

(14 February 2017 - to date)

SECOND-HAND GOODS ACT 6 OF 2009

(Gazette No. 32087, Notice No. 392, dated 1 April 2009. Commencement date: 30 April 2012, unless otherwise indicated [Proc. 68, Gazette No. 34837, dated 9 December 2011]; [Proc. 1, Gazette No. 34942, dated 13 January 2012]; [Proc. 28, Gazette No. 35270, dated 20 April 2012])

EXTENTION [sic] OF POWERS

*Government Notice 120 in Government Gazette 40616, dated 14 February 2017. Commencement date:
14 February 2017.*

The Minister of Police has, under section 31(1) of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009), extended the powers contemplated in Chapter 9 to such persons employed as law enforcement officers by the City of Cape Town to the extent and subject to the conditions and directives set out in the Schedule.

(Signed)

MINISTER OF POLICE

NPT NHLEKO, MP

06/01/2017

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Prepared by:

SCHEDULE

FRAMEWORK FOR EXTENSION OF POLICE POWERS TO CITY OF CAPE TOWN LAW ENFORCEMENT UNDER SECTION 31 OF THE SECOND-HAND GOODS ACT 6 OF 2009

PART A: EXTENT TO WHICH POWERS ARE EXTENDED AND CONDITIONS AS SET OUT IN TERMS OF SECTION 31(2)(A)

1. Powers contemplated in Chapter 9 of the Act are extended to persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement;
2. Persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement may exercise the functions contained in sections 28, 29 and 30 of the Act to the extent that it relates to scrap metal dealers and recyclers.

PART B: CONDITIONS UNDER WHICH POWERS ARE EXTENDED AS SET OUT IN TERMS OF SECTION 31(2)(A)

1. Persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement are subject to any National Instruction issued by the National Commissioner of the South African Police Service which relates to the application of the Second-Hand Goods Act, 2009 as well as arrest, search and seizure;
2. Persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement must, before exercising any power contemplated in Chapter 9 of the Second-Hand Goods Act, 2009, undergo the South African Police Service Training Course for Second-Hand Goods Officers or any other training course approved by the Division: Human Resource Development of the South African Police Service;
3. Persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement who conduct routine inspections under section 28 of the Second-Hand Goods Act, 2009, must complete the applicable Inspection register at registered scrap metal dealers or recyclers, as the case may be; and
4. The Commander of the Metal Theft Unit of the City of Cape Town Law Enforcement must submit a weekly report to the Designated Police Officer at any police station in which area any routine inspection has taken place, and such report must contain particulars of the dealers inspected as well as the law enforcement officer conducting such inspection.

PART C: DIRECTIVES APPLICABLE TO PERSONS APPOINTED AS LAW ENFORCEMENT OFFICERS IN THE METAL THEFT UNIT OF THE CITY OF CAPE TOWN LAW ENFORCEMENT AS SET OUT UNDER SECTION 31(2)(B)

Prepared by:

1. OBJECTIVES

The objectives of this Directive are to:

- 1.1 Set out the directives applicable to persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement in the exercise of any powers extended to such law enforcement officer under section 31(1) of the Second-Hand Goods Act, 2009;
- 1.2 Guide co-operation between persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement and members of the South African Police Service;
- 1.3 Ensure the establishment of operational procedures to guide co-operation between persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement and members of the South African Police Service;
- 1.4 Define the critical success factors underpinning co-operation between law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement and members of the South African Police Service; and
- 1.5 Establish a framework within which standard operating procedures and other protocols addressing the optimal utilisation of human, physical and financial resources of the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service, are formalised.

2.1 PRINCIPLES OF INTERPRETATION

(Numbering as given in the Government Gazette)

The following principles must guide the interpretation of this directive:

- 2.1.1 Functions, powers and duties contained in Chapter 9 of the Second-Hand Goods Act, 2009 are assigned to members of the South African Police Service whereas the primary legally mandated function of the City of Cape Town Law Enforcement is to uphold and enforce the City of Cape Town by-laws;
- 2.1.2 The powers contained in Chapter 9 of the Second-Hand Goods Act, 2009 are extended under section 31(1) of the Act to persons appointed as law enforcement officers in the Metal Theft Unit of the City of Cape Town Law Enforcement to enhance monitoring and enforcement of the provisions in the Second-Hand Goods Act, 2009 which relate to scrap metal dealers and recyclers.

- 2.1.3 Co-operation between the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service shall be in pursuance of the objectives of the Second-Hand Goods Act, 2009 and must follow an interactive and long-term strategic approach in relations.
- 2.1.4 Co-operation between the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service shall be between representatives of the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province, and the Metal Theft Unit of the City of Cape Town Law Enforcement.
- 2.1.5 A senior representative of the Metal Theft Unit of the City of Cape Town Law Enforcement Office shall liaise with the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province for permanent membership of the Non-Ferrous Metal Crime Combating Committee.

