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THE PRESIDENCY

No. 179

22 February 2001

It is hereby notified that the Acting President has assented to the following Act which is hereby published for general information:—

No. 66 of 2000: General Intelligence Law Amendment Act, 2000.

DIE PRESIDENSIE

No. 179

22 Februarie 2001

Hierby word bekend gemaak dat die Waarnemende President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 66 van 2000: Algemene Wysigingswet op Intelligensie, 2000.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 66, 2000 GENERAL INTELLIGENCE LAW AMENDMENT ACT, 2001

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.

(English text signed by the Acting President.)
(Assented to 20 February 2001.)

ACT

To amend the Intelligence Services Act, 1994, so as to provide for a retirement age for members; to regulate labour relations and strikes; to restrict former members of the National Intelligence Agency or South African Secret Service from using their skills to the detriment of the Agency or Service; to provide for the disposal of lawfully obtained material; and to delete certain obsolete references and provisions; to amend the National Strategic Intelligence Act, 1994, so as to further provide for the power of the Minister to make regulations; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 38 of 1994 as amended by section 35 of Act 47 of 1997

1. Section 1 of the Intelligence Services Act, 1994 (hereinafter referred to as the principal Act), is hereby amended by—

- (a) the substitution for the definition of “Agency” of the following definition:

“ ‘Agency’ means the National Intelligence Agency **[established by]** referred to in section 3;”;
- (b) the deletion of the definition of “Deputy President”; 10
- (c) the insertion after the definition of “Director-General” of the following definitions:

“ ‘former member’ means, any member of the Agency or the Service whose services have been terminated for any reason;
‘Intelligence Review Board’ means the Intelligence Review Board established by section 22B;”;
- (d) the substitution for the definition of “Minister” of the following definition:

“ ‘Minister’ means the Minister **[designated by the President]** as defined in section 1 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994);”;
- (e) the deletion of the definition of “misconduct”; and 20
- (f) the insertion after the definition of “Minister” of the following definitions:

“ ‘person’ includes—

 - (a) a natural person;
 - (b) a partnership;
 - (c) a business trust;
 - (d) a foundation;

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hakies dui skappings uit bestaande verordeninge aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

*(Engelse teks deur die Waarnemende President geteken.)
(Goedgekeur op 20 Februarie 2001.)*

WET

Tot wysiging van die Wet op Intelligensiedienste, 1994, ten einde voorsiening te maak vir 'n aftree-ouderdom vir lede; arbeidsverhoudinge en stakings te reguleer; om beperkings te plaas op voormalige lede van die Nasionale Intelligensie-agentskap of Suid-Afrikaanse Geheime Diens om hulle vaardighede te gebruik tot nadeel van die Agentskap of Diens; voorsiening te maak vir die beskikking oor materiaal wat wettig bekom is; en sekere uitgediende verwysings en bepalings te skrap; tot wysiging van die Wet op Nasionale Strategiese Intelligensie, 1994, ten einde verder voorsiening te maak vir die bevoegdheid van die Minister om regulasies uit te vaardig; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 38 van 1994, soos gewysig deur artikel 35 van Wet 47 van 1997

- 5 1. Artikel 1 van die Wet op Intelligensiedienste, 1994 (hieronder die Hoofwet genoem), word hierby gewysig deur—
- (a) die omskrywing van “Adjunkpresident” te skrap;
- (b) die omskrywing van “Agentskap” deur die volgende omskrywing te vervang:
- 10 “ ‘Agentskap’ die Nasionale Intelligensie-agentskap [by artikel 3 ingestel] soos bedoel in artikel 3;”;
- (c) die omskrywing van “Diens” deur die volgende omskrywing te vervang:
- “ ‘Diens’ die Suid-Afrikaanse Geheime Diens [by artikel 3 ingestel] soos bedoel in artikel 3;”;
- 15 (d) na die omskrywing van “hierdie Wet” die volgende omskrywing in te voeg:
- “ ‘Intelligensie Hersieningsraad’ die Intelligensie Hersieningsraad by artikel 22B ingestel;”;
- (e) die omskrywing van “Minister” deur die volgende omskrywing te vervang:
- 20 “ ‘Minister’ die Minister [deur die President aangewys] soos omskryf in artikel 1 van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994);”;
- (f) na die omskrywing van “perseel” die volgende omskrywings in te voeg:
- “ ‘persoon’ ook—
- 25 (a) ’n natuurlike persoon;
- (b) ’n vennootskap;
- (c) ’n besigheidstrust;
- (d) ’n stigting;

- (e) any company or close corporation incorporated or registered in terms of any law; or
- (f) any other body of persons corporate or unincorporated;
- 'polygraphist' means a person who, in order to ascertain, confirm or examine in a scientific manner the truthfulness or otherwise of statements made by another person, uses skills and techniques in conjunction with any equipment and instrument designed or adapted for this purpose;"
- (g) the insertion after the definition of "prescribed" of the following definition:
- " 'private investigator' means a person who for the benefit of another person—
- (a) investigates and furnishes information regarding the identity, actions, whereabouts, movements, affiliations, associations, habits, personal character, reputation, trustworthiness, loyalty, occupation, previous employment, integrity, creditworthiness, transactions, financial position, life history or background of another person with or without the consent or knowledge of such a person;
- (b) searches for someone who has or is alleged to have committed any crime, delict, breach of contract or other wrongful act, or for any evidence of such wrongdoing;
- (c) searches for missing persons, property or other assets, or investigates the costs or responsibility for accidents, injuries or damage; or
- (d) conducts surveillance or counter-surveillance;
- 'security equipment' includes the following security equipment:
- (a) An alarm system;
- (b) a safe, vault or secured container;
- (c) satellite tracking;
- (d) closed circuit television;
- (e) other electronic monitoring or surveillance equipment or monitoring device;
- (f) intrusion detection, access control, bomb detection, fire detection, metal detection, x-ray inspection and telephone security equipment, used for the protection or safeguarding of persons or property;
- 'security service' includes the following services or activities:
- (a) Protecting or safeguarding a person or property in any manner;
- (b) giving advice on the protection or safeguarding of a person or property, or on the use of security equipment or the services of a private investigator;
- (c) providing a reactive or response service in connection with the safeguarding of a person or property in any manner;
- (d) providing a service aimed at ensuring order and safety at premises used for sporting, recreational, entertainment or similar purposes;
- (e) manufacturing, importing, distributing or advertising of monitoring devices contemplated in section 1 of the Interception and Monitoring Prohibition Act, 1992 (Act No. 127 of 1992);
- (f) performing the functions of a private investigator;
- (g) performing the functions of a polygraphist;
- (h) installing, servicing or repairing security equipment;
- (i) monitoring signals or transmissions from electronic security equipment;
- (j) performing the functions of a locksmith;
- (k) making a person or the services of a person available, whether directly or indirectly, for the rendering of any service referred to in paragraphs (a) to (j) to another person;
- (l) managing, controlling or supervising the rendering of any of the services referred to in paragraphs (a) to (k);
- (m) creating an impression in any manner that one or more of the services in paragraphs (a) to (l) is rendered;"

