

EMBARGO: FOR IMMEDIATE RELEASE

**MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION
CONCERNING ITS RELEASE OF DISCUSSION PAPER 146 ON STATUTORY LAW
REVISION IN RESPECT OF LEGISLATION ADMINISTERED BY THE DEPARTMENT OF
POLICE**

The South African Law Reform Commission (SALRC) hereby releases its Discussion Paper 146 (“the Discussion Paper”) for public comments and general information on Project 25: Statutory law revision in respect of legislation administered by the Department of Police (DOP).

In 2003, Cabinet approved that the then Minister for Justice and Constitutional Development should mandate the SALRC to review statutes in the national legislative framework, so as to identify provisions that would result in discrimination as defined in section 9 of the Constitution. Section 9 of the Constitution prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture, language, or birth. Redundant or obsolete statutory provisions that are identified in the course of the investigation are recommended for repeal.

The Discussion Paper sets out the SALRC’s preliminary recommendations for law reform regarding statutes administered by DOP. The Discussion Paper also contains the proposed Police General Laws and Related Matters Amendment and Repeal Bill (“the proposed Bill”) marked as Annexure “A”.

The SALRC has identified 42 statutes as being statutes that are administered by DOP. Out of the 42 statutes 13 statutes are recommended for amendment and seven statutes are recommended for repeal.

(1) The 13 statutes recommended for amendment are listed in Schedule 1 of the proposed Bill and amongst them are the following:

(a) The National Key Points Act, 1980 (Act No. 102 of 1980) is recommended for amendment so as to, *inter alia*, curb the wide discretionary powers conferred on the Minister of Police with regard to declaration of an area or place as a National Key Point or part of a National Key Point Complex. The SALRC recommends in the Discussion Paper that the process of declaring an area or place as a National Key Point should involve the relevant Parliamentary Committee;

(b) The South African Police Service Act, 1995 (Act No. 68 of 1995) is recommended for amendment so as to align the Act with the Constitutional Court judgement in *Helen Suzman Foundation v President of the Republic Of South Africa and Others*; *Glenister v President of the Republic of South Africa and Others* (CCT 07/14, CCT 09/14 [2014] ZACC 32; 2015 (1) BCLR 1 (CC); 2015 (2) SA 1 (CC) (27 November 2014); and

(c) The Police Investigative Directorate, 2011 (Act No. 1 of 2011) is recommended for amendment so as to align it with the Constitutional Court judgement in *McBride v Minister of Police and Another* (CCT255/15) [2016] ZACC 30; 2016 (2) SACR 585 (CC); 2016 (11) BCLR 1398 (CC) (6 September 2016).

(2) The provisions of the seven statutes set out in Schedule 2 of the proposed Bill are recommended for repeal to the extent set out in the fourth column of that Schedule, for reasons set out in Chapter 2 of the Discussion Paper.

On 20 May 2017, the SALRC considered and approved the publication of Discussion Paper 146. The SALRC invites comments on the Discussion Paper. Comments should reach the SALRC **by 30 September 2017** and should be sent to the following address:

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The Discussion Paper will be made available on the Internet at the following site: <http://www.justice.gov.za/salrc/dpapers.htm>. The discussion paper is also obtainable free of charge from the SALRC on request; please contact Mr Jacob Kabini at (012) 622 6327.

ISSUED BY THE SECRETARY: SA LAW REFORM COMMISSION

DATE:

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