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27 May 2024

No. 50713

THE PRESIDENCY

No. 4889

27 May 2024

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 10 of 2024: National Prosecuting Authority Amendment Act, 2024

DIE PRESIDENSIE

No. 4889

27 Mei 2024

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 10 van 2024: Wysigingswet op die Nasionale Vervolgingsgesag, 2024

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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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(*English text signed by the President*)
(Assented to 24 May 2024)

ACT

To amend the National Prosecuting Authority Act, 1998, so as to insert certain definitions; and provide for the establishment of the Investigating Directorate against Corruption and its powers and functions; the appointment of investigators in the Investigating Directorate against Corruption; the vetting of investigators; the remuneration and conditions of service of investigators; the establishment of a mechanism to deal with complaints of a serious nature pertaining to persons appointed at or assigned to an investigating directorate; the powers and functions of investigators; to provide for transitional arrangements; and to provide for matters connected therewith.

PARLIAMENT of the Republic of South Africa enacts, as follows:—

Amendment of Preamble to Act 32 of 1998, as substituted by section 1 of Act 61 of 2000 and amended by section 14 of Act 56 of 2008

1. The Preamble to the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (hereinafter referred to as the “principal Act”) is hereby amended by the addition after paragraph 8 of the following paragraphs:

“AND WHEREAS systemic corruption in society requires specialised, dedicated, multi-disciplinary measures to combat corruption;

AND TO ENSURE that the national prosecuting authority fulfils its constitutional mandate to provide, without limiting the investigative powers of the South African Police Service or the Directorate for Priority Crime Investigation, for—

- the establishment of the Investigating Directorate against Corruption, with investigative capacity, to prioritise and to investigate particularly serious criminal or unlawful conduct committed in serious, high-profile or complex corruption, commercial or financial crime; and
- the necessary infrastructure and resources to perform these functions.”.

Amendment of section 1 of Act 32 of 1998, as amended by section 2 of Act 61 of 2000 and section 1 of Act 56 of 2008

2. Section 1 of the principal Act is hereby amended—

(a) by the substitution for the definition of “*head of an Investigating Directorate*” of the following definition:

“*head of an Investigating Directorate*” means an Investigating Director referred to in section 7(3)(b);”;

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk in vierkantige hakies dui uitlatings uit bestaande verordeninge aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 24 Mei 2024)

WET

Tot wysiging van die Wet op die Nasionale Vervolgingsgesag, 1998, ten einde sekere omskrywings in te voeg; en voorsiening te maak vir die instelling van die Ondersoekdirektoraat teen Korrupsie en die bevoegdhede en werksaamhede daarvan; die aanstelling van ondersoekers in die Ondersoekdirektoraat teen Korrupsie; die sekerheidsklaring van ondersoekers; die vergoeding en diensvoorwaardes van ondersoekers; die instelling van 'n meganisme om klagtes van 'n ernstige aard rakende persone wat op 'n ondersoekdirektoraat aangestel of toegewys is, te hanteer; die bevoegdhede en werksaamhede van ondersoekers; vir oorgangsmaatreëls voorsiening te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:

Wysiging van Aanhef by Wet 32 van 1998, soos vervang deur artikel 1 van Wet 61 van 2000 en gewysig deur artikel 14 van 56 van 2008

1. Die Aanhef tot die Wet op die Nasionale Vervolgingsgesag, 1998 (Wet No. 32 van 1998) (hierna die "Hoofwet" genoem), word hierby gewysig deur die volgende paragrawe na paragraaf 8 by te voeg:

"EN NADEMAAL sistemiese korruksie in die samelewning gespesialiseerde, toegegyde, multi-dissiplinêre maatreëls vereis om korruksie te bekamp; EN OM TE VERSEKER dat die nasionale vervolgingsgesag sy grondwetlike opdrag vervul om voorsiening te maak, sonder om die ondersoekbevoegdhede van die Suid-Afrikaanse Polisiediens of die Direktoraat vir Prioriteitsmisdadondersoeke te beperk, vir—

- die instelling van die Ondersoekdirektoraat teen Korrupsie, met ondersoekkapasiteit, om besonder ernstige kriminele of onwettige gedrag wat gepleeg word in ernstige, hoë-profiel, of ingewikkelde korruksie, kommersiële of finansiële misdaad, te prioritiseer en te ondersoek; en
- die nodige infrastruktuur en hulpbronne om hierdie werksaamhede te verrig.",

Wysiging van artikel 1 van Wet 32 van 1998, soos gewysig deur artikel 2 van Wet 61 van 2000 en artikel 1 van Wet 56 van 2008

2. Artikel 1 van die Hoofwet word hierby gewysig—

(a) deur die omskrywing van "hoof van 'n Ondersoekdirektoraat" deur die volgende omskrywing te vervang:

"hoof van 'n Ondersoekdirektoraat' 'n Ondersoekdirekteur bedoel in artikel 7(3)(*b*)";

- (b) by the substitution in the definition of “*Investigating Director*” for paragraph (a) of the following paragraph:
 “(a) means a Director of Public Prosecutions appointed under section 13(1)(b) as the *head of an Investigating Directorate* established in terms of section 7[(1)]; and”; 5
- (c) by the insertion after the definition of “Investigating Directorate” of the following definition:
 “***Investigating Directorate against Corruption*** means the *Investigating Directorate against Corruption* established by section 7(1A);”; and
- (d) by the insertion after the definition of “investigation” of the following definition: 10
 “***member of the prosecuting authority*** includes—
 (a) a member referred to in section 4;
 (b) a member of the prosecuting authority appointed at or assigned to the *Office of the National Director* as contemplated in section 5(2)(d); 15
 (c) an investigator referred to in section 5(2)(f);
 (d) financial investigators and analysts referred to in section 43B;
 (e) a member of the administrative staff appointed and employed in the Offices referred to in section 37;
 (f) a person engaged to perform services contemplated in section 38(1) or (3); and
 (g) a person performing services for the prosecuting authority in terms of a secondment or any other consultancy agreement in line with prosecutorial and investigation powers;”. 20
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Amendment of section 5 of Act 32 of 1998, as amended by section 3 of Act 61 of 2000 and section 2 of Act 56 of 2008

