection (1)(a) to (d) may only be appointed after the Provincial Minister, by notice in the *Provincial Gazette* and in other media that the Provincial Minister may consider appropriate, has invited all interested parties to submit, within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.

## 27. Term of office and conditions of service of members of Committee

(1) A member, except for the *ex officio* member, is appointed for a term of three years, which is renewable once.

(2) The office of a member becomes vacant if-

(a) the member is absent from two consecutive meetings of the Committee without the leave of the chairperson of the Committee;

(b) the member tenders his or her resignation in writing to the chairperson of the Committee;

(c) the member is removed from the Committee under subsection (3); or

(d) the member dies.

(3) The Provincial Minister may remove any member of the Committee if, in the opinion of the Provincial Minister, sufficient reasons exist for his or her removal.

(4) A vacancy on the Committee arising in terms of subsection (2) must be filled by the Provincial Minister in terms of section 26(1) and (3).

(5) A member who is appointed by virtue of subsection (4) holds office for the unexpired portion of the period for which the member, who vacated his or her office, was appointed.

(6) The Provincial Minister must designate one of the members of the Committee as chairperson.

(7) The Provincial Minister may determine any other conditions of appointment not provided for in this section.

(8) Members of the Committee referred to in section 26(1)(a) to (d) may be paid the allowances and be reimbursed for the expenses as determined by the Provincial Minister in concurrence with the Provincial Minister responsible for finance.

## 28. Meetings of Committee

(1) The Committee may, subject to the approval of the Provincial Minister, make rules in relation to decision-making by the Committee, the holding of and the procedure at meetings of the Committee.

(2) Meetings of the Committee must be held at the time and place as may be determined by the chairperson of the Committee in accordance with the rules of the Committee.

## 29. Awards

(1) The Provincial Minister may, in accordance with the prescribed criteria, make an appropriate award including a monetary award to any member of a community or other person for meritorious service in promoting the purpose of this Act.

(2) The Provincial Minister must keep a register of, and annually report to the Provincial Parliament on any award made in terms of subsection (1).

## 30. Offences

(1) Any person who-

(a) without just cause, refuses or fails to comply with a direction or request under section 18(1) or (2) or refuses to answer any question put to him or her under that section or gives to such question an answer which to his or her knowledge is false; or

(b) hinders or obstructs the Ombudsman or an investigating officer in the exercise or performance of his or her powers or functions in terms of this Act,

is guilty of an offence and liable on conviction to a fine or imprisonment not exceeding three years or both.

(2) Any person who contravenes section 9(1) or (4)(b) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years or both.

## 31. Regulations

(1) The Provincial Minister must make regulations regarding any matter in respect of which this Act requires regulations.

(2) The Provincial Minister may make regulations regarding-

(a) any matter in respect of which this Act authorises regulations;

(b) the functions and duties of the Provincial Minister or the Ombudsman;

(c) the receipt and processing of complaints submitted in terms of section 16;

(d) the methodology for conducting an investigation of complaints submitted in terms of section 16;

(e) the format and the procedure to direct persons under section 18(1) or to request an explanation under section 18(2);

(f) requirements for reporting by the Provincial Commissioner or an executive head of a municipal police service in terms of this Act;

(g) the format of any report required in terms of this Act;

(h) the determination of key indicators and types of empirical data that must be included in a report required in terms of this Act;

(i) measures to ensure confidentiality, control of and access to information obtained through the integrated information system;

(j) the requirements for authorisation and screening of employees, investigating officers and other persons authorised by the Provincial Minister to perform functions in terms of this Act;

(k) indicators to oversee and assess the effectiveness and efficiency of the police service; or

(l) any other matter necessary for the effective execution of the functions in terms of this Act.

## 32. Delegation

(1) The Provincial Minister may delegate any power conferred on or assign any duty imposed on him or her in terms of this Act, except the power to make regulations, to the Head of the Department.

(2) The Head of the Department may delegate any power conferred on or assign any duty imposed on him or her in terms of this Act, to-

(a) an employee of the Department; or

(b) the holder of a specific office or position in the Department.

(3) A delegation or assignment referred to in subsection (1) or (2)-

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be withdrawn or amended in writing by the Provincial Minister or the Head of the Department, as the case may be;

(d) may include the power to subdelegate or further assign that power or duty;

(e) does not prevent the Provincial Minister or the Head of the Department, as the case may be, from exercising that power or performing that duty; and

(f) does not divest the Provincial Minister or the Head of the Department, as the case may be, of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

## 33. Short title and commencement

This Act is called the Western Cape Community Safety Act, 2013, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.