

**REGULATIONS IN TERMS OF THE NATIONAL PROSECUTING
AUTHORITY ACT, 1998 (ACT 32 OF 1998)**

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(a) **PROCLAMATION NO. R. 102 OF 16 OCTOBER 1998: ESTABLISHING OF
SPECIAL INVESTIGATING DIRECTORATE: ORGANISED CRIME AND PUBLIC
SAFETY:**

Under section 7 (1) (a) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), and with the concurrence of the Minister of Justice and the National Director of Public Prosecutions, I hereby establish an Investigating Directorate, to be known as the Investigating Directorate: Organised Crime and Public Safety, in respect of the offences and categories of offences specified in the Schedule.

N. R. MANDELA
President

By Order of the President-in-Cabinet:

A. M. OMAR
Minister of the Cabinet

SCHEDULE

- (a) Any offence of—
- (i) murder;
 - (ii) fraud;
 - (iii) theft and any offence involving dishonesty;
 - (iv) robbery with aggravating circumstances as defined in section 1 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (v) extortion;
 - (vi) kidnapping;
 - (vii) arson;
 - (viii) malicious injury to property;
 - (ix) breaking or entering any premises, with the intent to commit an offence;
- or
- (x) public violence; or
- (b) any offence in contravention of—

- (i) the Explosives Act, 1956 (Act No. 26 of 1956);
- (ii) the Income Tax Act, 1962 (Act No. 58 of 1962);
- (iii) the Customs and Excise Act, 1964 (Act No. 91 of 1964);
- (iv) the Armaments Development and Production Act, 1968 (Act No. 57 of 1968);
- (v) the Arms and Ammunition Act, 1969 (Act No. 75 of 1969);
- (vi) the Intimidation Act, 1982 (Act No. 72 of 1982);
- (vii) the Internal Security Act, 1982 (Act No. 74 of 1982);
- (viii) the Diamonds Act, 1986 (Act No. 56 of 1986);
- (ix) the Sea Fishery Act, 1988 (Act No. 12 of 1988);
- (x) the Corruption Act, 1992 (Act No. 94 of 1992);
- (xi) the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992); or
- (xii) the Proceeds of Crime Act, 1996 (Act No.76 of 1996),

committed in an organized fashion or which may endanger the safety or security of the public, or any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

(b) **PROCLAMATION NO. R. 123 OF 4 DECEMBER 1998: CATEGORIES OF OFFENCES IN RESPECT OF THE INVESTIGATING DIRECTORATE: SERIOUS ECONOMIC OFFENCES**

WHEREAS the Investigation of Serious Economic Offences Act, 1991 (Act No. 117 of 1991), whereby the Office for Serious Economic Offences was established and which provided that such Office may investigate any offence which in the opinion of the Director: Office of Serious Economic Offences is a serious and complicated, economic offence, was repealed by the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (hereinafter referred to as “the Act”);

AND WHEREAS section 43(7)(a) of the Act provides that the aforementioned Office shall become the Investigating Directorate: Serious Economic Offences (hereinafter referred to as “the Investigating Directorate”) which shall be deemed to have been established under section 7 of the Act;

NOW, THEREFORE, I hereby, under section 43(7)(c) of the Act, and on the request of the National Director of Public Prosecutions, further specify the categories of offences in the Schedule, in respect of which the Investigating Directorate must exercise its functions.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Fourth day of December, One thousand Nine hundred and Ninety-eight.

N. R. MANDELA
President

By Order of the President-in-Cabinet:

A. M. OMAR
Minister of the Cabinet

SCHEDULE

- (a) Any offence of -
- (i) fraud;
 - (ii) theft;
 - (iii) forgery and uttering; or
 - (iv) corruption in terms of the Corruption Act, 1992 (Act No. 94 of 1992); or
- (b) any other -
- (i) economic common law offence; or
 - (ii) economic offence in contravention of any statutory provision, which involves patrimonial prejudice or potential patrimonial prejudice to the State, any body corporate, trust, institution or person,
- which is of a serious and complicated nature.