3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (d) of the following paragraph:
 “(d) other members of the prosecuting authority appointed at or assigned to the Office; [and]”; 30
- (b) by the substitution in subsection (2) for paragraph (e) of the following paragraph:
 “(e) members of the administrative staff of the Office; and”; and
- (c) by the insertion in subsection (2) after paragraph (e) of the following paragraph:
 “(f) investigators.”. 35

Amendment of section 7 of Act 32 of 1998, as substituted by section 4 of Act 61 of 2000 and section 3 of Act 56 of 2008

4. Section 7 of the principal Act is hereby amended—

- (a) by the deletion of subsection (1);
 (b) by the insertion after subsection (1) of the following subsections:
 “(1A) There is hereby established, in the *Office of the National Director*, an *Investigating Directorate* to be known as the *Investigating Directorate against Corruption* to investigate, and carry out, any functions incidental to investigations—
 (a) relating to serious, high-profile or complex corruption, commercial or financial crime cases—
 (i) arising from the recommendations of commissions of inquiry;
 (ii) referred to the *Investigating Director* by the *National Director* in terms of section 28(1)(b); or
 (iii) referred to the *Investigating Director* in terms of section 27, subject to section 26(2); 45
 (b) relating to additional related offences or categories of offences, including common law offences of—
 (i) fraud;
 (ii) forgery; 50
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- (b) deur die volgende omskrywing na die omskrywing van “*Kantoor van die Nasionale Direkteur*” in te voeg:
“lid van die vervolgingsgesag” ook—
(a) ‘n lid in artikel 4 bedoel;
(b) ‘n lid van die vervolgingsgesag aangestel by of toegewys aan die *Kantoor van die Nasionale Direkteur* soos in artikel 5(2)(d) beoog;
(c) ‘n onderzoeker in artikel 5(2)(f) bedoel;
(d) finansiële onderzoekers en ontleders in artikel 43B bedoel;
(e) ‘n lid van die administratiewe personeel wat in die Kantore bedoel in artikel 37 aangestel en in diens geneem is;
(f) ‘n persoon wat betrek is om dienste beoog in artikel 38(1) of (3) te verrig; en
(g) ‘n persoon wat dienste vir die vervolgingsgesag verrig ingevolge ‘n sekondering of enige ander konsultasie-diensooreenkoms ooreenkomsdig vervolgings- en onderzoekbevoegdhede;’’;
- (c) deur in die omskrywing van “*Ondersoekdirekteur*” paragraaf (a) deur die volgende paragraaf te vervang:
“(a) ‘n Directeur van Openbare Vervolgings kragtens artikel 13(1)(b) aangestel as die hoof van ‘n *Ondersoekdirektoraat* ingevolge artikel 7[(1)] ingestel; en”; en
- (d) deur die volgende omskrywing na die omskrywing van “Ondersoekdirektoraat” in te voeg:
“*Ondersoekdirektoraat teen Korruptie*” die *Ondersoekdirektoraat teen Korruptie* by artikel 7(1A) ingestel;’’.

Wysiging van artikel 5 van Wet 32 van 1998, soos gewysig deur artikel 3 van Wet 25 van 2000 en artikel 2 van Wet 56 van 2008

3. Artikel 5 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) paragraaf (d) deur die volgende paragraaf te vervang:
“(d) ander lede van die vervolgingsgesag wat by die Kantoor aangestel is of daaraan toegewys is; [en]”;
- (b) deur in subartikel (2) paragraaf (e) deur die volgende paragraaf te vervang:
“(e) lede van die administratiewe personeel van die Kantoor; en”; en
- (c) deur in subartikel (2) die volgende paragraaf na paragraaf (e) in te voeg:
“(f) onderzoekers.”

Wysiging van artikel 7 van Wet 32 van 1998, soos vervang deur artikel 4 van Wet 35 van 2000 en artikel 3 van Wet 56 van 2008

4. Artikel 7 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) te skrap;
- (b) deur die volgende subartikels na subartikel (1) in te voeg:
“(1A) Daar word hierby ingestel, in die *Kantoor van die Nasionale Direkteur*, ‘n *Ondersoekdirektoraat* wat as die *Ondersoekdirektoraat teen Korruptie* sal bekendstaan om ondersoek in te stel na, en enige werksaamhede te verrig wat insidenteel is tot ondersoeke wat verband hou met—
(a) ernstige, hoë-profiel of ingewikkeld korruptie-, kommersiële of finansiële misdaadsake—
(i) wat voortspruit uit die aanbevelings van ondersoek-kommisies;
(ii) wat ingevolge artikel 29(1)(b) deur die *Nasionale Directeur* na die *Ondersoekdirekteur* verwys is; of
(iii) wat ingevolge artikel 27, onderworpe aan artikel 26(2), na die *Ondersoekdirekteur* verwys is;
- (b) bykomende verwante misdrywe of kategorieë van misdade, met inbegrip van gemeneregmisdade van—
(i) bedrog;
(ii) vervalsing;

