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GENERAL NOTICE

NOTICE 159 OF 2011

INDEPENDENT COMPLAINTS DIRECTORATE

NOTICE CALLING FOR PUBLIC COMMENTS

The Independent Complaints Directorate is consulting on regulations under section 34 of the Independent Police Investigative Directorate Bill, 2010, with a view to submitting to the Minister of Police for consideration when the Act comes into operation.

The proposed regulations hereunder have been drafted for consultation purposes. An invitation is hereby extended to any person, private or public institution that may have an interest to comment on the draft regulations, within 30 (thirty) days from the date of publication of this Gazette.

Comments must be in writing and directed to:

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INDEPENDENT COMPLAINTS DIRECTORATE**No. R****2011****INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE ACT, 2011****DRAFT REGULATIONS FOR THE OPERATION OF THE INDEPENDENT POLICE
INVESTIGATIVE DIRECTORATE**

The Minister of Police intends, under section 34 of the Independent Police Investigative Directorate Act, 2011 (Act No. x of 2011), to make regulations set out in the Schedule hereto.

Interested parties are invited to submit comments on the proposed regulations to the Executive Director: Independent Police Investigative Directorate by [DATE].

SCHEDULE**Definitions and interpretation**

1. In these regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and unless the context otherwise indicates –

“complainant” means a person who has lodged a written report or a complaint with the Directorate in terms of regulation 2;

“complaint” includes a written report contemplated in regulation 2(1);

“member of the Directorate” means a person appointed to the Directorate on a full-time or contractual basis, either in the national office or in any provincial office;

“Public Service Disciplinary Code” means the Disciplinary Code and Procedures for the Public Service as contained in Public Service Co-ordinating Bargaining Council (PSCBC) Resolution 2 of 1999, as amended;

“South African Police Service Discipline Regulations” means the regulations published under Government Notice No. R. 643 in *Government Gazette* 28985 of 3 July 2006;

“Station Commander” means a member of the South African Police Service in charge of a police station; and

“the Act” means the Independent Police Investigative Directorate Act, 2011 (Act No. x of 2011);

Reporting of matters to be investigated to Directorate

2. (1) A Station Commander or any member of the South African Police Service or Municipal Police Services must, within the period referred to in section 29(1)(b) of the Act, submit a written report to the Directorate regarding any matter listed in section 28(1)(a) to (f) of the Act in a format substantially corresponding with **Form 1**.

(2) For purposes of subregulation (1), the Directorate means the provincial office of the Directorate that has jurisdiction in the area in which a matter listed in section 28(1) of the Act allegedly occurred or originated.

(3) The written report contemplated in subregulation (1) may be submitted to a provincial office by fax or electronic mail, and the relevant provincial head must ensure that the Executive Director is notified of such report in the manner provided for in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act.

(4) Proof of the submission of the written report by fax or electronic mail must be retained by the person who submitted such report.

(5) The provisions of this regulation do not preclude a member of the public from lodging a complaint with the Directorate, either on national or provincial level, regarding any matter listed in section 28(1)(a) to (g) of the Act.

(6) A member of the public who lodges a complaint in terms of subregulation (5) must do so in writing, by fax or electronic mail or telephonically as soon as is practicable after becoming aware of a matter listed in section 28(1)(a) to (g) of the Act, and must complete, or may be assisted in completing, a complaint reporting form in a format substantially corresponding with **Form 2**.

Receiving, registering, processing, referral and disposing of complaints

3. (1) A member of the Directorate designated for the referral, receipt, registration, processing and disposal of complaints must, upon receipt of a complaint as contemplated in regulation 2, determine, in consultation with another designated member of the Directorate and in accordance with the guidelines contemplated in section 7(3)(e)(i) of the Act, whether the complaint falls within the ambit of the provisions of section 28(1)(a) to (g) of the Act.

(2) A complaint which falls outside the ambit of the said provisions must be referred, in writing, to an appropriate authority or institution that is capable of dealing with such complaint, in accordance with the guidelines contemplated in section 7(3)(e)(i) of the Act, within seven days of receipt of the complaint after which the complainant must be informed in writing of such referral.