- (e) enige maatskappy of beslote korporasie ingelyf of geregistreer kragtens enige wet; of
- (f) enige ander liggaam van persone met of sonder regspersoonlikheid;
- 5 'poligrafis' 'n persoon wat, ten einde die betroubaarheid of andersins van verklarings deur 'n ander persoon gemaak, op wetenskaplike wyse te bepaal, bevestig of ondersoek, gebruik maak van vaardighede en tegnieke tesame met enige toerusting en instrument ontwerp of aangepas vir dié doel;
- 'privaat ondersoeker' 'n persoon wat tot voordeel van 'n ander persoon—
- 10 (a) ondersoek doen en inligting verskaf rakende die identiteit, optrede, verblyfplek, bewegings, affiliasies, assosiasies, gewoontes, persoonlike karakter, reputasie, geloofwaardigheid, lojaliteit, beroep, vorige werk, integriteit, kredietwaardigheid, transaksies, finansiële posisie, lewensgeskiedenis of agtergrond van 'n ander persoon met of sonder die toestemming of kennis van sodanige persoon;
- 15 (b) na iemand wat enige misdaad, delik, kontrakbreuk of ander onregmatige daad gepleeg of beweerdelik gepleeg het, soek, of vir enige getuienis van sodanige oortreding;
- (c) na vermiste persone, eiendom of ander bates soek, of die koste of aanspreeklikheid vir ongelukke, beserings of skade ondersoek; of
- 20 (d) waarneming of teenwaarneming doen;";
- (g) die volgende omskrywings na die omskrywing van "Staatsdienskommissie" in te voeg:
- " 'staking' 'n staking soos omskryf in artikel 213 van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995);
- 25 'veiligheidsdiens' ook die volgende dienste of aktiwiteite:
- (a) Beskerming of beveiliging van 'n persoon of eiendom op welke wyse ook al;
- (b) die gee van advies oor die beskerming of beveiliging van 'n persoon of eiendom, of oor die gebruik van veiligheidstoerusting of die dienste van 'n privaat ondersoeker;
- 30 (c) 'n reaksiediens voorsien met betrekking tot die beveiliging van 'n persoon of eiendom op welke wyse ook al;
- (d) 'n diens voorsien wat daarop gemik is om orde en veiligheid te verseker by persele wat gebruik word vir sport-, ontspannings-, vermaaklikheids- of soortgelyke doeleindes;
- 35 (e) vervaardiging, invoer, verspreiding of adverteer van meeluisterapparate bedoel in artikel 1 van die Wet op die Verbod op Onderskepping en Meeluistering, 1992 (Wet No. 127 van 1992);
- (f) die werksaamhede van 'n privaat ondersoeker verrig;
- 40 (g) die werksaamhede van 'n poligrafis verrig;
- (h) veiligheidstoerusting installeer, diens of herstel;
- (i) seine of uitsendings vanaf elektroniese veiligheidstoerusting opvang of meeluister;
- (j) die werksaamhede van 'n slotmaker verrig;
- 45 (k) 'n persoon of die dienste van 'n persoon beskikbaar stel, hetsy direk of indirek, vir die lewering van enige diens soos bedoel in paragrawe (a) tot (j) aan 'n ander persoon;
- (l) die lewering van enige van die dienste soos bedoel in paragrawe (a) tot (k) bestuur, beheer of toesig daaroor hou;
- 50 (m) op welke wyse ook al 'n indruk skep dat een of meer van die dienste in paragrawe (a) tot (l) gelewer word;
- 'veiligheidstoerusting' ook die volgende veiligheidstoerusting:
- (a) 'n Alarmstelsel;
- (b) 'n brandkas, kluis of beveiligde houer;
- 55 (c) satellietopsporingstoerusting;
- (d) kringtelevisie;
- (e) ander elektroniese meeluisterings- of waarnemingstoerusting of meeluisterapparaat;

Act No. 66, 2000 GENERAL INTELLIGENCE LAW AMENDMENT ACT, 2001

- (h) the substitution for the definition of "Service" of the following definition:
 " 'Service' means the South African Secret Service [established by] referred to in section 3;";
- (i) the insertion after the definition of "Service" of the following definition:
 " 'strike' means a strike as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995);".

Substitution of section 3 of Act 38 of 1994

2. The following section is hereby substituted for section 3 of the principal Act:

"Continued existence of Agency and Service

3. (1) There continues to exist in the Republic the Agency and the Service, as the case may be, which consist of persons who became members in terms of this Act on 1 January 1995 and persons appointed as members in terms of the provisions of this Act after commencement.

(2) The Minister shall for the purpose of the Agency and the Service—
 (a) create deputy Directors-General posts;
 (b) establish chief directorates, directorates and divisions; and
 (c) prescribe the functions and post structures:
 Provided that the creation of deputy Directors-General posts shall be done in consultation with the President."

Insertion of section 3A in Act 38 of 1994

3. The following section is hereby inserted after section 3 of the principal Act:

"Appointment, promotion, discharge, reduction in rank and transfer of members

3A. (1) The Minister may, subject to the provisions of this Act, appoint any person, with the exclusion of the Director-General, as a member, and any member may in accordance with the said provisions be promoted, discharged, reduced in rank or grade or transferred: Provided that such appointment, promotion, discharge, reduction in rank or transfer in respect of a Deputy Director-General shall be effected in consultation with the President.

(2) Any prescribed document signed by the Minister and certifying that any person has been appointed as a member shall be *prima facie* proof that such person has been so appointed."

Amendment of section 4 of Act 38 of 1994

4. Section 4 of the principal Act is hereby amended—
 (a) by the substitution for subsections (1) and (2) of the following subsections, respectively:
 "(1) The Director-General concerned shall, subject to the directions of the [President] Minister and the provisions of this Act, exercise command and control of the Agency or the Service, as the case may be.
 (2) The Director-General may, subject to the directions of the [President] 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 Agency or the Service, as the case may be."; and
 (b) by the deletion of subsection (4).

- (f) toerusting vir die opsporing van indringing, toegangsbeheer, bomopsporing, brandopsporing, metaalverklipping, x-straal-inspeksie en telefoonbeveiliging, wat gebruik word vir die beskerming of beveiliging van persone of eiendom;";
- 5 (h) na die omskrywing van "voorgeskryf" die volgende omskrywing in te voeg: "‘voormalige lid’ enige lid van die Agentskap of die Diens wie se dienste vir welke rede ook al beëindig is;"; en
- (i) die omskrywing van "wangedrag" te skrap.

10 Vervanging van artikel 3 van Wet 38 van 1994

2. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

"Voortgesette bestaan van Agentskap en Diens

3. (1) Die Agentskap en die Diens, na gelang van die geval, wat bestaan uit persone wat ingevolge hierdie Wet op 1 Januarie 1995 lede 15 geword het en persone ingevolge die bepalings van hierdie Wet na inwerkingtreding as lede aangestel, bly in die Republiek voortbestaan.
- (2) Die Minister moet vir die doel van die Agentskap en die Diens—
- (a) Adjunkdirekteurs-generaalposte skep;
- (b) hoofdirektorate, direktorate en afdelings instel; en
- 20 (c) die werksaamhede en postestrukture voorskryf: Met dien verstande dat die instelling van Adjunkdirekteurs-generaalposte in oorleg met die President gedoen moet word."