<ul style="list-style-type: none"> (iii) uttering; (iv) theft; and (v) any offence involving dishonesty; <p>(c) relating to additional related statutory offences or categories of statutory offences, including contraventions of—</p> <ul style="list-style-type: none"> (i) the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004); (ii) the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998); (iii) the Protection of Constitutional Democracy against Terrorist and Related Activities, 2004 (Act No. 33 of 2004); (iv) the Public Finance Management Act, 1999 (Act No. 1 of 1999); (v) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); (vi) the Financial Intelligence Centre Act 2001 (Act No. 38 of 2001); and (vii) any other statutory offence involving dishonesty; and <p>(d) where appropriate, institute criminal proceedings and carry out any necessary functions incidental to instituting criminal proceedings relating to any offence contemplated in paragraphs (a) to (c).</p> <p>(1B) The President may, by proclamation in the <i>Gazette</i>, establish one or more additional <i>Investigating Directorates</i> in the <i>Office of the National Director</i>, in respect of matters that exclude those contemplated in subsection (1A).”;</p> <p>(c) by the deletion in subsection (2) of paragraph (a);</p> <p>(d) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</p> <p style="padding-left: 2em;">“(b) shall be issued and may [at any time] be amended or rescinded by the President on the recommendation of the Minister, the Cabinet member responsible for policing and the <i>National Director</i>; and;”; and</p> <p>(e) by the insertion in paragraph (a) of subsection (4) after subparagraph (ii) of the following subparagraph:</p> <p style="padding-left: 2em;">“(iiA) investigators;”.</p>	<p style="margin-right: 20px;">5</p> <p style="margin-right: 20px;">10</p> <p style="margin-right: 20px;">15</p> <p style="margin-right: 20px;">20</p> <p style="margin-right: 20px;">25</p> <p style="margin-right: 20px;">30</p>
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Amendment of section 13 of Act 32 of 1998, as substituted by section 6 of Act 61 of 2000 and amended by section 4 of Act 56 of 2008 35

5. Section 13 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) shall, in respect of any *Investigating Directorate* established in terms of section 7[(1A)] appoint a fit and proper person, with due regard to his or her experience, conscientiousness and integrity, to be entrusted with the responsibilities of the office concerned, as a Director of Public Prosecutions as the head of such an *Investigating Directorate*; and”.

Insertion of Chapter 3B in Act 32 of 1998

6. The following Chapter is hereby inserted in the principal Act after Chapter 3A: 45

“CHAPTER 3B

Appointment, remuneration and conditions of service of investigators

Appointment of investigators

19D. (1) The *National Director* may, on the recommendation of the *head of an Investigating Directorate*, appoint fit and proper persons as investigators of that Directorate. 50

(iii) uitgifte;	
(iv) diefstal; en	
(v) enige misdryf wat oneerlikheid behels;	
(c) rakende bykomende verwante statutêre misdrywe of kategorieë van statutêre misdrywe, met inbegrip van oortredings van—	5
(i) die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004);	
(ii) die Wet op die Voorkoming van Georganiseerde Misdaad, 1998 (Wet No. 121 van 1998);	
(iii) die Wet op Beskerming van Grondwetlike Demokrasie teen Terrorisme en Verwante Aktiwiteite, 2004 (Wet No. 33 van 2004);	10
(iv) die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);	
(v) die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003);	15
(vi) die Wet op die Finansiële Intelligensiesentrum, 2001 (Wet No. 38 van 2001); en	
(vii) enige ander statutêre misdryf wat oneerlikheid behels; en	
(d) waar gepas, strafregtelike verrigtinge instel en enige nodige werksaamhede verrig wat insidenteel is tot die instel van strafregtelike verrigtinge wat verband hou met enige misdryf in paragrawe (a) tot (c) beoog.	20
(1B) Die President kan, by proklamasie in die <i>Staatskoerant</i> , een of meer bykomende <i>Ondersoekdirektorate</i> in die <i>Kantoor van die Nasionale Direkteur</i> instel, ten opsigte van aangeleenthede wat dié wat in subartikel (1A) beoog word, uitsluit.”;	25
(c) deur in subartikel (2) paragraaf (a) te skrap;	
(d) deur in subartikel (2) paragraaf (b) deur die volgende paragraaf te vervang:	30
“(b) kan [te eniger tyd] deur die President op die aanbeveling van die Minister, die Kabinetslid verantwoordelik vir polisie en die Nasionale Direkteur, gewysig of herroep word; en”; en	
(e) deur in paragraaf (a) van subartikel (4) die volgende subparagraph na subparagraph (ii) in te voeg:	
“(iiA) ondersoekers;”.	35

Wysiging van artikel 13 van Wet 32 van 1998, soos vervang deur artikel 6 van Wet 61 van 2000 en gewysig deur artikel 4 van Wet 56 van 2008

5. Artikel 13 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

“(b) moet, ten opsigte van enige <i>Ondersoekdirektoraat</i> ingevolge artikel 7[(1A)] ingestel, ‘n gesikte en gepaste persoon, met behoorlike inagneming van sy of haar ervaring, pliggetrouheid en integriteit om met die verantwoordelikhede van die betrokke amp vertrou te word, as ’n Direkteur van Openbare Vervolgings aanstel as die hoof van so ’n <i>Ondersoekdirektoraat</i> ; en’.”.	40
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Invoeging van Hoofstuk 3B in Wet 32 van 1998

6. Die volgende Hoofstuk word hierby na Hoofstuk 3A in die Hoofwet ingevoeg:

“HOOFSTUK 3B

Aanstelling, vergoeding en diensvoorraarde van ondersoekers

Aanstelling van ondersoekers

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19D. (1) Die Nasionale Direkteur kan, op aanbeveling van die hoof van ’n *Ondersoekdirektoraat*, gesikte en gepaste persone as ondersoekers van daardie Direktoraat aanstel.