3. CO-ORDINATING STRUCTURES

- 3.1 The Metal Theft Unit of the City of Cape Town Law Enforcement shall liaise with the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province to establish coordinating structures between the Metal Theft Unit and Designated Police Officers at station level.
- 3.2 Each of these coordinating structures reports directly to the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province.
- 3.3 The role of the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province is to facilitate a functional co-ordinating mechanism through which planning, implementation, oversight and evaluation of joint operations is managed to improve implementation of the Second-Hand Goods Act, 2009. This functional co-ordinating mechanism should preferably function as a joint operational planning committee between the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service Provincial Office for Second-Hand Goods Control where the senior representatives of the parties co-chair meetings. The functioning of the mechanism must take place within the following guidelines:
 - 3.3.1 Role players must meet regularly. The interval between meetings depends on the situation and meetings could, for instance, take place more than once monthly when the situation requires such steps.
 - 3.3.2 The South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province considers reports by role players and decides on measures to supplement or rectify policing measures if and when that is required;

- 3.3.3 Relevant crime trends and crime intelligence must guide the discussions of the role players.
- 3.3.4 Role players must make every attempt to ensure that all functions are performed according to the various policing functions assigned to each of the role players in terms of the Second-Hand Goods Act, 2009, other legislation or City of Cape Town by-laws.
- 3.3.5 During its meeting the role players may consider crime intelligence or other information as well as operational results, inhibiting factors, and resource or capacity-related issues.

4. OPERATIONAL PROCEDURES

- 4.1 The national level of the South African Police Service Office of Firearms, Liquor and Second-Hand Goods Control may, from time to time, issue proposed Standard Operating Procedures, Protocols and policy directives regarding –
 - 4.1.1 the functions and functioning of South African Police Service members and law enforcement officers of the Metal Theft Unit of the City of Cape Town Law Enforcement to set down procedures to be utilized for co-operative operational planning, implementation, oversight and evaluation; and
 - 4.1.2 co- ordination of all law enforcement, crime combating and compliance monitoring functions at national, provincial and local level, including but not limited to-
 - 4.1.2.1 the use of human and physical resources;
 - 4.1.2.2 intelligence-driven operations and the sharing of crime-related information where such sharing does not contravene any legislation; and
 - 4.1.2.3 training.
- 4.2 The national level of the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control may, from time to time, identify further areas of co-operation and issue supplementary proposed Standard Operating Procedures, Protocols or other directives to further the objectives of this directive.
- 4.3 A proposed Standard Operating Procedure, Protocol or directive issued under this clause, shall be reduced to writing.
- 4.4 Any joint operational plan shall reflect that line functionaries of the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service retain command and control over their respective members.

5. CRITICAL SUCCESS FACTORS

- 5.1 The following issues are critical to the success of the co-operation between the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service:
- 5.1.1 Development of Standard Operating Procedures setting out the operational concept, operational procedure and baseline operational planning for support during joint operations;
- 5.1.2 Development of Training Protocols setting out the procedures to be utilized to ensure uniform training for purposes of joint operations; and
- 5.1.3 Development of Information and Intelligence Sharing Protocols setting out the procedures related to the sharing of -
- 5.1.3.1 information regarding deployment of human, physical and financial resources during joint operations in order to avoid multiplicity and duplication of operations; and
- 5.1.3.2 intelligence and other information regarding illegal dealing or recycling of scrap and controlled metal to be addressed during any joint operation.
- 5.1.4 The continual development of further Standard Operating Procedures and Protocols to govern the working relationship, specifically with regard to specialized functional capabilities.

6. OBLIGATIONS OF THE PARTIES

- 6.1 In addition to the critical success factors listed under paragraph 5 *supra*, the specific obligations of the Metal Theft Unit of the City of Cape Town Law Enforcement are as follows:
- 6.2 The Metal Theft Unit of the City of Cape Town Law Enforcement shall continue to -
- 6.2.1 perform its functions, powers and duties within its jurisdiction in accordance with and subject to the relevant legislation;
- 6.2.2 co-operate with the South African Police Service to perform any function within the parameters of this directive and shall afford the South African Police Service every facility and capability reasonably necessary to perform its functions; and
- 6.2.3 facilitate joint training, when so requested.

8. DISPUTES

(Numbering as given in the Government Gazette)

Prepared by:

- 8.1 Disputes between the Metal Theft Unit of the City of Cape Town Law Enforcement and the South African Police Service must be resolved through consultation and negotiation.
- 8.2 The following procedure shall govern any such dispute:
 - 8.2.1 The relevant functionaries shall meet within three (3) days after the identification of the dispute to resolve such dispute.
 - 8.2.2 Should the dispute not be resolved in terms of 8.2.1, the aggrieved party shall within three (3) days of the meeting to resolve the dispute, record in writing the nature of the dispute and the circumstances that gave rise to the dispute and refer the written statement of dispute to his or her commander in the Metal Theft Unit of the City of Cape Town Law Enforcement or the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province, whichever is applicable. The dispute must be resolved at the level of the commander of the Metal Theft Unit of the City of Cape Town Law Enforcement and the commander of the South African Police Service Provincial Office of Firearms, Liquor and Second-Hand Goods Control in the Western Cape Province.
 - 8.2.3 In the event that a dispute can not be resolved at the level contemplated in 8.2.2, the disputing party may refer the written statement of dispute to the Chairperson of the the [sic] Non-Ferrous Metal Crime Combating Committee at national level who may request further particulars from any of the parties. The decision of the Chairperson of the the [sic] Non-Ferrous Metal Crime Combating Committee at national level shall be final.