

NATIONAL ASSEMBLY

FOR WRITTEN REPLY**QUESTION 2276**

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 9 JUNE 2023
(INTERNAL QUESTION PAPER NO 23-2023)

2276. Mr A G Whitfield (DA) to ask the Minister of Police [314] [Question submitted for oral reply now placed for written reply because it is in excess of quota (Rule 137(8))]:

Whether, considering that Gauteng and the Western Cape have taken steps to provide policing services within the specified provinces, he will commission a study on the devolution of policing powers to provincial governments; if not, why not; if so, what are the relevant details?

NW2577E

REPLY:

Section 99(b) of the Constitution of the Republic of South Africa requires that the assignment by a Cabinet Member of any power or function to be exercised or performed, in terms of an Act of Parliament, must be consistent with the Act of Parliament in terms of which the power of function is exercised, or performed.

Section 199(1) of the Constitution provides that the security services of the Republic consists of a single police service [own emphasis]. Furthermore, in terms of Section 205(1) of the Constitution, the national [own emphasis] police service must be structured to function in the national, provincial and, where appropriate, local spheres of government.

The National Commissioner is, in terms of Section 207, responsible to control and manage the police service, in accordance with the national policing policy and directions of the Minister of Police. Section 207(4) further provides that a provincial commissioner is responsible for policing in his or her province as prescribed by national legislation and subject to [own emphasis] the power of the National Commissioner, to exercise control over and manage the police service.

Section 2 of the Constitution provides that the Constitution is the supreme law of the Republic and that any law or conduct inconsistent with it, is invalid. The Minister of

Police does not have policing powers and, therefore, cannot commission a study on the devolution of policing powers, specifically the responsibility of the National Commissioner to control and manage the (national and single) police service, to a member of the provincial Executive Council or to a Municipal Council.

Such conduct or action to commission a study will be inconsistent with the provisions as contained in Chapter 11 of the Constitution, and accordingly, would be invalid.

Any proposed change in the existing legal position will require amendments to the relevant provisions, as contained in Chapter 11 of the Constitution.

Reply to question 2276 recommended/~~not recommended~~


GENERAL
NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
SF MASEMOLA (SOEG)

Date: 2023-06-19

Reply to question 2276 approved/~~not approved~~


MINISTER OF POLICE
GENERAL BH CELE, MP

Date: 21/06/2023