- (2) A person appointed as an investigator—
- (a) must have at least a grade 12 certificate or a relevant diploma or degree; and
 - (b) must have—
 - (i) knowledge and relevant experience of criminal or forensic financial investigation; or
 - (ii) any other relevant experience.
- (3) The *National Director* must, in the prescribed form, issue and sign an identity-type document to each person appointed as an investigator of that Directorate, which shall serve as proof that such person is an investigator.

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Vetting of investigators

19E. (1) Subject to subsection (2), no person may be appointed as an investigator, unless the person has been issued with a security clearance certificate following a vetting investigation conducted in terms of section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).

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(2) Any investigator may from time to time, or at such regular intervals as the *National Director* may determine, be subjected to a further vetting investigation as contemplated in subsection (1).

(3) If the certificate referred to in subsection (1) is withdrawn, the *National Director*, after consultation with the State Security Agency and subject to section 2A(8) of the National Strategic Intelligence Act, 1994, may discharge the investigator concerned from the *Investigating Directorate*, following any disciplinary process.”.

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Remuneration and conditions of service of investigators

19F. (1) The remuneration, allowances and other service benefits of investigators are determined by the *Minister*, in consultation with the *National Director*, the Cabinet member responsible for public service and administration and the Cabinet member responsible for finance, by notice in the *Gazette*.

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(2)(a) If an officer or employee in the public service is appointed as an investigator, the period of his or her service as an investigator shall be calculated as part of and continuous with his or her employment in the public service, for purposes of leave credits, pension benefits and any other condition of service, and the provisions of any pension law applicable to him or her or, in the event of his or her death, to his or her dependants, which are not inconsistent with this section, shall, with the necessary changes, continue to apply to such officer or employee.

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(b) If a member of the South African Police Service, or the Directorate for Priority Crime Investigation referred to in Chapter 6A of the South African Police Service Act, 1995 (Act No. 68 of 1995), or the Independent Police Investigative Directorate, is appointed as an investigator under this Act, the period of his or her service as a member shall be calculated as part of and continuous with his or her employment under the South African Police Service Act, 1995, or the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011), as the case may be, for purposes of leave, deemed pensionable service accrued and any other condition of service, and the provisions of any pension law applicable to him or her or, in the event of his or her death, to his or her dependants, which are not inconsistent with this section, shall, with the necessary changes, continue to apply to such officer or employee.

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(3) The services of investigators in the *Investigating Directorate* shall, for the purposes of the application of Chapter IV of the Labour Relations Act, 1995 (Act No. 66 of 1995), be deemed to have been designated as an essential service in terms of section 71 of that Act.

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- (2) 'n Persoon wat as 'n ondersoeker aangestel is—
- (a) moet ten minste 'n graad 12-sertifikaat of 'n tersaaklike diploma of graad hê; en
 - (b) moet—
 - (i) kennis en tersaaklike ervaring van strafregtelike of forensiese finansiële ondersoeke hê; of
 - (ii) enige ander tersaaklike ervaring hê.
- (3) Die *Nasionale Direkteur* moet, op die voorgeskrewe vorm, 'n tipe identiteitsdokument uitreik en onderteken vir elke persoon wat as 'n ondersoeker van daardie Direktoraat aangestel word, wat as bewys sal dien dat sodanige persoon 'n ondersoeker is.

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Sekerheidsklaring van ondersoekers

19E. (1) Behoudens subartikel (2), kan geen persoon as 'n ondersoeker aangestel word nie, tensy 'n sekerheidsklaring aan die persoon uitgereik is na afloop van 'n klaringsondersoek wat ingevolge artikel 2A van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994), gedoen is.

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(2) Enige ondersoeker kan van tyd tot tyd, of met sodanige gereelde tussenposes wat die *Nasionale Direkteur* kan vasstel, aan 'n verdere klaringsondersoek onderwerp word soos in subartikel (1) beoog.

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(3) Indien die sertifikaat bedoel in subartikel (1) ingetrek word, kan die *Nasionale Direkteur*, na oorleg met die Staatsveiligheidsagentskap en behoudens artikel 2A(8) van die Wet op Nasionale Strategiese Intelligensie, 1994, na afloop van enige dissiplinêre prosedure, die betrokke ondersoeker uit die *Ondersoekdirektoraat* ontslaan.

Vergoeding en diensvoorraarde van ondersoekers

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19F. (1) Die vergoeding, toelaes en ander diensvoorraarde van ondersoekers word deur die *Minister*, in oorleg met die *Nasionale Direkteur*, die Kabinetslid verantwoordelik vir die staatsdiens en administrasie en die Kabinetslid verantwoordelik vir finansies, by kennisgewing in die *Staatskoerant* vasgestel.

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(2)(a) Indien 'n beampte of werknemer in die staatsdiens as 'n ondersoeker aangestel word, word die tydperk van sy of haar diens as 'n ondersoeker bereken as deel van, en aaneenlopend met, sy of haar diens in die staatsdiens, vir die doeleindes van verlofkrediete, pensioenvoordele en enige ander diensvoorraarde, en die bepalings van enige pensioenwet wat op hom of haar van toepassing is of, indien hy of sy tot sterwe kom, op sy of haar afhanklik van toepassing is, wat nie teenstrydig met hierdie artikel is nie, met die nodige veranderinge, steeds op sodanige beampte of werknemer van toepassing is.