Invoeging van artikel 3A in Wet 38 van 1994

3. Die volgende artikel word hierby na artikel 3 van die Hoofwet ingevoeg:

- 25 **"Aanstelling, bevordering, ontslag, verlaging in rang en oorplasing van lede**

- 3A. (1) Die Minister kan, behoudens die bepalings van hierdie Wet, enige persoon as 'n lid aanstel, uitgesonderd die Direkteur-generaal, en enige lid kan ooreenkomstig genoemde bepalings bevorder, ontslaan, in 30 rang of graad verlaag of oorgeplaas word: Met dien verstande dat sodanige aanstelling, bevordering, ontslag, verlaging in rang of oorplasing ten opsigte van 'n Adjunkdirekteur-generaal in oorleg met die President gedoen moet word.
- (2) 'n Stuk in die voorgeskrewe vorm wat deur die Minister onderteken 35 is en waarin gesertifiseer word dat iemand as 'n lid aangestel is, is *prima facie*-bewys dat so iemand aldus aangestel is."

Wysiging van artikel 4 van Wet 38 van 1994

4. Artikel 4 van die Hoofwet word hierby gewysig—

- (a) deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te 40 vervang:
- "(1) Die betrokke Direkteur-generaal oefen, behoudens die voorskrifte van die [President] Minister en die bepalings van hierdie Wet, bevel en beheer uit oor die Agentskap of die Diens, na gelang van die geval.
- 45 (2) Die Direkteur-generaal kan, behoudens die voorskrifte van die [President] Minister en die bepalings van hierdie Wet, die reëls uitvaardig en die voorskrifte uitreik wat hy of sy dienstig ag vir die doelmatige bevel en beheer oor die Agentskap of die Diens, na gelang van die geval."; en
- 50 (b) deur subartikel (4) te skrap.

Amendment of section 5 of Act 38 of 1994**5. Section 5 of the principal Act is hereby amended—**

- (a) 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 Agency or the Service, as the case may be, provided that such member has been authorised thereto by another member of such Agency or Service holding a post of at least **[chief] general manager;**”
and

- (b) by the insertion after paragraph (b) of the following paragraph:

“(c) A member who executes a direction or assists in the execution thereof shall not later than the expiry of the direction referred to in paragraph (a) return an article, document or other material that was taken into possession in terms of subparagraph (iv) of subsection (2) or cause it to be returned to the premises in question unless the judge referred to in subsection (2) is of the opinion that by returning the said article, document or material the security of the Republic will be prejudiced, and accordingly directs that it be disposed of otherwise.”.

Substitution of section 7 of Act 38 of 1994**6. The following section is hereby substituted for section 7 of the principal Act:****“Retirement age for members**

7. (a) A member shall have the right to retire and shall be so retired on the date when he or she attains the age of 60 years: Provided that a person who is an employee on the day immediately before the commencement of this Act, has the right to retire on reaching the retirement age or prescribed retirement date provided for in any other law applicable to him or her on that day.

(b) If such a member attains the said age after the first day of a month, he or she shall be deemed to have attained it on the first day of the following month.

(c) If it is in the public interest to retain a member in his or her post beyond the age at which he or she is required to be retired in terms of subsection (1), he or she may with his or her consent, with the approval of the Minister, be so retained from time to time, for further periods which shall not, except with the approval of Parliament, granted by resolution, exceed two years.”.

Amendment of section 8 of Act 38 of 1994**7. Section 8 of the principal Act is hereby amended—**

- (a) by the substitution for subsection (1) of the following subsection:

“(1) Subject to **[section 3(1)(a), (b), (c), (d), (e) and (f),]** subsection (2), no person may be appointed as a member **[before]** unless—

- (a) information with respect to that person has been gathered in the prescribed manner in a security screening investigation by the Agency or the Service, as the case may be; and
(b) **[the Deputy President or]** the Minister after evaluating the **[collected]** gathered information, is reasonably of the opinion that such person may be appointed as a member without the possibility that such person might be a security risk or that he or she might act in any way prejudicial to security interests of the Republic.”; and

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

“(b) **[the Deputy President or]** the Minister obtains information regarding a person who became a member **[in terms of section 3(1)(a), (b), (c), (d), (e) or (f)]** which causes him or her to be reasonably of the opinion that that person could be a security risk or could possibly act in any manner prejudicial to security interests of the Republic.”.

Wysiging van artikel 5 van Wet 38 van 1994

5. Artikel 5 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

5 “(b) ’n Lasgewing in paragraaf (a) bedoel, kan deur ’n lid van die Agentskap of die Diens, na gelang van die geval, uitgevoer word mits so ’n lid daartoe gemagtig is deur ’n ander lid van daardie Agentskap of Diens wat ’n pos van ten minste [hoofbestuurder] algemene bestuurder beklee.” en

(b) deur die invoeging na paragraaf (b) van die volgende paragraaf:

10 “(c) ’n Lid wat ’n lasgewing uitvoer of behulpzaam is in die uitvoering daarvan moet nie later nie as die vervaldatum van die lasgewing in paragraaf (a) bedoel, ’n voorwerp, stuk of ander materiaal wat in besit geneem is ingevolge subparagraaf (iv) van subartikel (2), terugneem of toesien dat dit teruggeneem word na die betrokke perseel, tensy die regter in subartikel (2) bedoel van mening is dat deur die
15 betrokke voorwerp, stuk of materiaal terug te neem die veiligheid van die Republiek benadeel sal word en gevolglik beveel dat op ’n ander wyse daarvoor beskik word.”.

Vervanging van artikel 7 van Wet 38 van 1994

20 6. Artikel 7 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aftree-ouderdom vir lede

25 7. (a) ’n Lid het die reg om af te tree en moet aldus aftree op die datum wanneer hy of sy die ouderdom van 60 jaar bereik: Met dien verstande dat ’n persoon wat ’n werknemer is op die dag onmiddellik voor die inwerkingtreding van hierdie Wet, die reg het om af te tree by bereiking van die aftree-ouderdom of voorgeskrewe aftreedatum vervat in enige ander wet wat op hom of haar van toepassing is op daardie dag.

(b) Indien sodanige lid die gemelde ouderdom na die eerste dag van ’n maand bereik, word hy of sy geag dit te bereik het op die eerste dag van die daaropvolgende maand.

(c) Indien dit in die openbare belang is om ’n lid in sy of haar pos te behou na die ouderdom waarop dit van hom of haar vereis word om af te tree kragtens subartikel (1), kan hy of sy met sy of haar toestemming, met die goedkeuring van die Minister, so behou word van tyd tot tyd, vir
35 verdere tydperke wat nie, behalwe met die goedkeuring van die Parlement, wat by resoluë gegee is, twee jaar te bowe gaan nie.”.

