

REPUBLIC OF SOUTH AFRICA

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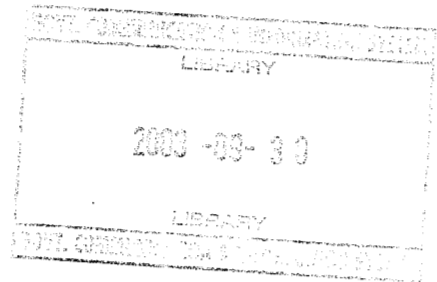
# GENERAL INTELLIGENCE LAWS AMENDMENT BILL

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*(As amended by the Ad Hoc Committee on Intelligence Legislation (National Assembly))  
(The English text is the official text of the Bill)*

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(MINISTER FOR INTELLIGENCE)



[B 47B—2003]

ISBN 0 621 33949 0

No. of copies printed ..... 1 800

**GENERAL EXPLANATORY NOTE:**

- [                    ]    Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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## **BILL**

To amend the National Strategic Intelligence Act, 1994, so as to empower the Minister to establish a panel of appeal; to amend the Intelligence Services Oversight Act, 1994, so as to define certain expressions; and to regulate the oversight of the Office for Interception Centres; to amend the Intelligence Services Act, 2002, so as effect certain technical corrections; to empower the Minister to establish a panel of appeal; and to extend the functions of the Intelligence Services Council; to amend the Electronic Communications Security (Pty) Ltd Act, 2002, so as to define certain expressions; to extend the composition of the Board; to restrict the publication of certain regulations; and to effect certain technical corrections; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 39 of 1994, as amended by section 1 of Act 67 of 2002**

1. Section 1 of the National Strategic Intelligence Act, 1994, is hereby amended—
- (a) by the substitution for the definition of “Agency” of the following definition: 5  
“ ‘Agency’ means the National Intelligence Agency [**established by section 3(1) of the Intelligence Services Act, 1994 (Act No. 38 of 1994)**] as referred to in section 3(1) of the Intelligence Services Act, 2002 (Act No. 65 of 2002);”;
- (b) by the substitution for the definition of “Service” of the following definition: 10  
“ ‘Service’ means the South African Secret Service [**established by section 3 of the Intelligence Services Act, 1994**] as referred to in section 3(1) of the Intelligence Services Act, 2002 (Act No. 65 of 2002);”;
- (c) by the substitution in the definition of “National Intelligence Structures” for 15  
paragraph (b) of the following paragraph:  
“(b) the intelligence division of the National Defence Force, established under the Defence Act, [**1957 (Act No. 44 of 1957)**] 2002 (Act No. 42 of 2002);”.

**Amendment of section 2A of Act 39 of 1994, as inserted by section 3 of Act 67 of 2002** 20

2. Section 2A of the National Strategic Intelligence Act, 1994, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

- “The relevant members of the National Intelligence Structures may conduct a security screening investigation in the prescribed manner to determine the security competence of a person if such a person—”;
- (b) by the substitution for the proviso to subsection (5) of the following proviso: 5  
 “: Provided that where the gathering of information contemplated in paragraphs (c) and (d) requires the interception and monitoring of the communication of such a person, the relevant members shall perform this function in accordance with the [provisions of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)] Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).”; 10
- (c) by the insertion after subsection (8) of the following subsection:  
 “(8A) The Minister responsible for the relevant National Intelligence Structure may establish a panel of appeal to assist him or her in the consideration of an appeal lodged in terms of this Act.”; and 15
- (d) by the substitution for subsection (10) of the following subsection:  
 “(10) The directives contemplated in subsection (9) shall—  
 (a) be issued with the approval of the Minister, who shall act in consultation with the Minister of Safety and Security and the Minister of Defence[.]; and [shall] 20  
 (b) notwithstanding any other law, apply to all the relevant National Intelligence Structures.”.

**Amendment of section 1 of Act 40 of 1994, as amended by section 1 of Act 66 of 2002**

3. Section 1 of the Intelligence Services Oversight Act, 1994, is hereby amended—
- (a) by the insertion after the definition of “counter-intelligence” of the following definition: 25  
 “ ‘Director’ means Director as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).”;  
 (b) by the insertion after the definition of “intelligence services” of the following definition: 30  
 “ ‘Intelligence Services Entities’ means Comsec, the Academy and the Office.”; and  
 (c) by the insertion after the definition of “National Defence Force” of the following definition: 35  
 “ ‘Office’ means Office as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).”.