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(b) Indien 'n lid van die Suid-Afrikaanse Polisiediens, of die Direktoraat vir Prioriteitsmisdaadondersoek in Hoofstuk 6A van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995), bedoel, of die Onafhanklike Polisie-ondersoekdirektoraat, kragtens hierdie Wet as 'n ondersoeker aangestel word, word die tydperk van sy of haar diens bereken as deel van en aaneenlopend met sy of haar diens kragtens die Wet op die Suid-Afrikaanse Polisiediens, 1995, of die 'Independent Police Investigative Directorate Act, 2011' (Wet No. 1 van 2011), na gelang van die geval, vir die doeleindes van verlof, geag pensioengewende diens te wees wat opgeloop het en enige ander diensvoorraarde, en die bepalings van enige pensioenwet wat op hom of haar van toepassing is of, in die geval van sy of haar afsterwe, op sy of haar afhanklik, wat nie met hierdie artikel teenstrydig is nie, steeds op sodanige beampte of werkewer van toepassing is.

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(3) Die dienste van ondersoekers in die *Ondersoekdirektoraat* word, vir die doeleindes van die toepassing van Hoofstuk IV van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), geag ingevolge artikel 71 van daardie Wet tot 'n noodaaklike diens verklaar te wees.

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(4) Subject to the provisions of this Act, the other conditions of service of investigators shall be determined in terms of the provisions of the Public Service Act: Provided that if a member of the South African Police Service, the Directorate for Priority Crime Investigation, or the Independent Police Investigative Directorate is appointed as an investigator under this Act, the conditions of service, including remuneration, allowances, pension and other service benefits applicable to such investigator, must be equal to, or not less favourable than, those conditions of service applicable to such investigator under the South African Police Service Act, 1995, or the Independent Police Investigative Directorate Act, as the case may be.”. 10

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Amendment of section 22 of Act 32 of 1998

7. Section 22 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) The *National Director* shall develop, in consultation with the *Minister* or a person authorised thereto by the *Minister*, and the Directors, training programmes 15 for prosecutors and investigators.”.

Insertion of section 22A in Act 32 of 1998

8. The following section is hereby inserted in the principal Act after section 22:

“Complaints mechanism and accountability

22A. (1)(a) The *Minister* shall, after consultation with the Chief Justice, 20 appoint a retired judge for a non-renewable period of five years in order to investigate complaints or any alleged improper conduct or any conduct which has resulted in any impropriety or prejudice on the part of any person referred to in section 7(4)(a).

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(b) For purposes of paragraph (a) ‘retired judge’ shall mean a judge discharged from active service as referred to in the Judges’ Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001).

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(2) The performance of the functions provided for in respect of a retired judge does not derogate from the powers of the South African Police Service or Directorate for Priority Crime Investigation to investigate any criminal conduct in respect of any person referred to in section 7(4)(a).

(3) The retired judge shall not investigate complaints about intelligence matters falling under the jurisdiction of the Inspector-General of Intelligence.

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(4) The retired judge may receive complaints in the prescribed form and manner from—

(a) any person who may provide evidence of a serious and unlawful infringement of his or her rights caused by the conduct of a person referred to in section 7(4)(a); or

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(b) any person referred to in section 7(4)(a), who may provide evidence of any improper influence or interference, hindrance or obstruction, whether of a political or any other nature, exerted upon him or her in the exercise, carrying out or performance of his or her powers, duties and functions.

(5) The retired judge may, upon receipt of a complaint in terms of subsection (4), investigate such complaint or refer it to be dealt with by the National Commissioner of Police, the relevant Director, the *National Director* or the Inspector-General of Intelligence.

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(6) The retired judge shall report to the *Minister* the outcome of any investigation undertaken by him or her or any referral in terms of subsection (5).

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(7)(a) The retired judge may request and obtain information from any member of the prosecuting authority in so far as it may be necessary for the retired judge to conduct an investigation.

(4) Behoudens die bepalings van hierdie Wet, word die ander diensvooraardes van ondersoekers ingevolge die bepalings van die Staatsdienswet bepaal: Met dien verstande dat as 'n lid van die Suid-Afrikaanse Polisiediens, die Direktoraat vir Prioriteitsmisdadondersoek, of die Onafhanklike Polisie-ondersoekdirektoraat kragtens hierdie Wet as 'n ondersoeker aangestel word, die diensvooraardes, met inbegrip van vergoeding, toelaes, pensioen en ander diensvoordele wat op sodanige ondersoeker van toepassing is, gelyk aan, of nie minder gunstig nie, moet wees as daardie diensvooraardes wat kragtens die Wet op die Suid-Afrikaanse Polisiediens, 1995, of die 'Independent Police Investigative Directorate Act', na gelang van die geval, op daardie ondersoeker van toepassing is.”.

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Wysiging van artikel 22 van Wet 32 van 1998

7. Artikel 22 van die Hoofwet word hierby gewysig deur subartikel (7) deur die volgende subartikel te vervang:

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“(7) Die *Nasionale Direkteur* moet, in oorleg met die *Minister* of 'n persoon deur die *Minister* daartoe gemagtig, en die Direkteure, opleidingsprogramme vir aanklaers en ondersoekers ontwikkel.”.

Invoeging van artikel 22A in Wet 32 van 1998

8. Die volgende artikel word hierby na artikel 22 in die Hoofwet ingevoeg: 20

“Klagtemeganisme en aanspreeklikheid

22A. (1)(a) Die *Minister* moet, na oorleg met die Hoofregter, 'n afgetrede regter vir 'n niehernubare tydperk van vyf jaar aanstel om klagtes te ondersoek van enige beweerde onbehoorlike gedrag of enige gedrag wat tot onbehoorlikheid of benadeling aan die kant van enige persoon bedoel in artikel 7(4)(a), gelei het.