Wysiging van artikel 8 van Wet 38 van 1994

7. Artikel 8 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

40 “(1) Behoudens [artikel 3(1)(a), (b), (c), (d), (e) en (f),] subartikel 2, mag geen persoon as ’n lid aangestel word nie [voordat] tensy—

(a) informasie met betrekking tot daardie persoon op die voorgeskrewe wyse in ’n sekerheidsklaringsondersoek deur die Agentskap of die Diens, na gelang van die geval, ingesamel is; en

45 (b) [die Adjunkpresident of] die Minister, na evaluering van die ingesamelde informasie, redelikerwys van oordeel is dat so ’n persoon as ’n lid aangestel kan word sonder die moontlikheid dat [die] sodanige persoon ’n sekerheidsrisiko kan wees of dat hy of sy kan optree op enige wyse wat nadelig vir die sekerheidsbelange van die Republiek is.”; en

(b) deur in subartikel (3) paragraaf (b) deur die volgende paragraaf te vervang:

50 “(b) [die Adjunkpresident of] die Minister informasie bekom aangaande ’n persoon wat ’n lid geword het [ingevolge artikel 3(1)(a), (b), (c), (d), (e) of (f)] wat veroorsaak dat hy of sy redelikerwys van mening is dat die persoon ’n sekerheidsrisiko kan wees of moontlik kan optree op ’n wyse wat nadelig is vir die sekerheidsbelange van die Republiek.”.

Amendment of section 9 of Act 38 of 1994

8. The following section is hereby substituted for section 9 of the principal Act:

“Discharge of members on account of long absence without leave

9. (1) Any member who absents himself or herself from his or her official duties without the permission of the Director-General concerned for a period exceeding 14 calendar days shall be deemed to have been discharged from the Agency or the Service, as the case may be, with effect from the date immediately following upon the last day on which he or she was present at his or her place of duty: Provided that if—
- (a) any member absents himself or herself from his or her official duties without such permission or accepts other employment, he or she shall be deemed to have been so discharged even if he or she has not yet so absented himself or herself for a period not exceeding 14 calendar days;
- (b) a member deemed to have been so discharged, again reports for duty, the Director-General concerned may, notwithstanding anything to the contrary contained in any law but subject to the approval of the Minister, reinstate him or her in his or her former post or appoint him or her to any other post in the Agency or the Service, as the case may be, on such conditions as the Director-General concerned may deem fit, and in that event the period of his or her absence from his or her official duties shall be deemed to have been absence on vacation leave without pay, or leave on such other conditions as the Director-General concerned may determine;
- (c) the Director-General refuses to reinstate the member, the latter may appeal to the Minister, stating the reasons why he or she should be reinstated.”.

Amendment of section 12 of Act 38 of 1994

9. Section 12 of the principal Act is hereby amended by the substitution for item (aa) of subsection (1)(a)(ii) of the following item:

- “(aa) upon such a transfer a member’s salary and salary scale shall not be reduced without his or her consent, except **[in accordance with the provisions of Chapter III]** as prescribed;”.

Substitution of section 13 of Act 38 of 1994

10. The following section is hereby substituted for section 13 of the principal Act:

“Delegation of powers

13. (1) The **[Deputy Minister or]** Minister may in writing on such conditions as he or she may deem fit delegate any power conferred upon him or her by this Act, excluding any power conferred upon him or her by section 3(2), 6(1), **[8(3)(b)(i) and (ii)]** 9, 10(2), 11(2), **[12(1)(a)(ii) and 12(1)(b), 15(9), 16, 17(4)]** 19(3)(a) and (4), 19A(2), 21, 22B, 22E, 22F and 22G, 24(1), 25(2), 29, 30(2), (3) and (4) or 32(4), to the Director-General or any other member of the Agency or the Service, as the case may be, and any such power exercised in terms of such a delegation shall be deemed to have been exercised by such **[Deputy President or]** Minister.
- (2) The Director-General may delegate any power conferred upon him or her by or under this Act to any other member of the Agency or the Service, as the case may be, and any power exercised in terms of such a delegation shall be deemed to have been exercised by that Director-General.”.

Wysiging van artikel 9 van Wet 38 van 1994

8. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

“Ontslag van lede weens lang afwesigheid sonder verlof

- 5 **9.** (1) 'n Lid wat sonder die verlof van die betrokke Direkteur-generaal vir 'n tydperk van meer as 14 kalenderdae van sy of haar ampspligte wegbly, word geag uit die Agentskap of Diens, na gelang van die geval, ontslaan te gewees het met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy of sy op sy of haar plek van diens teenwoordig was: Met dien verstande dat indien—
- 10 (a) 'n lid sonder sodanige verlof van sy of haar ampspligte wegbly of ander werk aanvaar hy of sy geag word aldus ontslaan te gewees het, selfs indien hy of sy nog nie vir 'n tydperk van 14 kalenderdae aldus weggebly het nie;
- 15 (b) 'n lid wat geag word aldus ontslaan te wees, hom of haar weer vir diens aanmeld, die betrokke Direkteur-generaal, ondanks andersluidende bepalings van die een of ander wet, maar onderworpe aan die goedkeuring van die Minister hom of haar in sy of haar vorige pos kan herstel, of hom of haar in 'n ander pos of betrekking in die Agentskap of die Diens, na gelang van die geval, kan aanstel, op die
- 20 voorwaardes wat die betrokke Direkteur-generaal goedvind, en in so 'n geval word die tydperk van sy of haar afwesigheid van sy of haar ampspligte geag afwesigheid met vakansieverlof sonder besoldiging, of verlof op die ander voorwaardes wat die betrokke Direkteur-generaal bepaal, te wees;
- 25 (c) die Direkteur-generaal weier om die lid weer aan te stel, sodanige lid na die Minister kan appelleer, met vermelding van die redes waarom hy of sy weer aangestel moet word.”

Wysiging van artikel 12 van Wet 38 van 1994

9. Artikel 12 van die Hoofwet word hierby gewysig deur item (aa) van subartikel 30 (1)(a)(ii) deur die volgende item te vervang:

“(aa) 'n lid se salaris en salarisskaal by so 'n oorplasing nie sonder sy of haar toestemming verlaag mag word nie, behalwe [ooreenkomstig die bepalings van Hoofstuk III] soos voorgeskryf.”.

