

REPUBLIC OF SOUTH AFRICA

**AD HOC COMMITTEE AMENDMENTS
TO**

**GENERAL INTELLIGENCE
LAWS AMENDMENT BILL**

[B 25—2011]

*(As agreed to by the Ad Hoc Committee on General Intelligence Laws
Amendment Bill (National Assembly))*

[B 25A—2011]

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AMENDMENTS AGREED TO

GENERAL INTELLIGENCE LAWS AMENDMENT BILL

[B 25—2011]

CLAUSE 1

1. On page 2, from line 17, to omit “subversion, sedition, treason [**sabotage and terrorism aimed at or against personnel, strategic installation or resources of the Republic**] and terrorist and related activities” and to substitute:

[subversion, treason, sabotage and terrorism aimed at or against personnel, strategic installation or resources of the Republic]
any threat or potential threat to national security

2. On page 2, after line 19, to insert the following paragraphs:
 - (c) by the substitution for the definition of “departmental intelligence” of the following definition:

“**‘departmental intelligence’** means intelligence [about **any**] on any threat or potential threat to [the] national security [**and stability of the Republic**] which falls within the functions of a department of State, and includes intelligence needed by such department in order to neutralise such a threat;”;
 - (d) by the substitution for the definition of “domestic intelligence” of the following definition:

“**‘domestic intelligence’** means intelligence on any internal [activity, factor or development which is detrimental to the national stability of the Republic, as well as threats or potential threats to the constitutional order of the Republic and the safety and the well-being of its people] threat or potential threat to national security;”.
3. On page 2, in line 21, to omit “definitions” and to substitute “definition”.
4. On page 2, from line 22, to omit the definition of “foreign signals intelligence”.
5. On page 3, from line 3, to omit the definition of “information security”.

CLAUSE 2

1. On page 4, from line 42, to omit paragraphs (b) and (c) and to substitute:
 - (b) by the substitution in subsection (1)(a) for subparagraph (i) of the following subparagraph:

“(i) identify any threat or potential threat to [the security of the Republic or its people] national security;”;
2. On page 4, in line 55, to omit “products”.
3. On page 4, from line 58, to omit paragraph (e).
4. On page 5, from line 5, to omit paragraph (g).
5. On page 5, in line 13, before “protect” to insert “identify,”.

6. On page 5, in line 13, after “communications” to insert “and infrastructure”.
7. On page 5, in line 17, after “provide” to insert “cryptographic and”.
8. On page 5, from line 23, to omit subparagraph (iv).
9. On page 5, in line 34, to omit “and”.
10. On page 5, from line 35, to omit paragraph (k).
11. On page 5, after line 43, to add the following paragraphs:
 - (e) by the addition to subsection (2) of the following paragraphs:

<p>“(d) to train and support users of electronic communications systems, products and related services;</p> <p>(e) to develop, design, procure, invent, install or maintain secure electronic communications systems or products and do research in this regard; and</p> <p>(f) to cooperate with any organisation in the Republic or elsewhere to achieve its objectives.”; and</p>
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 - (f) by the insertion after subsection (2) of the following subsection:

<p>“(2A) When performing any function referred to in subsection 2(b) the Agency is exempted from any licensing requirement contemplated in—</p> <p>(a) the Broadcasting Act, 1999 (Act No. 4 of 1999); and</p> <p>(b) the Electronic Communications Act, 2005 (Act No. 36 of 2005).”.</p>

CLAUSE 4

1. On page 6, after line 52, to add the following subsections:

<p>(7) <u>The head of an organ of state must ensure that the organ of state under his or her administration procures and accesses electronic communications products with the verification and approval of the Agency.</u></p> <p>(8) <u>The head of an organ of state must, at the request of the Agency and in the prescribed manner, submit to the Agency an analysis of the electronic communications security needs of the organ of state under his or her administration.</u></p>

CLAUSE 5

1. On page 6, from line 58, to omit “, one of whom shall be designated by the Minister as chairperson”.
2. On page 7, in line 1, to omit “head of Nicoc” and to substitute “Coordinator for Intelligence appointed under section 5(1), who shall be the Chairperson”.
3. On page 7, from line 11, to omit paragraphs (b), (c), (d), (e), (f) and (g).

CLAUSE 6

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 5:

Insertion of section 5B in Act 39 of 1994

6. The following section is hereby inserted in the National Strategic Intelligence Act, 1994, after section 5A:

“Compliance with Constitution

5B. When performing any function provided for in this Act, the Constitution, in particular section 199(5) and (7), must be duly complied with.”.

CLAUSE 8

Clause rejected.

CLAUSE 11

1. On page 9, after line 22, to insert the following paragraph:
 - (a) by the substitution in paragraph (a)(i) for the words preceding item (aa) of the following words:

“the Auditor-General an audit report compiled in accordance with section [4(6) of the Auditor-General Act, 1995 (Act No. 12 of 1995)] 22 of the Public Audit Act, 2004 (Act 25 of 2004), and after obtaining the report, to consider—”;
2. On page 9, in line 25, after “Comsec]” to insert “and the Office”.

CLAUSE 14

1. On page 10, from line 48, to omit paragraph (f).

CLAUSE 49

1. On page 24, from line 23, to omit paragraph (sC).