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(b) By die toepassing van paragraaf (a) beteken 'afgetrede regter' 'n regter wat uit aktiewe diens ontslaan is soos in die Wet op Besoldiging en Diensvooraardes van Regters, 2001 (Wet No. 47 van 2001), bedoel.

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(2) Die verrigting van die werksaamhede waarvoor ten opsigte van 'n afgetrede regter voorsiening gemaak word, tas nie die bevoegdhede aan van die Suid-Afrikaanse Polisiediens of Direktoraat vir Prioriteitsmisdadondersoek om enige misdadige gedrag ten opsigte van enige persoon in artikel 7(4)(a) bedoel, te ondersoek nie.

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(3) Die afgetrede regter ondersoek nie klagtes oor intelligensie-aangeleenthede wat onder die jurisdiksie van die Inspekteur-generaal van Intelligensie val nie.

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(4) Die afgetrede regter kan klagtes op die voorgeskrewe vorm en wyse ontvang vanaf—

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(a) enige persoon wat getuienis kan gee oor 'n ernstige en onwettige skending van sy of haar regte wat deur die gedrag van 'n persoon bedoel in artikel 7(4)(a), veroorsaak is; of

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(b) enige persoon in artikel 7(4)(a) beoog, wat getuienis kan gee van enige onbehoorlike invloed of inmenging, belemmering of obstruksie, hetsy van 'n politieke of enige ander aard, wat op hom of haar uitgeoefen word in die uitoefening, uitvoering of verrigting van sy of haar bevoegdhede, pligte en werksaamhede.

(5) Die afgetrede regter kan, by ontvangs van 'n klage ingevalg van subartikel (4), daardie klakte ondersoek of dit verwys vir hantering deur die Nasionale Kommissaris van die Polisie, die tersaaklike Direkteur, die *Nasionale Direkteur* of die Inspekteur-generaal van Intelligensie.

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(6) Die afgetrede regter moet aan die *Minister* verslag doen oor die uitslag van enige ondersoek deur hom of haar gedoen of enige verwysing ingevalg van subartikel (5).

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(7)(a) Die afgetrede regter kan inligting van enige lid van die vervolgingsgesag aanvra en verkry vir sover dit vir die afgetrede regter nodig mag wees om ondersoek in te stel.

(b) The refusal to comply with a request by the retired judge in terms of paragraph (a) shall be a criminal offence for which a person, upon conviction, may be sentenced to a fine or imprisonment of two years, or to both a fine and such imprisonment.

(8) To the extent that it is reasonably necessary for the performance of the functions of the retired judge, he or she—

(a) may obtain information and documents under the control of the prosecuting authority;

(b) may enter any building or premises under the control of the prosecuting authority in order to obtain such information and documents; and

(c) shall be entitled to all reasonable assistance by any person referred to in section 7(4)(a) or any other member of the *prosecuting authority*.

(9) The retired judge shall report annually to Parliament on the performance of his or her functions.

(10) The *National Director* may request the retired judge to investigate any complaint or allegation referred to in subsections (1) and (4) relating to a prosecution or an investigation conducted by an *Investigating Directorate*.

(11) If a structure contemplated in section 22(5) receives any complaint or allegation referred to in subsections (1) and (4), such structure shall refer the complaint or allegation to the retired judge to investigate.

(12) Any person who makes a complaint in terms of this section shall not be entitled to use this section to establish whether there is an investigation against him or her, nor be entitled to any delay, interference or termination of such investigation on the basis that such complaint has been made.

(13) The *Minister* shall ensure that the retired judge has sufficient personnel and resources to fulfil his or her functions.”.

Insertion of section 29A in Act 32 of 1998

9. The following section is hereby inserted in the principal Act after section 29:

“Powers and functions of investigators

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29A. (1) An investigator may, subject to the control and direction of a *head of an Investigating Directorate*, exercise such powers and must perform such duties as are conferred or imposed upon him or her by or under this Act, or any other law and must obey all lawful directions which he or she may receive from a person having the authority to give such directions.

(2) An investigator has the same powers as a peace officer or a police official as provided for in the Criminal Procedure Act, 1977 (Act No. 51 of 1977), including—

(a) the investigation of offences;

(b) the ascertainment of bodily features of an accused person;

(c) the entry and search of premises;

(d) the seizure and disposal of articles;

(e) arrests;

(f) the execution of warrants;

(g) the attendance of an accused person in court; and

(h) the service or execution of any subpoena or summons.

(3) An investigator has the same powers as if he or she had been appointed deputy sheriff or deputy messenger or other similar officer of the court.

(4)(a) The *Minister* may, in consultation with the Cabinet member responsible for police, by notice in the *Gazette*, confer upon investigators any power—

(i) which is conferred by applicable law upon specified persons or a category of persons; and

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(b) Die weiering om te voldoen aan 'n versoek deur die afgetrede regter ingevolge paragraaf (a) is 'n kriminele oortreding waarvoor 'n persoon, by skuldigbevinding, strafbaar is met 'n boete of gevangenisstraf van twee jaar, of met beide 'n boete en sodanige gevangenisstraf.

(8) In die mate wat dit redelikerwys nodig is vir die verrigting van die werksaamhede van die afgetrede regter—

- (a) kan hy of sy inligting en dokumente onder die beheer van die vervolgingsgesag bekom;
- (b) kan hy of sy enige gebou of perseel onder die beheer van die vervolgingsgesag binnegaan om sodanige inligting en dokumente te bekom; en
- (c) is hy of sy geregtig op alle redelike bystand deur enige persoon bedoel in artikel 7(4)(a) of enige ander lid van die *vervolgingsgesag*.