Vervanging van artikel 13 van Wet 38 van 1994

35 10. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

“Delegering van bevoegdhede

- 40 **13.** (1) Die [Adjunkpresident of die] Minister kan skriftelik op die voorwaardes wat hy of sy goedvind 'n bevoegdheid by hierdie Wet aan hom of haar verleen, uitgesonderd 'n bevoegdheid by artikel 3(2), 6(1), [8(3)(b)(i) en (ii)] 9, 10(2), 11(2), [12(1)(a)(ii) en] 12(1)(b), [15(9), 16, 17(4)] 19(3)(a) en (4), 19A(2), 21, 22B, 22E, 22F en 22G, 24(1), 25(2), 29, 30(2), (3) en (4) of 32(4), aan hom of haar verleen, aan die Direkteur-generaal of enige ander lid van die Agentskap of die Diens, na gelang van die geval, deleger, en enige sodanige bevoegdheid wat ingevolge so 'n
- 45 [delegering] delegasie uitgeoefen is, word geag deur daardie [Adjunkpresident of] Minister uitgeoefen te gewees het.
- 50 (2) Die Direkteur-generaal kan 'n bevoegdheid by of kragtens hierdie Wet aan hom of haar verleen aan 'n ander lid van die Agentskap of die Diens, na gelang van die geval, deleger en 'n bevoegdheid ingevolge so 'n [delegering] delegasie uitgeoefen, word geag deur daardie Direkteur-generaal uitgeoefen te gewees het.”.

Repeal of section 14 of Act 38 of 1994

11. Section 14 of the principal Act is hereby repealed.

Repeal of section 15 of Act 38 of 1994

12. Section 15 of the principal Act is hereby repealed.

Repeal of section 16 of Act 38 of 1994

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13. Section 16 of the principal Act is hereby repealed.

Repeal of section 17 of Act 38 of 1994

14. Section 17 of the principal Act is hereby repealed.

Repeal of section 18 of Act 38 of 1994

15. Section 18 of the Act is hereby repealed.

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Insertion of section 19A in Act 38 of 1994

16. The following section is hereby inserted after section 19 of the principal Act:

“Labour Relations

19A. (1) No member of the Agency or the Service shall strike or induce or conspire with any other member of the Agency or the Service to strike.

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(2) The Minister shall in the prescribed manner make provision for internal mechanisms with a view to fair labour practices and proper consultation on conditions of service within the Agency and the Service.

(3) A regulation made under this section with reference to members may not be published in the *Gazette* but shall be notified to members in such manner as the Minister may determine.”

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Substitution of section 22 of Act 38 of 1994

17. The following section is hereby substituted for section 22 of the principal Act:

“Offences

22. (1) Any person who—

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(a) not being a member [who]—

(i) by words, conduct or demeanour pretends that he or she is such a member;

(ii) persuades any member to omit to carry out his or her duty or to do any act in conflict with his or her duty; or

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(iii) is an accomplice to the commission of any act whereby any lawful order given to a member or any regulation may be evaded;

(b) [subpoenaed in terms of section 15 to appear as a witness at an enquiry who fails to attend at the time and place mentioned in the subpoena, or having attended, refuses to answer all questions lawfully put out to him or her] fails to comply with a requirement in terms of section 19(3)(b);

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(c) [subpoenaed in terms of section 15 to appear as a witness at an enquiry and at any such enquiry makes any false statement on oath knowing it to be false] not being the person to whom a decoration or medal was awarded, wears it or, without the written permission of the Director-General concerned, makes use of any decoration or medal established or introduced under this Act, or of its

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Herroeping van artikel 14 van Wet 38 van 1994

11. Artikel 14 van die Hoofwet word hierby herroep.

Herroeping van artikel 15 van Wet 38 van 1994

12. Artikel 15 van die Hoofwet word hierby herroep.

5 Herroeping van artikel 16 van Wet 38 van 1994

13. Artikel 16 van die Hoofwet word hierby herroep.

Herroeping van artikel 17 van Wet 38 van 1994

14. Artikel 17 van die Hoofwet word hierby herroep.

Herroeping van artikel 18 van Wet 38 van 1994

10 15. Artikel 18 van die Hoofwet word hierby herroep.

Invoeging van artikel 19A in Wet 38 van 1994

16. Die volgende artikel word hierby na artikel 19 van die Hoofwet ingevoeg:

“Arbeidsverhoudinge

15 **19A.** (1) Geen lid van die Agentskap of die Diens mag staak of enige ander lid van die Agentskap of die Diens aanstig of met sodanige lid saamsweer om te staak nie.

(2) Die Minister moet op die voorgeskrewe wyse voorsiening maak vir interne maatreëls met die oog op billike arbeidspraktyke en behoorlike oorlegpleging oor diensvoorwaardes binne die Agentskap en die Diens.

20 (3) 'n Regulasie wat kragtens hierdie artikel met betrekking tot lede uitgevaardig word mag nie in die *Staatskoerant* gepubliseer word nie, maar word op die wyse wat die Minister bepaal, aan die lede bekend gemaak.”.

Vervanging van artikel 22 van Wet 38 van 1994

25 17. Artikel 22 van die Hoofwet word hierby deur die volgende artikel vervang:

“Misdrywe

22. (1) Iemand wat—

(a) nie 'n lid is nie wat—

30 (i) deur woord, gedrag of houding voorgee dat hy of sy sodanige lid is;

(ii) 'n lid oorreed om sy of haar plig te versaak of in stryd met sy of haar plig te handel; of

(iii) medepligtig is aan die pleeg van 'n handeling waardeur 'n wettige bevel wat aan 'n lid gegee is of 'n regulasie ontduik mag word;

35 (b) [ingevolge artikel 15 gedagvaar is om as 'n getuie voor 'n raad van ondersoek te verskyn en versuim om op die tyd en plek in die dagvaarding vermeld op te daag, of nadat hy of sy aldaar opgedaag het, weier om alle vrae wat wettig aan hom of haar gestel is, te beantwoord], versuim om te voldoen aan 'n vereiste ingevolge artikel 19(3)(b) gestel:

40 (c) [ingevolge artikel 15 gedagvaar is om as 'n getuie voor 'n raad van ondersoek te verskyn en 'n valse verklaring onder eed affê met die wete dat dit vals is] tensy hy of sy die persoon is aan wie 'n dekorasie of medalje toegeken is, dit dra, of sonder skriftelike vergunning van die betrokke Direkteur-generaal, gebruik maak van 'n dekorasie of medalje wat kragtens hierdie Wet ingestel of ingevoer is,

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- bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive;
- (d) **[who unlawfully and intentionally violates a provision of the regulations mentioned in the second proviso to section 16;]** without the approval of the Minister, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or is calculated or is likely to lead other persons to believe or infer that such activity is carried on or under or by virtue of this Act or under the patronage of the Agency or the Service, as the case may be, or is in any manner associated or connected with the Agency or the Service;
- (e) who enters upon or is on or in any premises in contravention of any prohibition or restriction under section 24,
- (f) **who, not being the person to whom a decoration or medal was awarded, wears it or, without the written permission of the Director-General concerned, makes use of any decoration or medal established or introduced under this Act, or of its bar, clasp or ribbon, or anything to closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive;**
- (g) **who, without the approval of the Deputy President or the Minister, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or convey or is calculated or is likely to lead other persons to believe or infer that such activity is carried on under or by virtue of the provisions of this Act or under the patronage of the Agency or the Service, as the case may be, or is in any manner associated or connected with the Agency or the Service;]**
- shall be guilty of an offence.
- (2) Any person convicted of an offence under this Act shall be liable, in the case of a contravention of—
- (a) subsection (1)(a) **[or (b)]**, to a fine, or to imprisonment for a period not exceeding six months;
- (b) subsection (1) [(c)] (b) or (c), to **[the penalties prescribed by law for perjury]** a fine, or to imprisonment for a period not exceeding one year;
- (c) subsection (1)(d) [(e) or (f)], to a fine, or to imprisonment for a period not exceeding **[one]** two years;
- (d) subsection (1) [(g)] (e), to a fine, or to imprisonment for a period not exceeding **[two]** 15 years; or
- (e) **[subsection 1(h)]** sections 22A, 22B, 22C(1), 22D and 22E(1), to a fine or to imprisonment for a period not exceeding 15 years.”