(3) A complaint which falls within the ambit of the said provisions must be registered in a computer-based register allocated for this purpose and the complainant must be informed in writing, within seven days of the receipt of the complaint by the Directorate, that his or her complaint has been received, is being investigated by an identified investigator and the contact details of such investigator.

(4) A complaint lodged with the Directorate at national level may be referred by the Executive Director to a provincial office for investigation, in accordance with the guidelines contemplated in section 7(3)(e)(i) of the Act, in which case the complainant must be notified in writing of such referral.

(5) A complaint which has been registered in terms of subregulation (3) must be disposed of within the time periods contemplated in regulations 4(5), 5(5) and 6(6) respectively.

Investigation of deaths in police custody or as a result of police action

4. (1) The investigation of the death of a person in police custody or the death of a person as a result of police action must be done in accordance with this regulation, but may be augmented by guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act and any protocol on co-operation between the Directorate, the South African Police Service and Municipal Police Services.

(2) The Executive Director or the relevant provincial head, as the case may be, must designate an investigator to investigate the death of a person –

- (a) in police custody, irrespective of whether such death has occurred as a result of the alleged involvement of a member of the South African Police Service or Municipal Police Services; or
- (b) who has died as a result of any action on the part of a member of the South African Police Service or Municipal Police Services.

(3) An investigator designated in terms of subregulation (2) must, as soon as is practicable –

- (a) attend the scene where the death occurred, ensure that the scene is secured in terms of regulation 8, oversee the scene and conduct a preliminary investigation;
- (b) record the details of the deceased, including his or her name, age and gender;
- (c) identify and record particulars of all potential witnesses for purposes of interviewing them, and in the case of a death in police custody, record the particulars of the persons who had been on duty in the facility at the time when the death occurred;
- (d) authorise the removal of the corpse, in consultation with a pathologist if a pathologist is available;

- (e) collect, or ensure the collection, by forensic experts, of exhibits for processing by the Forensic Science Laboratory and ensure the proper registration, handling, transportation and disposal of exhibits;
- (f) visit the deceased's next-of-kin to inform them of the death and to obtain statements that may assist in the investigation;
- (g) visit all identified witnesses for purposes of obtaining statements that may assist in the investigation;
- (h) attend the *post mortem* and advise the person conducting the *post mortem* of observations made at the scene of death as well as areas that should be concentrated on;
- (i) after collecting all evidence, statements and technical reports, if applicable, submit a final report on the investigation of the death containing recommendations regarding further action, which may include disciplinary measures to be taken against a member of the South African Police Service or Municipal Police Services or criminal prosecution of such member, to the Executive Director or the relevant provincial head, as the case may be.

(4) In the event of a death in police custody that has occurred as a result of the alleged involvement of a member or members of the South African Police Service or Municipal Police Services or a death which is the result of the action of such member or members, the investigator, when visiting the scene of death, must, in consultation with the Executive Director or the relevant provincial head, as the case may be, make a determination as to whether such member or members must be arrested and when effecting an arrest, must have due regard to the constitutional rights of the person who is arrested and the provisions of sections 39, 40 and 41 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) relating to the arrest of persons.

(5) An investigation into the death of a person in police custody and the investigation of the death of a person who has died as a result from police action must be finalised within the time periods stipulated in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act, failing which the investigator must include reasons for failure to comply with these periods in the report contemplated in subregulation (3)(i): Provided that any expert reports that may be required are furnished within the time periods referred to.

(6) An investigator designated to investigate a death in terms of this regulation must inform the complainant, and if the complainant is not a member of the deceased's next-of-kin, the next-of-kin in writing of the progress made with the investigation at least once per calendar month.

(7) In the event of a late notification of a death in police custody or as a result of police action, the investigator must –

- (a) conduct a preliminary investigation and make a recommendation, within the time period stipulated in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act, to the Executive Director or relevant provincial head and to the National Commissioner;
- (b) attend the *post mortem* if it has not yet been conducted;
- (c) interview witnesses and obtain statements that may assist in the investigation;
- (d) consider the desirability of reconstructing the scene of death; and
- (e) proceed with a full investigation and compile a final report.

(8) In the event of a late notification of a death in police custody the investigator must –

- (a) peruse the police docket;

- (b) take the police docket over for further investigation; and
- (c) finalise the police docket for submission to the relevant Director of Public Prosecutions together with recommendations relating to further actions and a report on the investigation.