(9) Die afgetrede regter moet jaarliks aan die Parlement verslag doen oor die verrigting van sy of haar werksaamhede.

(10) Die *Nasionale Direkteur* kan die afgetrede regter versoek om enige klage of bewering bedoel in subartikels (1) en (4) met betrekking tot 'n vervolging of 'n ondersoek wat deur 'n *Ondersoekdirektoraat* uitgevoer word, te ondersoek.

(11) Indien 'n struktuur beoog in artikel 22(5) enige klage of bewering ontvang waarna in subartikels (1) en (4) verwys word, sal sodanige struktuur die klage of bewering na die afgetrede regter verwys om te ondersoek.

(12) Enige persoon wat 'n klagte ingevolge hierdie artikel indien, is nie geregtig om hierdie artikel te gebruik om vas te stel of daar 'n ondersoek teen hom of haar is nie, en is ook nie geregtig op enige vertraging, inmenging of beëindiging van sodanige ondersoek op grond daarvan dat so 'n klagte gemaak is nie.

(13) Die *Minister* moet verseker dat die afgetrede regter oor genoegsame personeel en hulpbronne beskik om sy of haar werksaamhede te vervul.”.

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Invoeging van artikel 29A in Wet 32 van 1998

9. Die volgende artikel word hierby na artikel 29 in die Hoofwet ingevoeg:

“Bevoegdhede en werksaamhede van ondersoekers

29A. (1) 'n Ondersoeker kan, onderhewig aan die beheer en leiding van 'n hoof van 'n Ondersoekdirektoraat, sodanige bevoegdhede uitoefen en moet sodanige pligte uitvoer wat aan hom of haar toegeken of opgelê word deur of kragtens hierdie Wet, of enige ander wet, en moet alle wettige opdragte gehoorsaam wat hy of sy kan ontvang van 'n persoon wat die gesag het om sulke opdragte te gee.

(2) 'n Ondersoeker het dieselfde bevoegdhede as 'n vredesbeampte of 'n polisiebeampte soos bepaal in die Strafproseswet, 1977 (Wet No. 51 van 1977), met inbegrip van—

- (a) die ondersoek van misdrywe;
- (b) die vasstelling van liggaamskenmerke van 'n beskuldigde persoon;
- (c) die betreding en deursoeking van 'n perseel;
- (d) die beslaglegging op en wegdoening van artikels;
- (e) inhegtenisnames;
- (f) die uitvoering van lasbriewe;
- (g) die verskyning van 'n beskuldigde persoon voor die hof; en
- (h) die betekening of uitvoering van enige subpoena of dagvaarding.

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(3) 'n Ondersoeker het dieselfde bevoegdhede asof hy of sy as adjunkbalju of adjunkbode of ander soortgelyke beampte van die hof aangestel is.

(4)(a) Die *Minister* kan, in oorleg met die Kabinetslid verantwoordelik vir polisie, by kennisgewing in die *Staatskoerant*, aan ondersoekers enige bevoegdheid verleen—

- (i) wat deur toepaslike wetgewing aan bepaalde persone of 'n kategorie van persone verleen word; en

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- (ii) which relates to the prevention, investigation or combating of any offence or other criminal or unlawful activity.
- (b) Any notice referred to in paragraph (a)—
- (i) may be amended or rescinded by the Minister in consultation with the Cabinet member responsible for police; and
- (ii) must be submitted to Parliament before publication in the *Gazette*.⁵

Insertion of section 43C in Act 32 of 1998

10. The following section is hereby inserted in the principal Act after section 43B:

“Transitional arrangements relating to Investigating Directorates

43C. (1) For purposes of this section, the phrase ‘the *Investigating Directorate*’ means the *Investigating Directorate*, established by Proclamation No. 20 of 2019.¹⁰

(2) The *Investigating Directorate* shall, as from the date of the commencement of the National Prosecuting Authority Amendment Act, 2024, cease to exist as a separate *Investigating Directorate* and shall become part of the *Investigating Directorate against Corruption*.¹⁵

(3) Proclamation No. 20 of 2019, in respect of existing offences or categories of offences as determined by the President therein, which had been issued under section 7(1) in respect of the *Investigating Directorate* prior to the amendment of section 7(1) by the National Prosecuting Authority Amendment Act, 2024, shall, as from the date of the commencement of that Act, be deemed to have been issued under section 7(1A) with the necessary changes in respect of the *Investigating Directorate against Corruption*.²⁰

(4) Subject to the provisions of this Act, the *Investigating Director* and all staff of the *Investigating Directorate* shall be retained, remain in office and continue their functions under this Act in the *Investigating Directorate against Corruption*.²⁵

(5) From the date of the commencement of the National Prosecuting Authority Amendment Act, 2024, all pending matters pertaining to the *Investigating Directorate* shall be dealt with as if that Act had at all times been in force.”.³⁰

Law amended

11. The law referred to in the second column of the Schedule is hereby amended to the extent indicated in the third column of the Schedule.³⁵

Amendment of Index to Act 32 of 1998, as inserted by section 21 of Act 61 of 2000, and amended by Act 56 of 2008

12. The Index to the principal Act is hereby amended—

(a) by the insertion after “CHAPTER 3A APPOINTMENT, REMUNERATION AND CONDITIONS OF SERVICE OF SPECIAL INVESTIGATORS” of the following:⁴⁰

“CHAPTER 3B

APPOINTMENT, REMUNERATION AND CONDITIONS OF SERVICE OF INVESTIGATORS

19D. Appointment of investigators⁴⁵

19E. Security screening of investigators

19F. Remuneration and conditions of service of investigators”;

(b) by the insertion after “22. Powers, duties and functions of National Director” of the following:⁵⁰

“22A. Complaints mechanism and accountability”;

- (ii) wat verband hou met die voorkoming, ondersoek of bekamping van enige misdryf of ander kriminele of onwettige aktiwiteit.
- (b) Enige kennisgewing bedoel in paragraaf (a)—
- (i) kan deur die *Minister* in oorleg met die Kabinetslid verantwoordelik vir polisie gewysig of herroep word; en
- (ii) moet voor publikasie in die *Staatskoerant* aan die Parlement voorgelê word.”.