Insertion of section 22A in Act 38 of 1994

18. The following sections are hereby inserted after section 22 of the principal Act:

“Disclosure of classified information by former members of Agency or Service

22A. (1) A former member may not disclose in any form or any manner any information or material to any other person unless—

- (a) the person to whom the information or material is disclosed is authorised by the Director-General to receive it;
- (b) the Intelligence Review Board has granted permission for the disclosure of the information or material.

of van die balk, gespe of lint daarvan, of iets wat soveel na so 'n dekorasie, medalje, balk, gespe of lint lyk, dat dit bereken is om te mislei;

- (d) **[wederregtelik en opsetlik 'n bepaling van die regulasies vermeld in die tweede voorbehoudsbepaling by artikel 16 oortree] sonder die goedkeuring van die Minister, in verband met enige bedrywigheid wat deur hom of haar onderneem word, 'n naam, beskrywing, titel of kenteken aanneem, gebruik of op enige wyse publiseer wat aandui of te kenne gee of heet aan te dui of te kenne te gee of wat daarop bereken is om ander persone te laat vermoed of affei of hulle waarskynlik sal laat vermoed of affei dat daardie bedrywigheid onder beskerming van die Agentskap of die Diens, na gelang van die geval, onderneem word, of op een of ander wyse aan die Agentskap of die Diens verbonde is of daarmee in verband staan;**
- (e) in stryd met 'n verbod of beperking kragtens artikel 24 enige perseel betree of daarop of daarin is;
- (f) **tensy hy of sy die persoon is aan wie 'n dekorasie of medalje toegeken is, dit dra, of sonder skriftelike vergunning van die betrokke Direkteur-generaal, gebruik maak van 'n dekorasie of medalje wat kragtens hierdie Wet ingestel of ingevoer is, of van die balk, gespe of lint daarvan, of iets wat soveel na so 'n dekorasie, medalje, balk, gespe of lint lyk, dat dit bereken is om te mislei;**
- (g) **sonder die goedkeuring van die Adjunkpresident of die Minister, in verband met enige bedrywigheid wat deur hom of haar onderneem word, 'n naam, beskrywing, titel of kenteken aanneem, gebruik, of op enige wyse publiseer wat aandui of te kenne gee of heet aan te dui of te kenne te gee of wat daarop bereken is om ander persone te laat vermoed of affei of hulle waarskynlik sal laat vermoed of affei dat daardie bedrywigheid kragtens of uit hoofde van die bepalings van hierdie Wet of onder beskerming van die Agentskap of die Diens, na gelang van die geval, onderneem word, of op die een of ander wyse aan die Agentskap of die Diens verbonde is of daarmee in verband staan;]**
- is aan 'n misdryf skuldig.
- (2) Iemand wat skuldig bevind is aan 'n misdryf kragtens hierdie Wet is strafbaar, in die geval van 'n oortreding van—
- (a) subartikel 1(a) [of (b)], met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande;
- (b) subartikel 1(b) of (c), met **[die strawwe wat regtens vir meinede voorgeskryf is]** 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens een jaar;
- (c) subartikel 1(d) [(e) of (f)], met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens **[een] twee** jaar;
- (d) subartikel 1 [(g)] (e), met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens **[twee] 15** jaar; of
- (e) **[subartikel 1(h)] artikels 22A, 22B, 22C(1), 22D en 22E(1), met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens 15 jaar.**”.

Invoeging van artikels 22A, 22B, 22C, 22D, 22E, 22F en 22G in Wet 38 van 1994

18. Die volgende artikels word hierby ingevoeg na artikel 22 van die Hoofwet:

“Openbaarmaking van geklassifiseerde inligting deur voormalige lede van Agentskap of Diens

22A. (1) 'n Voormalige lid mag nie in enige vorm of op enige wyse enige inligting of materiaal aan enige ander persoon openbaar maak nie, tensy—

- (a) die persoon aan wie die inligting of materiaal openbaar gemaak word deur die Direkteur-generaal gemagtig is om dit te ontvang;
- (b) die Intelligensie Hersieningsraad toestemming verleen het vir die openbaarmaking van die inligting of materiaal.

(2) Subsection (1) applies to any information or material received by the former member during, or subsequent to, the former member's employment or other service with the Agency or Service—

- (a) that was marked as classified or that the former member knew or ought reasonably to have known was classified;
- (b) that the former member knew or ought reasonably to have known was in the process of being classified at the time of disclosure.

Establishment of Intelligence Review Board

22B. (1) An Intelligence Review Board is hereby established, consisting of not less than three but not more than five persons appointed by the Minister of whom one shall be designated by him or her as the chairperson.

(2) The functions of the Intelligence Review Board are to—

- (a) consider and approve any application by a former member to disclose information or material in terms of subsection (1);
- (b) perform any other prescribed function.

(3) The Minister shall appoint as members of the Board, fit and proper persons with integrity.

(4) No person shall be appointed as a member of the Intelligence Review Board before a security clearance has been issued in respect of that person by the relevant authority.

(5) The Minister may determine—

- (a) the term of office of the members of the Board;
- (b) with the concurrence of the Minister of Finance, the remuneration and allowances to be paid to members of the Board;

Provided that members of the Board who are employees appointed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and members of the Agency or the Service, as the case may be, shall not be entitled to such remuneration and allowances; and

(c) any other conditions of appointment.

(6) The Minister may remove a member of the Intelligence Review Board from office prior to the expiry of that member's term of office if—

- (a) a member of the Intelligence Review Board is found guilty of an offence or a misdemeanour as prescribed;
- (b) is unable to carry out responsibilities as a member of the Intelligence Review Board;
- (c) the security clearance of the member is withdrawn.

(7) The Minister may prescribe all matters which are necessary or expedient for the functioning of the Intelligence Review Board.

Prohibited communications by former members

22C. (1) No former member of the Agency or Service, as the case may be, may communicate in the Republic or elsewhere in a manner that is likely to be detrimental to the security of the Republic with any person—

- (a) who is or was a member, representative or associate of the Agency or the Service, as the case may be;
- (b) who co-operates or has co-operated with the Agency or the Service, as the case may be, in respect of matters concerning the security of the Republic.

(2) Subsection (1) does not apply to communications of a purely personal nature.