(9) The provisions of section 7(4) of the Act, in the case of the Executive Director, and the provisions of section 21(1)(d), in the case of a provincial head, apply in the event that an investigation in terms of this regulation requires the criminal prosecution of a member of the South African Police Service or Municipal Police Services.

(10) If the report contemplated in subregulation (3)(i) contains recommendations regarding disciplinary action against a member of the South African Police Service or Municipal Police Services, such report, if submitted to a provincial head, must forthwith be furnished to the Executive Director for purposes of compliance with section 7(6) of the Act.

Investigation of criminal matters

5. (1) The investigation of criminal matters contemplated in subregulation (2) must be done in accordance with this regulation, but may be augmented by guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act and any protocol on co-operation between the Directorate, the South African Police Service and Municipal Police Services.

(2) The Executive Director or the relevant provincial head, as the case may be, must designate an investigator to investigate a complaint that –

- (a) a member of the South African Police Service or Municipal Police Services has raped a person, irrespective of whether such member had been on official duty at the time of the alleged rape or not;

- (b) a member of the South African Police Service or Municipal Police Services has tortured or assaulted a person in the execution of his or her duties;
- (c) a member of the South African Police Service or Municipal Police Services is involved in corruption; or
- (d) a person has been raped while in police custody other than by a member of the South African Police Service or Municipal Police Services.

(3) An investigator designated in terms of subregulation (2) must, as soon as is practicable –

- (a) if a police docket has been opened, take over the docket and conduct all outstanding investigations, and if such docket has not been opened, ensure that it is opened during any stage of the investigation;
- (b) interview and record the details of the victim of the offence concerned, including his or her name, age and gender, if this had not yet been done;
- (c) identify and record particulars of all potential witnesses for purposes of interviewing them, and in the case of an offence contemplated in subregulation (2) which was committed while the victim was in police custody, record the particulars of the persons who had been on duty in the facility at the time when the offence had been committed, if this had not yet been done;
- (d) collect, or ensure the collection, by forensic experts, of exhibits for processing by the Forensic Science Laboratory or other appropriate institution and ensure the proper registration, handling, transportation and disposal of exhibits, if this had not yet been done;

- (e) in the case of the rape of a person, ensure, if this had not yet been done, that –
 - (i) the victim is examined by a medical practitioner without delay;
 - (ii) a sexual assault crime kit is obtained, properly sealed and submitted to the Forensic Science Laboratory; and
 - (iii) the provisions of sections 28(3), 32(1), 33(1), 36 and 37 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) are complied with;
- (f) in the case of an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), involving an amount of R100 000 or more, ensure that a report contemplated in section 34(1) of that Act has been taken down in the manner contemplated in section 34(3)(a) of the said Act;
- (g) in the case of the torture of a person, if this had not yet been done, –
 - (i) attend and secure the scene where the alleged torture occurred in terms of regulation 8; and
 - (ii) ensure that the victim is taken to a medical practitioner for examination, including the taking of bodily specimens relating to torture;
- (h) visit all identified witnesses for purposes of obtaining statements that may assist in the investigation; and
- (i) after collecting all evidence, statements and technical reports, if applicable, submit a final report on the investigation of the

relevant offence contemplated in subregulation (2) to the Executive Director or the relevant provincial head, as the case may be, containing recommendations regarding further action, which may include disciplinary measures to be taken against a member of the South African Police Service or Municipal Police Services or criminal prosecution of such member.

(4) The provisions of regulation 4(4) apply with such changes as may be required by the context to the arrest of a person in terms of this regulation.

(5) An investigation contemplated in this regulation must be finalised within the time period stipulated in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act, failing which the investigator must include reasons for failure to comply with this period in the report contemplated in subregulation (3)(i).

(6) An investigator designated to investigate an offence in terms of this regulation must inform the complainant, and if the complainant is not the victim of the offence, the victim, in writing of the progress made with the investigation at least once per calendar month.

(7) The provisions of section 7(4) of the Act, in the case of the Executive Director, and the provisions of section 21(1)(d), in the case of a provincial head, apply in the event that an investigation in terms of this regulation requires the criminal prosecution of a member of the South African Police Service or Municipal Police Services.