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Invoeging van artikel 43C in Wet 42 van 1998

10. Die volgende artikel word hierby na artikel 43B in die Hoofwet ingevoeg:

“Oorgangsmaatreëls met betrekking tot Ondersoekdirektorate 10

43C. (1) By die toepassing van hierdie artikel beteken die frase ‘die *Ondersoekdirektoraat*’ die *Ondersoekdirektoraat*, ingestel by Proklamasie No. 20 van 2019.

(2) Die *Ondersoekdirektoraat* hou, vanaf die datum van die inwerkingtreding van die Wysigingswet op die Nasionale Vervolgingsgesag, 2024, op bestaan as ’n aparte *Ondersoekdirektoraat* en word deel van die *Ondersoekdirektoraat teen Korruksie*.

(3) Proklamasie No. 20 van 2019, ten opsigte van bestaande misdrywe of kategorieë van misdrywe soos daarin bepaal deur die President, wat kragtens artikel 7(1) ten opsigte van die *Ondersoekdirektoraat* uitgereik is voor die wysiging van artikel 7(1) deur die Wysigingswet op die Nasionale Vervolgingsgesag, 2024, word vanaf die datum van die inwerkingtreding van daardie Wet geag uitgereik te gewees het kragtens artikel 7(1A) met die nodige veranderinge ten opsigte van die *Ondersoekdirektoraat teen Korruksie*.

(4) Behoudens die bepalings van hierdie Wet, word die *Ondersoekdirekteur* en alle personeel van die *Ondersoekdirektoraat* behou, bly in hul ampte en gaan voort met hul werkzaamhede kragtens hierdie Wet in die *Ondersoekdirektoraat teen Korruksie*.

(5) Vanaf die datum van die inwerkingtreding van die Wysigingswet op die Nasionale Vervolgingsgesag, 2024, sal alle hangende aangeleenthede met betrekking tot die *Ondersoekdirektoraat* hanteer word asof daardie Wet te alle tye van krag was.”.

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Wet gewysig

11. Die wet in die tweede kolom van die Bylae bedoel, word hierby gewysig tot die mate in die derde kolom van die Bylae aangedui. 35

Wysiging van Indeks by Wet 32 van 1998, soos ingevoeg deur artikel 21 van Wet 61 van 2000, en gewysig deur Wet 56 van 2008

12. Die Indeks van die Hoofwet word hierby gewysig—

(a) deur die volgende na “HOOFSTUK 3A AANSTELLING, VERGOEDING EN DIENSVOORWAARDES VAN SPESIALE ONDERSOEKERS” in te voeg: 40

“HOOFSTUK 3B**AANSTELLING, VERGOEDING EN DIENSVOORWAARDES VAN ONDERSOEKERS** 45

19D. Aanstelling van ondersoekers

19E. Sekerheidsklaring van ondersoekers

19F. Vergoeding en diensvooraarde van ondersoekers”;

(b) deur die volgende na “22. Bevoegdhede, pligte en werkzaamhede van Nasionale Direkteur” in te voeg: 50

“22A. Klagtemeganisme en aanspreeklikheid”;

(c) by the insertion after “29. Entering upon premises by Investigating Director” of the following:

“29A. Powers and functions of investigators”; and

(d) by the insertion after “43B. Transitional arrangements relating to financial investigators and analysts” of the following:

“43C. Transitional arrangements relating to Investigating Directorates”.

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Short title and commencement

13. This Act is called the National Prosecuting Authority Amendment Act, 2024, and shall come into operation on a date determined by the President by proclamation in the *Gazette*.

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- (c) deur die volgende na “29. Betreding van persele deur Ondersoekdirekteur” in te voeg:
“29A. Bevoegdhede en werksaamhede van ondersoekers”; en
(d) deur die volgende na “43B. Oorgangsmaatreëls aangaande finansiële ondersoekers en ontleders” in te voeg:
“43C. Oorgangsmaatreëls aangaande Ondersoekdirektorate”.
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Kort titel en inwerkingtreding

13. Hierdie Wet heet die Wysigingswet op die Nasionale Vervolgingsgesag, 2024, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.
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SCHEDELE**LAW AMENDED**
(Section 11)

Number and year of law	Short title	Extent of amendment
Act No. 70 of 2002	Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002	The amendment of section 1 by the substitution for the definition of “ Directorate ” of the following definition: “ ‘Directorate’ means [the Directorate of Special Operations] an Investigating Directorate or the Investigating Directorate against Corruption referred to in section 1 of the National Prosecuting Authority Act;”.

BYLAE**WET GEWYSIG**
(Artikel 11)

Nommer en jaar van Wet	Kort titel	Omvang van wysiging
Wet No. 70 van 2002	Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002	Artikel 1 word gewysig deur die omskrywing van “ Direktoraat ” deur die volgende omskrywing te vervang: “ ‘ Direktoraat ’ [die Direktoraat van Spesiale Operasies] ’n <u>Ondersoekdirektoraat</u> of die <u>Ondersoekdirektoraat teen Korruksie</u> bedoel in artikel 1 van die Wet op die Nasionale Vervolgingsgesag;”.