(2) Subartikel (1) is van toepassing op enige inligting of materiaal wat deur die voormalige lid ontvang is gedurende, of na, die voormalige lid se dienstydperk by of ander diens met die Agentskap of Diens—

- 5 (a) wat as geklassifiseerd gemerk was of wat die voormalige lid geweet het of redelikerwys behoort te geweet het geklassifiseerd was;
- (b) wat die voormalige lid geweet het of redelikerwys behoort te geweet het in die proses was om geklassifiseer te word ten tye van die openbaarmaking.

Instelling van Intelligensie Hersieningsraad

10 **22B.** (1) Daar word hierby 'n Intelligensie Hersieningsraad ingestel, wat bestaan uit nie minder as drie maar nie meer as vyf persone nie, wat deur die Minister aangestel word, van wie een deur hom of haar aangewys word as die voorsitter.

(2) Die werksaamhede van die Intelligensie Hersieningsraad is om—

15 (a) enige aansoek deur 'n voormalige lid om inligting of materiaal ingevolge subartikel (1) openbaar te maak, te oorweeg en goed te keur;

(b) enige ander voorgeskrewe werksaamheid te verrig.

(3) Die Minister stel geskikte en gepaste persone met integriteit aan as lede van die Raad.

20 (4) Geen persoon word as 'n lid van die Intelligensie Hersieningsraad aangestel nie alvorens 'n sekerheidsklaring ten aansien van daardie persoon deur die betrokke gesag uitgereik is.

(5) Die Minister kan—

25 (a) die lede van die Raad se ampstermyn, bepaal;

(b) die vergoeding en toelaes wat aan lede van die Raad betaalbaar is, met die instemming van die Minister van Finansies, bepaal:

30 Met dien verstande dat lede van die Raad wat werknemers is wat ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), aangestel is, en lede van die Agentskap of die Diens, na gelang van die geval, nie geregtig is op sodanige vergoeding en toelaes nie; en

(c) enige ander voorwaardes van aanstelling bepaal.

(6) Die Minister kan 'n lid van die Intelligensie Hersieningsraad van sy of haar amp onthef voor die verstryking van daardie lid se ampstermyn indien—

35 (a) 'n lid van die Intelligensie Hersieningsraad skuldig bevind word aan 'n misdryf of wangedrag soos voorgeskryf;

(b) nie in staat is om verantwoordelikhede as 'n lid van die Intelligensie Hersieningsraad uit te oefen nie;

40 (c) die sekerheidsklaring van die lid teruggetrek word.

(7) Die Minister kan alle aangeleenthede wat vir die werking van die Intelligensie Hersieningsraad nodig of dienstig is, voorskryf.

Verbode kommunikasies deur voormalige lede

45 **22C.** (1) Geen voormalige lid van die Agentskap of Diens, na gelang van die geval, mag in die Republiek of elders op 'n wyse wat waarskynlik tot die nadeel van die veiligheid van die Republiek sal strek, met enige persoon kommunikeer—

(a) wat 'n lid, verteenwoordiger of medewerker van die Agentskap of die Diens, na gelang van die geval, is of was nie;

50 (b) wat met die Agentskap of die Diens, na gelang van die geval, saamwerk of saamgewerk het, met betrekking tot aangeleenthede betreffende die veiligheid van die Republiek.

(2) Subartikel (1) is nie van toepassing nie op kommunikasies van 'n suiwer persoonlike aard.

Prohibited employment by former members

22D. (1) No former member may utilise in the Republic or elsewhere any skills, information or material acquired as a result of his or her employment by the Agency or the Service in any manner, which may be detrimental to the security of the Republic or to the interests of the Agency or Service, as the case may be. 5

Employment in private security industry

22E. (1) A former member may not render a security service for a period of three years after leaving the Agency or the Service, as the case may be, unless he or she has first obtained a clearance certificate from the Director-General. 10

(2) The Minister may prescribe the manner in which any former member may apply for a clearance certificate in terms of subsection (1).

Appeals

22F. (1) A former member may appeal to the Minister against the decision of the Intelligence Review Board in terms of section 22B(2). 15

(2) A former member may appeal to the Minister against the decision of the Director-General to issue a clearance certificate in terms of section 22E.

(3) The Minister may prescribe the procedure of appeal by former members. 20

Conduct of former members

22G. (1) The Minister may prescribe the manner in which former members of the Agency or the Service may conduct themselves in order to protect the interests of the Agency or the Service and the security of the Republic. 25

(2) Regulations made by the Minister in terms of sections 22B, 22E, 22F and 22G shall be made by notice in the *Gazette*.”

Amendment of section 26 of Act 38 of 1994

19. Section 26 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 30

“(1) Any civil proceedings against the State or any person in respect of anything done in pursuance of this Act, shall be instituted within [two] three years after becoming aware that the cause of action arose, and notice in writing of any such proceedings and of the cause thereof shall be given to the defendant not less than [one month] 30 calendar days before it is instituted.”. 35

Amendment of section 28 of Act 38 of 1994

20. Section 28 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The provisions of the [Police Act, 1958 (Act No. 7 of 1958),] South African Police Service Act, 1995 (Act No. 68 of 1995), relating to the establishment or function of a service or training in, the Police Reserve, shall not apply to any member of the Agency or the Service.”. 40

Amendment of section 29 of Act 38 of 1994

21. Section 29 of the principal Act is hereby amended by—

(a) the substitution for paragraph (f) of subsection (1) of the following paragraph: 45

“(f) [the definition of offences against duty and discipline and, generally, the control and, discipline of the Agency and the Service] as to all matters relating to discipline, command and control of members of the Agency or the Service;”;

Verbode werk deur voormalige lede

5 **22D.** (1) Geen voormalige lid mag, in die Republiek of elders, enige vaardighede, inligting of materiaal verkry as gevolg van sy of haar diens in die Agentskap of die Diens, op enige wyse gebruik nie wat tot die nadeel van die veiligheid van die Republiek of die belange van die Agentskap of Diens, na gelang van die geval, kan strek.

Werk in privaat veiligheidsbedryf

10 **22E.** (1) 'n Voormalige lid mag nie 'n veiligheidsdiens lewer nie vir 'n tydperk van drie jaar nadat hy of sy die Agentskap of Diens, na gelang van die geval, verlaat het, tensy hy of sy eers 'n klaringsertifikaat van die Direkteur-generaal verkry het.

(2) Die Minister kan die wyse waarop enige voormalige lid vir 'n klaringsertifikaat ingevolge subartikel (1) aansoek kan doen, voorskryf.

Appèlle

15 **22F.** (1) 'n Voormalige lid kan na die Minister appelleer teen die besluit van die Intelligensie Hersieningsraad ingevolge artikel 22B(2).

(2) 'n Voormalige lid kan na die Minister appelleer teen die besluit van die Direkteur-generaal om 'n klaringsertifikaat ingevolge artikel 22E uit te reik.

20 (3) Die Minister kan die prosedure van appèl deur voormalige lede voorskryf.

