



MEMORANDUM

TO: Chairperson, Ad Hoc Committee on Intelligence Legislation [Hon Mr C V Burgess MP]

COPY: Secretary to Parliament

FROM: Parliamentary Legal Services [Adv F S Jenkins, Parliamentary Legal Adviser]

DATE: 12 August 2008

SUBJECT: Schedules to the Intelligence Services Amendment Bill [B 37–2008] and the National Strategic Intelligence Amendment Bill [B 38–2008]

1. You requested that I scrutinise the Schedules to the Intelligence Services Amendment Bill [B 37–2008] and the National Strategic Intelligence Amendment Bill [B 38–2008] for the purpose of accuracy and to ensure coherency in the provisions of the Bill pertaining to these Schedules.

Intelligence Services Amendment Bill

2. Clause 13 of the Intelligence Services Amendment Bill [B 37–2008] provides that “[t]he laws mentioned in the first column of the Schedule are hereby amended to the extent set out in the third column of that schedule.” (The use of the lower case in the word “schedule” is a typographical error.)

3. After scrutiny I found that:

(a) in the Schedule, Part A:

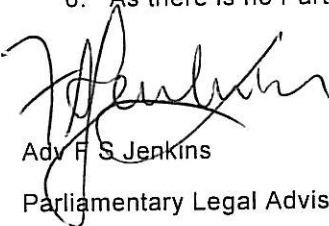
- the reference to the provisions in the Security Services Special Account Act 81 of 1969 is correct;
- the reference to the provision in the Proclamation 103 of 1994 is incorrect as the short title must be “Public Service Act, 1994”;
- the reference to the provisions in the Labour Relations Act 66 of 1995 is correct;
- the reference to the provisions in the Basic Conditions of Employment Act 75 of 1997 is correct;
- the reference to the provision in the Witness Protection Act 112 of 1998 is correct;



- the reference to the provisions in the Medical Schemes Act 131 of 1998 is correct;
 - the reference to the provision in the Financial Intelligence Centre Act 38 of 2001 is correct;
 - the reference to the provision in the Private Security Industry Regulation Act 56 of 2001 is correct; and
 - the reference to the provision in the Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 is correct.
- (b) In Part B, the reference to Schedule 1 to the Public Service Act, 1995 is correct.

National Strategic Intelligence Amendment Bill

4. Clause 6 of the National Strategic Intelligence Amendment Bill [B 38–2008] provides that "[t]he laws mentioned in the first column of the Schedule are hereby amended to the extent specified in the third column of that Schedule."
5. After scrutiny I found that in the Schedule, Part A:
- the reference to the provisions in the Intelligence Service Oversight Act 40 of 2002 is correct, except that the amendment to section 7(7)(cA) as underlined should only underline the words relating to intelligence and counter-intelligence (the words "refer to in paragraph (a)" is already included in the said subsection); and
 - the reference to the provisions in the Regulation of Interception of Communications and Provision of Communication related Information Act 70 of 2002 is correct.
6. As there is no Part B to the Schedule, it makes no sense to have a "Part A".


Adv F S Jenkins

Parliamentary Legal Adviser