(8) If the report contemplated in subregulation (3)(i) contains recommendations regarding disciplinary action against a member of the South African Police Service or Municipal Police Services, such report, if submitted to a provincial head, must forthwith be furnished to the Executive Director for purposes of compliance with section 7(6) of the Act.

Investigation of discharge of official firearm

6. (1) The discharge of an official firearm by a member of the South African Police Service or Municipal Police Services must be investigated in accordance with this regulation, but may be augmented by guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act and any protocol on co-operation between the Directorate, the South African Police Service and Municipal Police Services.

(2) The Executive Director or the relevant provincial head, as the case may be, must designate an investigator to investigate a complaint that a member of the South African Police Service or Municipal Police Services has discharged an official firearm, whether such member had been on or off duty, and whether any injury has been sustained as a result of such discharge or not.

(3) An investigator designated in terms of subregulation (2) must first conduct a preliminary investigation, to be finalised within the time period stipulated in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act, into the discharge of an official firearm to establish whether a full investigation is warranted.

(4) If a preliminary investigation reveals that a full investigation is not warranted, the investigator must, immediately after the preliminary investigation, submit a written report to the Executive Director or relevant provincial head, as the case may be, indicating the reasons as to why a full investigation is not warranted.

(5) If a full investigation is warranted, the investigator must as soon as is practicable –

- (a) if a police docket has been opened, take over the docket and conduct all outstanding investigations, and if such docket has not been opened, ensure that it is opened during any stage of the investigation;

- (b) identify and record particulars of all potential witnesses for purposes of interviewing them;
- (c) collect or ensure the collection, by forensic experts, of exhibits for processing by the Forensic Science Laboratory or other appropriate institution and ensure the proper registration, handling, transportation and disposal of exhibits, if this had not yet been done;
- (d) visit all identified witnesses for purposes of obtaining statements that may assist in the investigation; and
- (e) after collecting all evidence, statements and technical reports, if applicable, submit a final report on the investigation to the Executive Director or the relevant provincial head, as the case may be, containing recommendations regarding further action, which may include disciplinary measures to be taken against a member of the South African Police Service or Municipal Police Services or criminal prosecution of such member.

(6) An investigation contemplated in this regulation must be finalised within the time period stipulated in the guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act, failing which the investigator must include reasons for failure to comply with this period in the report contemplated in subregulation (5)(e).

(7) An investigator designated to do an investigation in terms of this regulation must inform the complainant in writing of the progress made with the investigation at least once per calendar month.

(8) The provisions of section 7(4) of the Act, in the case of the Executive Director, and the provisions of section 21(1)(d), in the case of a provincial head, apply in the event that an investigation in terms of this regulation requires the criminal prosecution of a member of the South African Police Service or Municipal Police Services.

(9) If the report contemplated in subregulation (5)(e) contains recommendations regarding disciplinary action against a member of the South African Police Service or Municipal Police Services, such report, if submitted to a provincial head, must forthwith be furnished to the Executive Director for purposes of compliance with section 7(6) of the Act.

Investigation of referred matters

7. (1) The investigation of matters referred to the Directorate as contemplated in section 28(1)(h) of the Act must be done in accordance with this regulation, but may be augmented by guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act and any protocol on co-operation between the Directorate, the South African Police Service and Municipal Police Services.

(2) The Executive Director or the relevant provincial head, as the case may be, must designate an investigator to investigate a matter contemplated in section 28(1)(h) of the Act which had been referred to the Directorate for investigation.

(3) An investigator designated in terms of subregulation (2) must, as soon as is practicable, determine whether the referred matter involves –

- (a) a matter contemplated in regulation 4, in which case the provisions of that regulation apply with such changes as may be required by the context;
- (b) a criminal matter, in which case the provisions of regulation 5 apply with such changes as may be required by the context, notwithstanding the fact that the criminal matter to be investigated may not be listed in subregulation (2) of that regulation; or
- (c) a matter not dealt with in regulations 4 or 5, in which case the Executive Director or provincial head, as the case may be, must give directions regarding the investigation, the period within

which the investigation must be completed and disposal of the referred matter.

(4) An investigator designated to do an investigation in terms of this regulation must inform the person who referred the matter for investigation in writing of the progress made with the investigation at least once per calendar month.