Gedrag van voormalige lede

25 **22G.** (1) Die Minister kan die wyse van gedrag van voormalige lede van die Agentskap of die Diens ten einde die belange van die Agentskap of die Diens en die veiligheid van die Republiek te beskerm, voorskryf.

(2) Regulasies deur die Minister ingevolge artikels 22B, 22E en 22G uitgevaardig, moet by kennisgewing in die *Staatskoerant* uitgevaardig word."

Wysiging van artikel 26 van Wet 38 van 1994

30 **19.** Artikel 26 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) 'n Siviele geding teen die Staat of iemand ten opsigte van iets wat ingevolge hierdie Wet gedoen is, moet ingestel word binne [twee] drie jaar nadat die eiser daarvan bewus geword het dat die eisorsaak ontstaan het, en skriftelike kennis van so 'n geding en van die oorsaak daarvan moet aan die verweerder gegee word minstens [een maand] 30 kalenderdae voordat dit ingestel word."

Wysiging van artikel 28 van Wet 38 van 1994

20. Artikel 28 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

40 "(2) Die bepalings van die [Polisiewet, 1958 (Wet No. 7 van 1958),] Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995), [op] met betrekking tot die instelling of funksionering van, of diens of opleiding in, die Polisie-reserwe, is nie op 'n lid van die Agentskap of die Diens van toepassing nie."

Wysiging van artikel 29 van Wet 38 van 1994

21. Artikel 29 van die Hoofwet word hierby gewysig deur—

(a) paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:

50 "(f) [die omskrywing van diens- en dissiplinêre oortredings en, in die algemeen, die beheer oor en dissipline van die Agentskap en die Diens] betreffende alle aangeleenthede wat betrekking het op dissipline, bevel en beheer van lede van die Agentskap of die Diens;"

Act No. 66, 2000 GENERAL INTELLIGENCE LAW AMENDMENT ACT, 2001

- (b) the deletion of paragraphs (k), (l), (m), (n), (p), (q) and (r) of subsection (1);
- (c) the substitution for paragraph (i) of subsection (1) of the following paragraph:
 “(i) [the charging of members with misconduct] procedures to be followed in respect of cases of alleged or presumed medical unfitness;”;
- (d) the substitution for paragraph (j) of subsection (1) of the following paragraph:
 “(j) [appeals in terms of this Act] procedure to be followed in respect of cases of alleged or presumed inefficiency;”;
- (e) the substitution of paragraph (u) of subsection (1) for the following paragraph:
 “(u) [the regulation of labour relations and the creation of accompanying structures] all matters relating to representivity and equity, as far as is possible in accordance with the Employment Equity Act, 1998 (Act No. 55 of 1998).;” and
- (f) the deletion of subsection (3).

Repeal of section 31 of Act 38 of 1994

22. Section 31 of the principal Act is hereby repealed.

Deletion of expression “the Deputy President or” in Act 38 of 1994

23. The principal Act is hereby amended by the deletion of the expression “the Deputy President or” wherever it occurs.

Amendment of section 1 of Act 39 of 1994

24. Section 1 of the National Strategic Intelligence Act, 1994, is hereby amended by the insertion after the definition of “Nicoc” of the following definition:

“‘prescribed’ means prescribed by regulation;”.

Amendment of section 4 of Act 39 of 1994

25. Section 4 of the National Strategic Intelligence Act, 1994 is hereby amended by the substitution in subsection (1) for paragraph (f) of the following paragraph:

“(f) the [head of the service of the South African Police Service under which its intelligence division falls] head of the intelligence division of the South African Police Service.”.

Amendment of section 6 of Act 39 of 1994

26. Section 6 of the National Strategic Intelligence Act 1994, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) The Minister may, subject to the provisions of subsection (2), make such regulations as [are] to any matter which is necessary or expedient to be prescribed in order that the purpose of [effective administration of] this Act may be achieved.”; and
- (b) by the insertion after subsection (2) of the following subsection:
 “(2A) A regulation made in terms of this section may not be published in the Gazette but shall be notified to persons to whom it applies in such manner as the Minister may determine.”.

Short title and commencement

27. This Act is the General Intelligence Law Amendment Act, 2000, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

- (b) paragrawe (k), (l), (m), (n), (p), (q) en (r) van subartikel (1) te skrap;
- (c) paragraaf (i) van subartikel (1) deur die volgende paragraaf te vervang:
- 5 “(i) [die aankla van lede weens wangedrag] prosedures wat gevolg moet word met betrekking tot gevalle van beweerde of vermeende mediese ongeskiktheid;”;
- (d) paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:
- “(j) [appelle ingevolge hierdie Wet] prosedures wat gevolg moet word met betrekking tot gevalle van beweerde of vermeende onbekwaamheid;”;
- 10 (e) paragraaf (u) van subartikel (1) deur die volgende paragraaf te vervang:
- “(u) [die regulering van arbeidsverhoudinge en die skep van verwante strukture] alle aangeleenthede wat betrekking het op verteenwoordiging en billikheid, sover moontlik, ooreenkomstig die Employment Equity Act, 1998 (Wet No. 55 van 1998);” en
- 15 (f) subartikel (3) te skrap.

Herroeping van artikel 31 van Wet 38 van 1994

22 Artikel 31 van die Hoofwet word hierby herroep.

Skrapping van uitdrukking “die Adjunkpresident of” in Wet 38 van 1994

23. Die Hoofwet word hierby gewysig deur die uitdrukking “die Adjunkpresident of” waar dit ook al voorkom, te skrap.

Wysiging van artikel 1 van Wet 39 van 1994

24. Artikel 1 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig deur die volgende omskrywing na die omskrywing van “teenintelligensie” in te voeg:

25 “‘voorgeskrif’ by regulasie voorgeskryf.”.

Wysiging van artikel 4 van Wet 39 van 1994

25. Artikel 4 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig deur paragraaf (f) in subartikel (1) deur die volgende paragraaf te vervang:

30 “(f) die [hoof van die diens van die Suid-Afrikaanse Polisiediens waaronder sy intelligensie-afdeling val,] hoof van die intelligensie-afdeling van die Suid-Afrikaanse Polisiediens,”.

Wysiging van artikel 6 van Wet 39 van 1994

26. Artikel 6 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig—

35 (a) deur subartikel (1) deur die volgende subartikel te vervang:

 “(1) Die Minister kan behoudens die bepalings van subartikel (2) die regulasies uitvaardig [wat vir die doeltreffende uitvoering van hierdie Wet nodig is] aangaande enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik;” en

40 (b) deur die volgende subartikel na subartikel (2) in te voeg:

 “(2A) ‘n Regulasie ingevolge hierdie artikel uitgevaardig mag nie in die Staatskoerant gepubliseer word nie maar moet aan persone op wie dit van toepassing is, bekend gemaak word op die wyse wat die Minister bepaal.”.

45 Kort titel en inwerkingtreding

27. Hierdie Wet heet die Algemene Wysigingswet op Intelligensie, 2000, en tree in werking op ’n datum deur die President by proklamasie in die Staatskoerant bepaal.