**(c) GOVERNMENT NOTICE NO. R. 108 OF 2 FEBRUARY 2001:
REGULATIONS FOR CONDITIONS OF SERVICE OF SPECIAL
INVESTIGATORS IN THE DIRECTORATE OF SPECIAL OPERATIONS
DETERMINED BY THE MINISTER FOR JUSTICE AND CONSTITUTIONAL
DEVELOPMENT UNDER SECTION 40**

SCHEDULE

Definitions

1. In these regulations any expression to which a meaning has been assigned in the Act shall bear that meaning and, unless the context otherwise indicates-
'the Act' means the National Prosecuting Authority Act, 1998 (Act 32 of 1998).

Identity document for special investigators

2. The identity document for a special investigator contemplated in section 19A (2) of the Act must be in the form which corresponds substantially with Form A in the Annexure.

Conditions of service of special investigators

3. Subject to the provisions of Chapter 3A of the Act, all conditions of service of special investigators are governed and regulated by the provisions of the Public Service Act, 1994 (Proclamation 103 of 1994).

Short title and commencement

4. These regulations shall be called the Regulations for Conditions of Service of Special Investigators in the Directorate of Special Operations, 2001, and shall come into operation on 2 February 2001.

ANNEXURE

Form A “Directorate of Special Operations (SCORPIONS)”

The bearer of this card is authorised to exercise the powers and perform the duties and functions referred to in sections 7(4)(a) and 25 and Chapter 5 of the National Prosecuting Authority Act, 1998 (Act 32 of 1998).

Possession of arms and ammunition by the bearer is authorised by section 45(1) of the Arms and Ammunition Act, 1969 (Act 75 of 1969).

(signed)

National Director of Public Prosecutions

In case of any enquiry or verification, please contact: (telephone number)

If found, please send to: (address)'.

(d) **GOVERNMENT NOTICE NO. R. 423 PUBLISHED IN GOVERNMENT GAZETTE 22284 OF 18 MAY 2001: REGULATIONS ON THE LEGAL QUALIFICATIONS FOR PROSECUTORS: MADE BY THE MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT UNDER SECTIONS 16(3) AND 25(2)**

SCHEDULE

Definition

1. In these regulations any expression to which a meaning has been assigned to in the Act shall bear that meaning and, unless the context otherwise indicates, 'the Act' means the National Prosecuting Authority Act, 1998 (Act 32 of 1998).

Legal qualifications

2. The appropriate legal qualifications for the appointment of a person as a prosecutor in a lower court as contemplated in section 16(3) of the Act are a recognised three-year legal degree or diploma obtained at a university in the Republic of South Africa, including, but not limited to, the degrees baccalaureus iuris or baccalaureus procurationis or the diploma iuris, which includes at least a course in each of the following: Law of Evidence, Civil Procedure, Criminal Procedure, Criminal Law and the Interpretation of Statutes: Provided that, for purposes of the appointment of a person as prosecutor in a lower court after 1 January 2006, a legal diploma will not be regarded as an appropriate legal qualification.

3. The appropriate legal qualifications for any prosecutor to have the right to appear in any court in the Republic of South Africa as contemplated in section 25(2) of the Act are a recognised three-year legal degree or diploma obtained at a university in the Republic of South Africa, including, but not limited to, the degrees *baccalaureus iuris* or *baccalaureus procurationis* or the *diploma iuris*, which includes at least a course in each of the following: Law of Evidence, Civil Procedure, Criminal Procedure, Criminal Law and the interpretation of Statutes: Provided that a legal diploma will with effect from 1 January 2006 not be regarded as a legal qualification as contemplated in section 25(2)(a) of the Act: Provided further that a prosecutor who holds a legal diploma and has the right to appear in any court in the Republic as contemplated in section 25(2) of the Act on 31 December 2005, will continue to have the right to so appear.

Short title and commencement

4. These regulations shall be called the Regulations on the Legal Qualifications for Prosecutors, 2001, and shall come into operation on 18 May 2001.