Securing of crime scene

8. An investigator designated to investigate a criminal matter must secure the scene of the crime, if still intact, or take over the securing of such scene from a member or members of the South African Police Service who may already be present at such scene, by –

- (a) establishing an inner cordon around the perimeter of the crime scene, as well as an outer cordon around the inner cordon to enable persons to perform their tasks within the inner cordon;
- (b) protecting obvious exhibits from contamination and the elements;
- (c) making a note of each exhibit to protect its integrity and location if it has to be moved;
- (d) regarding a corpse as a source of evidence and handling it as such;
- (e) identifying other scenes that might have a direct connection with the primary crime scene, and also protecting such scenes;
- (f) exercising control of the persons who may gain access to the crime scene and co-ordinating all investigation support resources;
- (g) requesting potential witnesses to wait at a designated area outside the outer cordon for the obtaining of statements, ensuring their safety and encouraging witnesses not to discuss the incident amongst themselves;

- (h) protecting the routes of access and departure by the person or persons suspected of having committed the crime, if known;
- (i) determining access and departure routes for use by emergency services and other persons authorised to enter the crime scene;
- (j) controlling any representatives of the media who may be in the vicinity of the crime scene; and
- (k) refraining from releasing information about the crime or the crime scene to any unauthorised person, including representatives of the media.

Procedures relating to identification parades, taking of affidavits, giving of evidence, production of documents and submission of information and cooperation by Police

9. (1) The procedures relating to –
- (a) the arrangement and holding of identification parades, as contemplated in section 29(2)(a) of the Act;
 - (b) the taking of affidavits or affirmed declarations or the giving of evidence or the production of documents in the possession or under the control of a member of the South African Police Service or Municipal Police Services which have a bearing on the matter to be investigated, as contemplated in section 29(2)(b) of the Act; and
 - (c) the submission of any other information or documentation required for investigation purposes, as contemplated in section 29(2)(c) of the Act,

must be conducted in accordance with the relevant procedures applicable to members of the South African Police Service and may be augmented by guidelines issued by the Executive Director in terms of section 7(3)(e)(i) of the Act.

(2) A member of the Directorate may require written reasons for failure by a member of the South African Service or Municipal Police Services to comply with a

request for cooperation regarding any matter contemplated in subregulation (1), and may make recommendations to the Executive Director or relevant provincial head, as the case may be, regarding disciplinary measures to be taken against such member.

Access and control of confidential information and records

10. (1) All information, whether verbal or in writing, and all documentation acquired during the course of an investigation conducted in terms of the Act and all records pertaining to any such investigation are to be treated as confidential and may not be divulged to any person outside of the Directorate unless authorised to be divulged, in the interests of justice, by –

- (a) the Executive Director or relevant provincial head, as the case may be, in writing; or
- (b) an Act of Parliament.

(2) All information, documentation and records pertaining to an investigation must be secured at all times in a manner that would effectively prevent access to such information, documentation and records by an unauthorised person.

(3) A member of the Directorate may insist on, and must be granted, access to such confidential information, documentation and records as are reasonably necessary to enable such member to conduct an investigation in terms of the Act, excluding confidential information, documentation and records protected under professional privilege.

(4) Subject to the provisions of section 33(2) of the Act, a member of the Directorate who divulges information, documentation or records or causes such information, documentation or records to be divulged in contravention of subregulation (1) or (2) is guilty of misconduct and is subject to the disciplinary measures contemplated in regulation 13.

Integrity testing and confidentiality of information relating to integrity testing

11. (1) The Executive Director may conduct, or authorise any member of the Directorate or any other person to conduct a procedure to test the integrity of any particular member of the Directorate.

(2) The procedure referred to in subregulation (1) may involve –

- (a) the employment of an act or omission, by the person who conducts the procedure, which offers the member of the Directorate whose integrity is being tested the opportunity to engage in behaviour in contravention of any law, any code of conduct which is binding on such member or any disciplinary regulations;
- (b) the testing of a member of the Directorate for the abuse of alcohol or drugs; or
- (c) the using of a polygraph or any similar instrument.