**Amendment of section 2 of Act 40 of 1994, as amended by section 2 of Act 66 of 2002**

4. Section 2 of the Intelligence Services Oversight Act, 1994, is hereby amended by the substitution for subsection (1) of the following subsection: 40  
 “(1) There is hereby established a Parliamentary Committee to be known as the Joint Standing Committee on Intelligence, which shall, subject to the Constitution, perform the oversight functions set out in this Act—  
 (a) in relation to the intelligence and counter-intelligence functions of the Services, which include the administration, financial management and expenditure of the Services; and 45  
 (b) in respect of the administration, financial management and expenditure of the Intelligence Services Entities,  
 and report thereon to Parliament.”. 50

**Amendment of section 3 of Act 40 of 1994, as amended by section 3 of Act 66 of 2002**

5. Section 3 of the Intelligence Services Oversight Act, 1994, is hereby amended—  
 (a) by the substitution in paragraph (a)(i) for item (cc) of the following item:  
 “(cc) any reports issued by the Auditor-General on the affairs of the Services[, Academy and Comsec] and the Intelligence Services Entities.”; 55

- (b) by the substitution in paragraph (a) for subparagraph (iv) of the following subparagraph:

“(iv) the [Minister] Ministers responsible for [each Service,] the [Academy or Comsec] Services and the Intelligence Services Entities, a report regarding the budget for each Service, the Academy or Comsec] or Entity for which he or she is responsible;”; and 5

- (c) by the substitution for paragraph (l) of the following paragraph:

“(l) to consider and report on the appropriation of revenue or moneys for the functions of the Services, Academy and Comsec] and the Intelligence Services Entities.” 10

**Amendment of section 4 of Act 40 of 1994, as amended by section 4 of Act 66 of 2002**

6. Section 4 of the Intelligence Services Oversight Act, 1994, is hereby amended—

- (a) by the substitution in subsection (3) for the words preceding the proviso of the following words: 15

“The Committee may, for the purposes of the performance of its functions, require any Minister responsible for a Service or an Intelligence Services Entity, the Head of a Service, the CEO, the Director or the Inspector-General,] to appear before it to give evidence, to produce any document or thing and answer questions put to him or her”; 20  
and

- (b) by the substitution in subsection (3) for paragraph (c) of the following paragraph:

“(c) have the right to be assisted by members of [that Service, the Academy or Comsec, as the case may be] the Services or Intelligence Services Entities in question.” 25

**Amendment of section 7 of Act 40 of 1994, as substituted by section 7 of Act 66 of 2002**

7. Section 7 of the Intelligence Services Oversight Act, 1994, is hereby amended—

- (a) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words: 30

“The functions of the Inspector-General are, in relation to the [Service] Services—”;

- (b) by the substitution in subsection (7) for paragraph (d) of the following paragraph: 35

“(d) to submit the certificates [to every Minister responsible for a Service pursuant to] contemplated in subsection (11)(c) to the relevant Ministers;”; and

- (c) by the insertion after subsection (12) of the following subsection: 40

“(12A) The National Commissioner of the South African Police Service and the Chief of the South African National Defence Force may, if requested by the Inspector-General, second employees of the Service or the Force, as the case may be, to the office of the Inspector-General with the consent of the employees concerned and in terms of the laws governing the secondment in question.” 45

**Amendment of section 1 of Act 65 of 2002**

8. Section 1 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the substitution for the definition of “counter-intelligence” of the following definition: 50

“‘counter-intelligence’ means counter-intelligence as defined in section 1 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994);” and

- (b) by the substitution for the definition of “former member” of the following definition:

“‘former member’ means any member of the Intelligence Services or the Academy whose services have been terminated for any reason;” 55

**Amendment of section 10 of Act 65 of 2002**

9. Section 10 of the Intelligence Services Act, 2002, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) The Director General concerned or the Chief Executive Officer, as the case may be, may, in a prescribed manner and subject to the **[directions]** approval of the Minister and the provisions of this Act, **[make such rules and]** issue **[such directions as he or she may deem expedient for the efficient command and control of the Intelligence Services or the Academy, as the case may be]** functional directives applicable to—

(a) conditions of service and human resources of the Intelligence Services or the Academy, as the case may be: Provided that such functional directives must be submitted to the Intelligence Services Council for consideration; and

(b) any other matter he or she may deem expedient for the efficient command and control of the Intelligence Services or the Academy, as the case may be.”;

(b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

“The Director-General concerned **[or the Chief Executive Officer]** may, in a prescribed manner, subject to the approval of the Minister and the provisions of this Act, issue functional directives applicable to—”; and

(c) by the deletion in subsection (3) of paragraph (e).

