

REPUBLIC OF SOUTH AFRICA

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**AD HOC COMMITTEE AMENDMENTS  
AGREED**

**TO**

**GENERAL INTELLIGENCE  
LAWS AMENDMENT BILL**

**[B 40—2023]**

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

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**[B 40A—2023]**

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## AGREED TO AMENDMENTS

### GENERAL INTELLIGENCE LAWS AMENDMENT BILL [B 40—2023]

#### CLAUSE 1

1. On page 2, from line 16, to omit paragraph (*d*).
2. On page 3, from line 3 to omit paragraph (*g*).
3. On page 3, from line 12, to omit paragraph (*h*).
4. On page 3, in line 22, to omit “or potential opportunity”.
5. On page 3, from line 23, to omit “or potential threat”.
6. On page 3, in line 24, after “to”, to omit **[national security or threats to]**.
7. On page 3, in line 24, after “advancement” to omit “[or]” and substitute “and”.
8. On page 3, from line 43, to omit paragraph (*m*).
9. On page 3, from line 57, to omit “**or potential opportunity**”.
10. On page 3, in line 58, to omit “or potential threat”.
11. On page 3 in line 61, to omit “or potential opportunity”.
12. On page 4, from line 5, to omit paragraph (*p*).
13. On page 4, in line 21, to omit “**test**” and substitute “**assessment**”.
14. On page 4, from line 25, to omit “or is a person or institution of national security interest in terms of section 4(2)(a)(i) of the Act”.
15. On page 4, from line 36, to omit “, which include—” and substitute a full stop.
16. On page 4, from line 38 to omit paragraphs “**a**” to “**k**”.
17. On page 5 to omit the list from “**[j to k]**”.

#### CLAUSE 2

1. On page 5, in line 21, to omit “or potential opportunity”.
2. On page 5, from line 21, to omit “or potential threat”.
3. On page 5, from line 24, to insert the following subparagraphs:
 

<p>“(iii) to institute counterintelligence measures within the Service; (iv) to gather departmental intelligence at the request of any interested department of state, and, without delay to evaluate and transmit such intelligence and any other intelligence at the disposal of the Service and which constitutes departmental</p>
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- intelligence, to the department concerned; and
- (v) to provide periodic national security briefings to the Joint Standing Committee on Intelligence, members of Cabinet, and Parliamentary Presiding Officers,”
4. On page 5, in line 42, to omit “apprehend” and substitute “impede and neutralise”.
5. On page 6, from line 8, to omit (2B) and to substitute the following subsection:
- “(2B) The Centre shall, in a prescribed manner, and with regard to foreign signals, communications and non-communications—
- (a) gather, correlate, evaluate and analyse relevant intelligence in order to identify any threat or potential threat to national security subject to—
- (i) submission of bulk interception application for approval by a retired Judge appointed by the President, after consultation with the Chief Justice;
- (ii) the Centre supplying intelligence to the relevant intelligence structures.
- (b) In a prescribed manner, and with regard to information security and cryptography, the Centre shall—
- (i) identify and secure national critical information infrastructures and protect intelligence from unauthorised access, disclosure, technical and related threats;
- (ii) provide verification services for electronic communications security products used by organs of state;
- (iii) provide and coordinate research and development with regard to electronic communications, products and any other related 30 services;
- (iv) support secure electronic communications solutions to identified Organs of State; and
- (v) coordinate cybersecurity activities in order to identify and impede any cyber enabled threats.
- (c) When performing any function referred to in section 2B, the Centre is exempted from any licensing requirement contemplated in—
- (i) the Broadcasting Act, 1999 (Act No. 4 of 1999); and
- (ii) the Electronic Communications Act, 2005 (Act No. 36 of 2005).
- (d) The Judge appointed in terms of subsection (1) must take due cognisance of, in addition to South African law, applicable International Agreements in terms of section 231 of the Constitution and international law including the Universal Declaration of Human Rights when considering an application for bulk interception.
- (e) A bulk interception application must be brought by the Centre in the form and manner as prescribed and include—
- (i) motivation for the granting of the application;
- (ii) indicate the period for which the application ought to be granted.
- (2C) (a) The procedures to be followed for the processing, examining, copying, sharing, disclosing, sorting through, using, storing or destroying of any data obtained pursuant to, and resulting from surveillance in terms of this Act must be in the prescribed manner and on the prescribed conditions.
- (b) The development of procedures in terms of subsection (1) must take into account principles for the safeguarding of data, including—
- (i) accountability, together with conditions for lawful processing, examining, copying, sharing, disclosing, sorting through, using, storing or destroying;

- (ii) processing limitations, including processing in a lawful and reasonable manner and not processing more data than what is required in respect of the purpose;
- (iii) purpose-specific processing of data, including processing for a lawful purpose which is explicit, not retaining data for longer than is necessary in connection with the purpose for which it was obtained and reviewing compliance with destruction instructions;
- (iv) limitation on the use of data for a lawful purpose, including restricting access to data on certain conditions, conditions for sharing and disclosing data and limitations on the copying of data, including the keeping of relevant records;
- (v) conditions for the storage of data, including the type of data stored and the manner of storage;
- (vi) security safeguards, including controlled access to data, processes to prevent unlawful modification and unauthorised disclosure, procedures to identify any foreseeable internal and external risks, and policies and procedures to safeguard information; and
- (vii) where applicable participation of the data subject, through post-surveillance notification.’

(2D) (a) if whilst conducting bulk interception, it becomes necessary to engage in surveillance of a citizen of the Republic of South Africa whether within or outside of the Republic, the Centre must comply with the procedure envisaged in the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 to obtain the requisite approval.

(b) The centre must notify, in writing, the person who is the subject of the surveillance and, within 15 days of doing so, certify in writing to the designated judge as contemplated in section 15A of the Regulation of Interception of Communication and Provision of Communication-related Information Act, Judge of a High Court, Regional Court Magistrate or Magistrate that the person has been so notified.

(c) If the notification contemplated in subsection (2)—

- (i) cannot be given without jeopardising the purpose of the surveillance, the designated judge, Judge of a High Court, Regional Court Magistrate or Magistrate may, upon application by the Centre, direct that the giving of notification be withheld for a period which must not exceed 90 days at a time or two years in aggregate; or
- (ii) has the potential to impact negatively on national security, the designated judge, Judge of a High Court, Regional Court Magistrate or Magistrate may, upon application by the Centre, direct that the giving of notification be withheld for such period as may be determined by the respective judge.”.

### CLAUSE 3

1. On page 6, in line 54, after the semi colon to insert “or”.
2. On page 6, in line 56, to omit “or”.
3. On page 6, from line 57, to omit subparagraph (iv).

### CLAUSE 5

1. On page 7, in line 32, to omit “Minister” and substitute “Coordinator for Intelligence”.
2. On page 7, in line 33, after “must” to insert “, after consultation with the Minister,”

CLAUSE 6

1. On page 8, in line 30, to omit “24” and substitute “12”.

CLAUSE 11

1. On page 10, in line 36, to omit “Minister” and substitute “Inspector General of Intelligence”
2. On page 10, in line 41, to omit “and”.
3. On page 10, in line 44, to omit full stop and to substitute “, and”.
4. On page 10, after line 44 to insert the following paragraph:

“(c) The budget of the Inspector General of Intelligence shall be appropriated by Parliament as part of the budget of the intelligence services, and shall be expended in accordance with the rules and procedures set out in the Public Finance Management Act, 1999 (Act No.1 of 1999).”

CLAUSE 12

1. On page 11, in line 3, to omit “24” and substitute “12”.





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