(3) A procedure involving a measure contemplated in subregulation (2)(a) may only be performed –

- (a) after approval by the Director of Public Prosecutions having jurisdiction in the area in which the integrity testing will take place, or by his or her delegate; and
- (b) in consonance with such instructions or guidelines as may be laid down by the National Director of Public Prosecutions or by the Director of Public Prosecutions having jurisdiction in the area in which the integrity testing will take place, or by his or her delegate, as contemplated in section 252A(2)(a) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(4) A procedure involving measures contemplated in subregulation (2)(b) and (c) may only be performed upon the written approval of the Executive Director,

in which case the member of the Directorate whose integrity is being tested must submit to such measures.

(5) A member of the Directorate may not, at any time when reporting for duty, while on duty or while on call for duty, have any evidence of –

- (a) alcohol; or
- (b) a drug as defined in section 1 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992) which may not lawfully be taken or has been taken in a manner which is contrary to the prescription of a registered medical practitioner or the recommendation of the manufacturer of the substance,

in his or her breath, blood or urine, as the case may be.

(6) A member of the Directorate who lawfully takes a drug as referred to in subregulation (5)(b) may not perform duties involving operational capacity if the substance may impair such member's capacity to perform the duties without danger to himself or herself or any other person.

(7) In the event of an alcohol test –

- (a) the member of the Directorate whose integrity is being tested must provide a specimen of breath or blood, if requested to do so, and if such member fails or refuses to provide such specimen, he or she may be charged with disobeying a lawful order, command or instruction under regulation 13; and
- (b) the test, in the case of a specimen of breath, must be performed by using equipment prescribed in regulation 332 of the regulations made under the National Road Traffic Act, 1996 (Act No. 93 of 1996).

(8) In the event of a drugs test –

- (a) the member of the Directorate whose integrity is being tested must provide a specimen of blood or urine to a registered medical practitioner or registered nurse at a place and time specified by the Executive Director, if requested to do so, and if such member fails, unless failure is attributable to a medical condition, or refuses to provide such specimen, he or she may be charged with disobeying a lawful order, command or instruction under regulation 13; and
- (b) the registered medical practitioner or registered nurse may give such directions as may be reasonably necessary to the member of the Directorate whose integrity is being tested regarding the manner in which the specimen is to be provided.

(9) If a member of the Directorate refuses to submit to a polygraph examination or other similar test, when requested to do so, or if the polygraph or similar test indicates possible deception, the Executive Director may instruct such member to subject himself or herself to a security screening as referred to in section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), failing which he or she may be charged with disobeying a lawful order, command or instruction under regulation 13.

(10) The Executive Director, in the event of a result that impacts adversely on the integrity of a member of the Directorate after employment of a measure contemplated in subregulation (2)(a), may –

- (a) require such member to undergo such counselling, rehabilitation or retraining as directed by the Executive Director or relevant provincial head;
- (b) require such member to subject himself or herself to a security screening as referred to in section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994); or

- (b) if appropriate in the circumstances, take disciplinary or other action against such member under regulation 13.

(11) The Executive Director, in the event of a finding that a member of the Directorate has evidence of alcohol or drugs in his or her breath, blood or urine respectively, may –

- (a) suspend such member from duty until he or she is free from such evidence;
- (b) require such member to undergo such counselling or rehabilitation as directed by the Executive Director;
- (c) refer such member to an identified registered medical practitioner for a medical examination and report of the member's fitness to proceed with his or her duties;
- (d) after considering a report referred to in paragraph (c), instruct such member to perform other duties for such time as the Executive Director considers necessary; or
- (e) if appropriate in the circumstances, take disciplinary or other action against such member under regulation 13.

(12) The measures contemplated in this regulation must be applied with due regard to decency and the right of a member of the Directorate to dignity and privacy.

(13) No person may disclose any information which he or she has obtained in the application of the measures contemplated in subregulation (2), unless such information is –

- (a) required by a person who of necessity needs the information for the performance of his or her functions in terms of these regulations;

- (b) supplied in the performance of functions in terms of these regulations; or
- (c) required in terms of any law or as evidence in any court of law or formal disciplinary process.

(14) Any contravention of subregulation (13) is to be regarded as serious misconduct for purposes of regulation 13.

Disciplinary recommendations in relation to Police

12. (1) Disciplinary proceedings initiated against a member of the South African Police Service as a result of recommendations by the Directorate in terms of section 30(a) of the Act, must be conducted in accordance with the South African Police Service Discipline Regulations.