**Amendment of section 11 of Act 65 of 2002**

10. Section 11 of the Intelligence Services Act, 2002, is hereby amended—

(a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“If a designated judge as defined in section 1 of the **[Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)]** Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002), is satisfied, on the grounds mentioned in a written application complying with directives issued under subsection (5), that—”; and

(b) by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) A direction referred to in paragraph (a) may be executed by a member of the Intelligence Services who is authorised to do so by a senior member of such Intelligence Services holding a post of at least a **[director]** General Manager.”.

**Amendment of section 12 of Act 65 of 2002**

11. Section 12 of the Intelligence Services Act, 2002, is hereby amended by the substitution in subsection (2) for paragraphs (a), (b) and (c) of the following paragraphs, respectively:

“(a) acquire **[or hire]** any immovable property, with or without any buildings thereon which is necessary for the efficient functioning of the Intelligence Services or the Academy, and erect or maintain any buildings on the property so acquired and, **[with the concurrence of the Minister of Finance]** subject to section 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), supply guarantees, indemnities and securities for those purposes;

(b) sell or otherwise dispose of immovable property which is no longer required for any purpose contemplated in paragraph (a);

(c) acquire **[and]**, hire or utilise any movable property and any other equipment which may be necessary for the efficient functioning of the Intelligence Services or the Academy;

**[(c)](d)** **[with the concurrence of the Minister of Finance,]** sell, let or otherwise dispose of **[any immovable property, with or without any building thereon, and]** anything **[referred to]** contemplated in paragraph [(b)] (c), which is no longer required for the said purposes.”.

### Amendment of section 14 of Act 65 of 2002

12. Section 14 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the substitution in subsection (2) for the proviso of the following proviso: 5  
 “: Provided that where the gathering of information contemplated in paragraphs (c) and (d) requires the interception and monitoring of the communication of such a person, the Intelligence Services must perform this function in accordance with the [provisions of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992)] Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).”; 10
- (b) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:  
 “If the certificate referred to in subsection [(2)] (5) is withdrawn, [such] the member concerned is deemed unfit for further membership of the Intelligence Services or the Academy, as the case may be, and the Minister may—”; 15
- (c) by the substitution in subsection (8) for paragraph (a) of the following paragraph:  
 “(a) A person whose security clearance has been degraded, withdrawn or refused by the Director-General may, in the prescribed manner, appeal to the Minister.”; 20
- (d) by the substitution for subsection (10) of the following subsection:  
 “(10) All the provisions regarding security screening investigations, applicable to a person contemplated in subsection (1), [applies] apply to the security screening of [members] a member contemplated in subsection (9).”; and 25
- (e) by the addition of the following subsection:  
 “(11) The Minister may, in a prescribed manner, for the purposes of any appeal lodged in terms of this Act, establish a panel of appeal to assist him or her to consider any such appeal.” 30

### Amendment of section 20 of Act 65 of 2002

13. Section 20 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may in writing and on such conditions as he or she may deem fit delegate any power conferred upon or duty assigned to him or her by this Act, 35  
 excluding any power conferred upon or assigned to him or her by sections 4(1)(a) and (b), 5(1), (2)(a) and (4)(c), 6(2), 9(3), (4), (5), (8), and (9), 10(1) [and], (2) and (3), 12(1)[,] and (2)(a) and [(c)] (b), 13(3), 14(6), (7), (8) [and], (9) and (11), 15[1](b) and (c), 16(2), 17(2), 18(3), 19[(1) and] (4), 21(2), 22(1), (5) and (7), 23(3)(a)(i) and (ii), 28(2), 30 and 37, to the Director-General concerned, the Chief 40  
 Executive Officer or any other member of the Intelligence Services or the Academy, as the case may be.”

### Amendment of section 22 of Act 65 of 2002

14. Section 22 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the insertion in subsection (3) after paragraph (b) of the following 45  
 paragraph:  
 “(bA) to promote measures and set standards to ensure the effective and efficient performance and implementation of policies on human resources within the Academy or the Intelligence Services, as the case may be, and to make recommendations to the Minister;”; 50
- (b) by the substitution in subsection (3)(c) for the words preceding subparagraph (i) of the following words:  
 “for the purposes of making recommendations as contemplated in paragraphs (a) [and], (b) and (bA)—”; and

(c) by the addition of the following subsections:

“(8) The Intelligence Services Council—

(a) is accountable to the Minister; and

(b) must at the end of each financial year submit a report on its activities and findings to the Minister. 5

(9) (a) The Minister must submit the report referred to in subsection (8)(b) to the Joint Standing Committee on Intelligence and to the Minister for the Public Service and Administration.

(b) The report must not contain confidential information that would be detrimental to national security.” 10

#### Amendment of section 26 of Act 65 of 2002

15. Section 26 of the Intelligence Services Act, 2002, is hereby amended by the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) being a member, discloses classified information or material to an unauthorised person without the permission of the Director-General concerned or the Chief Executive Officer, as the case may be.” 15

#### Amendment of section 37 of Act 65 of 2002

16. Section 37 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Regulations contemplated in paragraphs (b) and (c) of subsection (1) must— 20

(a) as far as possible, be consistent with the general principles and objectives of the Medical Schemes Act, 1998 (Act No. 131 of 1998); and

(b) be made in consultation with the Minister responsible for the administration of the Medical Schemes Act, 1998 (Act No. 131 of 1998).” 25

#### Amendment of section 1 of Act 68 of 2002

17. Section 1 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby amended—

(a) by the substitution for the definition of “communication” of the following definition: 30

“‘communication’ means communication as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002);” and

(b) by the insertion after the definition of “this Act” of the following definition: 35  
 “‘verification services’ means services designed to identify the origin or the integrity of an electronic communications security product, system or service.”

#### Amendment of section 9 of Act 68 of 2002

18. Section 9 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby amended— 40

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Board is made up of not more than [nine] 12 members of whom—”;

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 45

“(a) one is designated by the Minister as non-executive chairperson;”;

(c) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the rest are additional non-executive members, consisting of— 50

(i) one person representing the Department of Communications;

(ii) one person representing the National Treasury; and

(iii) persons [approved by the Minister] appointed on the [basis] grounds of their relevant expertise.” and 55

(d) by the insertion after subsection (1) of the following subsections:

“(1A) The Minister must designate one of the non-executive members referred to in subsection (1)(c) as the deputy chairperson of the Board, who must act in the place of the chairperson if he or she is unable to perform his or her functions as chairperson.” 5

(1B) For each non-executive member of the Board contemplated in subsection (1)(c), the Minister may appoint an alternate, who may attend and vote at meetings of the Board on behalf of the non-executive member if that member is unable to attend.

(1C) The term of office of an alternate member is the same of that of the non-executive member in respect of whom he or she is appointed and such alternate member vacates office if the relevant non-executive member vacates office. 10

(1D) Sections 10, 11, 12 and 16 regarding remuneration and other conditions of appointment applicable to non-executive members of the Board apply with the necessary changes to alternate members.” 15

#### **Amendment of section 17 of Act 68 of 2002**

19. Section 17 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Board must make its request within six months **[after Comsec’s incorporation]** of the incorporation of Comsec, and thereafter **[in]** every **[second year]** two years.” 20

#### **Amendment of section 22 of Act 68 of 2002**

20. Section 22 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby amended by the addition of the following subsection: 25

“(3) A regulation made under this Act may not be published in the *Gazette* if such regulation—  
 (a) relates to the conditions of service of the employees or members of the Board of Comsec; or  
 (b) is likely to compromise national security.” 30

#### **Amendment of section 23 of Act 68 of 2002**

21. Section 23 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) contravenes section 7(6) or 17(1) or (2);” 35

#### **Repeal of section 26 of Act 68 of 2002**

22. Section 26 of the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby repealed.

#### **Repeal of Schedule 1 to Act 68 of 2002**

23. Schedule 1 to the Electronic Communications Security (Pty) Ltd Act, 2002, is hereby repealed. 40

#### **Amendment of laws**

24. (1) The law mentioned in the first column of Schedule 1 is hereby amended to the extent set out in the third column of that Schedule.