(2) The recommendations contemplated in subregulation (1) must be contained in a report substantially corresponding with **Form 3**, and the Executive Director must ensure that such report is submitted to the National Commissioner, and where appropriate, the relevant Provincial Commissioner, as soon as is practicable.

(3) The duty imposed upon the Executive Director under subregulation (2) may be delegated, in writing, by the Executive Director to a suitable member of the Directorate.

(4) The National Commissioner or a person authorised by him or her must acknowledge receipt, in writing, of the report referred to in subregulation (2) within seven days of receipt of such report.

Disciplinary measures in relation to members of the Directorate

13. The Public Service Disciplinary Code apply in the case of disciplinary proceedings to be initiated against a member of the Directorate as a result of the alleged misconduct of such member or failure to comply with a lawful command, order or instruction.

Security screening investigations

14. The security screening investigation of a member of the Directorate or investigator contemplated in sections 8(3) and 22(3) of the Act, respectively, must be done in accordance with the provisions of section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).

Annual report

15. Further to the provisions of section 32(2) of the Act, the annual report contemplated in that section must include an overview of –

- (a) the administration of the Directorate relating to its overall management and organisation;
- (b) the processing, monitoring and investigation of complaints lodged with the Directorate in terms of section 28(1) of the Act;
- (c) the management of information and research conducted during the financial year under review; and
- (d) statistics of cases dealt with by the Directorate on both national and provincial level, including information on the number and nature of cases carried over to the next financial year,

and may include recommendations relating to the manner in which deficiencies in practices employed by members of the South African Police Service or Municipal Police Services could be addressed.

Short title and commencement

16. These regulations are to be known as the Independent Police Investigative Directorate Regulations, 2011, and come into effect on the date of publication thereof in the *Gazette*.

ANNEXURE**FORMS**

- Form 1: Reporting of matter by Station Commander, Member of the South African Police Service or Municipal Police Services
- Form 2: Complaint reporting form by member of public
- Form 3: Disciplinary recommendations to National Commissioner / Provincial Commissioner

FORM 1
REPORTING OF MATTER BY STATION COMMANDER, MEMBER OF THE
SOUTH AFRICAN POLICE SERVICE OR MUNICIPAL POLICE SERVICES

(Regulation 2(1))
 [Section 29(1) of Act x of 2011]

Complaint Details			
CAS/CR No/Inquest No		Province	
Date of Incident		Time of Incident	
Reported to SAPS	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date Reported to SAPS	
Incident relates to :			
<input type="checkbox"/> Death in police custody			
<input type="checkbox"/> Death as a result of police action			
<input type="checkbox"/> Discharge of firearm by police officer			
<input type="checkbox"/> Rape by police officer			
On Duty <input type="checkbox"/> Off Duty <input type="checkbox"/>			
<input type="checkbox"/> Rape of person in police custody			
<input type="checkbox"/> Torture/assault by police officer			
Complaint Description (Use additional folios if necessary)			

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100			
Complainant Details			
Role in the case	<input type="checkbox"/> Complainant <input type="checkbox"/> Third party		
ID Number		Passport Number	
Title		First Name	
Middle Name		Last Name / Surname	
Landline		Mobile	
Fax		Email	
Nationality		Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female
Disabled status	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Address			
Country		City	
Suburb		Postal Code	
Preferred contact Method (e.g. Email, SMS, Fax)			

Police Details (Reporting Station/Unit/MPS)			
Policing Unit		Policing Entity (E.g. SAPS, MPS)	
Police Station			
Investigating Officer First Name		Investigating Officer Middle Name	
Investigating Officer Last Name		Investigating Officer Rank	
ID Parade Held	<input type="checkbox"/> Yes <input type="checkbox"/> No		
IPID Telephonically Informed	<input type="checkbox"/> Yes <input type="checkbox"/> No		
IPID Official incident reported to		Date of Call	
		Time of Call	
Title of Person Reporting Incident			
First Name of Person Reporting Incident		Middle Name of Person Reporting Incident	
Last Name / Surname of Person Reporting Incident			
District Surgeon Notified <input type="checkbox"/> Yes <input type="checkbox"/> No			
District Surgeon First Name		District Surgeon Middle Name	
District Surgeon Last Name		District Surgeon Tel	
Victim Details			
Nationality		ID Number	
Passport Number			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female		Race
Age			
Next of Kin Notified	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Location of Body			
Responsible Person for death / injury	<input type="checkbox"/> Himself/Herself <input type="checkbox"/> SAPS/MPS Member(s) <input type="checkbox"/> Inmates <input type="checkbox"/> Vigilantes / Members of the public <input type="checkbox"/> Other		
Responsible Person (Other)			