(2) The laws mentioned in the first column of Schedule 2 are hereby amended to the extent set out in the third column of that Schedule. 45



**Short title and commencement**

25. (1) This Act is called the General Intelligence Laws Amendment Act, 2003, and, subject to subsections (2), (3) and (4), comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Sections 22 and 23 must be regarded as having come into operation on 27 5  
February 2003.

(3) Section 24(1) must be regarded as having come into operation immediately after the Intelligence Services Act, 2002 (Act No. 65 of 2002), came into operation.

(4) Section 24(2) must be regarded as having come into operation on 28 February 10  
2003.

**SCHEDULE 1**  
**LAW AMENDED**  
**(Section 24(1))**

No. and year of Act	Short title	Extent of amendment	
Proclamation No. 103 of 1994	Public Service Act, 1994	<p>1. The amendment of section 1(1) by—</p> <p>(a) the substitution for the definition of “Agency” of the following definition:</p> <p style="padding-left: 2em;">“ ‘Agency’ means the <u>Agency as defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);</u>” ; and</p> <p>(b) the substitution for the definition of “Service” of the following definition:</p> <p style="padding-left: 2em;">“ ‘Service’ means the <u>Service as defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);</u>” .</p> <p>2. The amendment of section 2 by the substitution for subsection (3) of the following subsection:</p> <p style="padding-left: 2em;">“(3) Where persons employed in the [<b>Intelligence Services or the</b>] <u>Academy, the Agency or the Service</u> are not excluded from the provisions of this Act, those provisions shall apply only in so far as they are not contrary to the laws governing their service, and those provisions shall not be construed as derogating from the powers or duties conferred or imposed upon the [<b>Intelligence Services or the</b>] <u>Academy, the Agency or the Service.</u>” .</p> <p>3. The amendment of section 8 by the substitution in subsection (1)(a) for subparagraph (iii) of the following subparagraph:</p> <p style="padding-left: 2em;">“(iii) in the [<b>Intelligence Services or the</b>] <u>Academy, the Agency or the Service;</u> and” .</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p>

## SCHEDULE 2

## LAWS AMENDED

## (Section 24(2))

No. and year of Act	Short title	Extent of amendment	5
Act No. 81 of 1969	Security Services Special Account Act, 1969	<p data-bbox="948 427 1246 510">1. The substitution in section 2 for paragraph (a) of the following paragraph:</p> <p data-bbox="948 510 1246 1220">“(a) the performance of the function and the duty of the [National Intelligence Agency and the South African Secret Service as referred to in the National Strategic Intelligence Act, 1994] <u>Intelligence Services as defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002), Comsec as defined in section 1 of the Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002), and the Office as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002); and”.</u></p> <p data-bbox="948 1249 1246 1305">2. The substitution for section 5 of the following section:</p> <p data-bbox="948 1330 1246 1357"><b>“Investment of balances</b></p> <p data-bbox="948 1384 1246 1778">5. Moneys standing to the credit of the account which are not required for immediate use or as a reasonable working balance, may be invested in such manner as may be determined by the President[,] or Minister responsible for the National Intelligence Agency, the South African Secret Service, [or] the South African National Academy of Intelligence, Comsec or the Office with the concurrence of the Minister of Finance.”.</p>	<p data-bbox="1267 510 1297 539">10</p> <p data-bbox="1267 640 1297 669">15</p> <p data-bbox="1267 770 1297 799">20</p> <p data-bbox="1267 900 1297 929">25</p> <p data-bbox="1267 1030 1297 1059">30</p> <p data-bbox="1267 1160 1297 1189">35</p> <p data-bbox="1267 1290 1297 1319">40</p> <p data-bbox="1267 1420 1297 1449">45</p> <p data-bbox="1267 1550 1297 1579">50</p> <p data-bbox="1267 1680 1297 1709">55</p>

No. and year of Act	Short title	Extent of amendment	
Act No. 84 of 1982	Protection of Information Act, 1982	<p>1. Amendment of section 1 by the substitution for the definition of "security matter" of the following definition:</p> <p>" 'security matter' includes any matter which is dealt with by—</p> <p>(a) Comsec as defined in section 1 of the <u>Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002)</u>;</p> <p>(b) the Intelligence Services or the Academy as defined in section 1 of the <u>Intelligence Services Act, 2002 (Act No. 65 of 2002)</u>; or</p> <p>(c) the Office as defined in section 1 of the <u>Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002)</u>,</p> <p>or which relates to the functions of [such] Comsec, the Intelligence Services, [or] the Academy or the Office or to the relationship existing between any person and [that such] Comsec, the Intelligence Services, [or] the Academy or the Office."</p>	5 10 15 20 25 30 35
Act No. 66 of 1995	Labour Relations Act, 1995	<p>1. Amendment of section 2 by the addition of the following paragraph:</p> <p>"(e) Comsec."</p>	40
Act No. 75 of 1997	Basic Conditions of Employment Act, 1997	<p>1. Amendment of section 1 by the addition to the definition of "public service" of the following paragraph:</p> <p>"(e) Comsec."</p> <p>2. Amendment of section 3(1) by the addition of the following paragraph:</p> <p>"(c) the directors and staff of Comsec."</p>	45 50

No. and year of Act	Short title	Extent of amendment
Act No. 55 of 1998	Employment Equity Act, 1998	<p>1. Amendment of section 1 by the addition to the definition of "public service" of the following paragraph:  <u>"(e) Comsec."</u>. 5</p> <p>2. Amendment of section 4 by the substitution for subsection (3) of the following subsection: 10  <u>"(3) This Act does not apply to members of the National Defence Force, the National Intelligence Agency, the South African Secret Service or the South African National Academy of Intelligence or to the directors and staff of Comsec."</u> 15 20</p>
Act No. 131 of 1998	Medical Schemes Act, 1998	<p>1. Amendment of section 1 by the insertion after the definition of "complaint" of the following definition:  <u>" 'Comsec' means Electronic Communications Security (Pty) Ltd established by section 2 of the Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002);"</u>. 25 30</p> <p>2. Amendment of section 2 by the substitution for subsection (3) of the following subsection: 35  <u>"(3) Notwithstanding the provisions of subsections (1) and (2), this Act shall not apply to the Agency, the Academy, [and] the Service and the directors and staff of Comsec."</u> 40</p>

## MEMORANDUM ON THE OBJECTS OF THE GENERAL INTELLIGENCE LAWS AMENDMENT BILL, 2003

1. The Bill seeks to amend the—
  - (a) National Strategic Intelligence Act, 1994 (Act No. 39 of 1994);
  - (b) Intelligence Services Oversight Act, 1994 (Act No. 40 of 1994);
  - (c) Intelligence Services Act, 2002 (Act No. 65 of 2002); and
  - (d) Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002).
2. The National Strategic Intelligence Act, 1994, and the Intelligence Services Oversight Act, 1994, were amended in 2002 whilst the Intelligence Services Act, 2002, and the Electronic Communications Security (Pty) Ltd Act, 2002, were passed in that year. In general, the Bill seeks to amend the said Acts so as to eliminate inconsistencies in the provisions of the Acts and also to effect certain consequential amendments as a result of the adoption by Parliament of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).

### 3. MAIN PROPOSALS

- 3.1 The amendment proposed to the National Strategic Intelligence Act, 1994, is to make provision for the establishment of a panel of appeal to assist the Minister in the consideration of appeals lodged in terms of the said Act.
- 3.2 The amendments proposed to the Intelligence Services Oversight Act, 1994, are to—
  - (a) regulate the oversight of the Centres; and
  - (b) provide for the secondment of members of the Departments of Safety and Security and Defence to the office of the Inspector-General.
- 3.3 The amendments proposed to the Intelligence Services Act, 2002, are to—
  - (a) enable the Minister to establish a panel of appeal; and
  - (b) extend the functions of the Intelligence Services Council.
- 3.4 The amendments proposed to the Electronic Communications Security (Pty) Ltd Act, 2002 are to—
  - (a) define the expression “verification services”;
  - (b) extend the composition of the Board; and
  - (c) to restrict the publication of certain regulations.

### 4. FINANCIAL IMPLICATIONS FOR STATE

None.

### 5. CONSULTATION

The following departments were consulted:

- \* The National Intelligence Agency;
- \* The South African Secret Service;
- \* The Department of Justice;
- \* The Department of Communications;
- \* The Department of Safety and Security; and
- \* National Treasury.

### 6. PARLIAMENTARY PROCEDURE

The State Law Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.