Cause of Death	<input type="checkbox"/> Suicide <input type="checkbox"/> During Apprehension <input type="checkbox"/> In transit with SAPS vehicle <input type="checkbox"/> Natural Causes <input type="checkbox"/> Self-defense <input type="checkbox"/> During escape <input type="checkbox"/> Due to motor vehicle accident <input type="checkbox"/> Unknown <input type="checkbox"/> Other		
Classify Deceased	<input type="checkbox"/> Suspect <input type="checkbox"/> Sentenced <input type="checkbox"/> Witness Protection <input type="checkbox"/> Awaiting trial <input type="checkbox"/> Mental patient		
Detainee	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Reason for Detention			
Place where Death Occurred			
Instrument / Object Causing Death			
Service Member's Details			
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	
Persal Number		ID Number	
Initials			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
On Duty	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	
Persal Number		ID Number	
Initials			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
On Duty	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	
Persal Number		ID Number	
Initials			
First Name		Middle Name	

Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
On Duty	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Contact Number			
Vehicle Registration Number			
Description of vehicle:			
Station Commissioner's Rank:			
Station Commissioner's Full names:			
Station Commissioner's Signature:			

Complainant Details (includes third party complaints)			
Role in the case	<input type="checkbox"/> Complainant <input type="checkbox"/> Third Party		
ID Number		Passport Number	
Title		First Name	
Middle Name		Last Name / Surname	
Landline		Mobile	
Fax		Email	
Nationality		Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female
Disabled status			
Address			
Country		City	
Suburb		Postal Code	
Preferred contact Method (E.g. E-mail, SMS, Post)			
Victim Details			
Passport Number		Middle Name	
First Name		Last Name / Surname	
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Age			
Service Member's Details			
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	
Persal Number		ID Number	
Initials			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	
Persal Number		ID Number	
Initials			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
Identified	<input type="checkbox"/> Yes <input type="checkbox"/> No	Rank	

Persal Number		ID Number	
Initials			
First Name		Middle Name	
Last Name / Surname			
Gender	<input type="checkbox"/> Male <input type="checkbox"/> Female	Race	
Duty Station		Duty Station Unit	
Contact Number			
On Duty	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Vehicle Registration Number			
Details of Witnesses to Incident			
Title		First Name	
Middle Name		Last Name / Surname	
Landline		Mobile	
Title		First Name	
Middle Name		Last Name	
Landline		Mobile	
Title		First Name	
Middle Name		Last Name / Surname	
Landline		Mobile	
Title		First Name	
Middle Name		Last Name	
Landline		Mobile	

COMPLAINANT'S FULL NAME

COMPLAINANT'S SIGNATURE

DATE:

FORM 3
DISCIPLINARY RECOMMENDATIONS TO NATIONAL COMMISSIONER /
PROVINCIAL COMMISSIONER
(Regulation 12(2))

[Section 30 of Act x of 2011]

CASE INVESTIGATIVE REPORT

Complaint Details			
CCN		Incident description code	
Type of report		Report date	
Date of last report		Complaint class	
Complainant		Date of complaint	
SAPS CR/CAS number		Suspect identification	
Investigator		Assignment	
Reporting staff member			
Source of complaint			
Summary of complaint			
Evidence giving rise to disciplinary recommendations			

Analysis and findings
Recommendations regarding disciplinary action to be taken in terms of applicable disciplinary regulations or code

Signature of investigator: _____

Recommended / not recommended

Full names of supervisor: _____

Signature of supervisor: _____

Full names of IPID Provincial head: _____

Signature of IPID Provincial head: _____

Full names of IPID Executive Director / member acting in terms of regulation 12(3):

Signature of IPID Executive Director / member acting in terms of regulation 12(3):
