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PRESIDENT'S OFFICE

No. 1061.

21 July 1995

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

No. 31 of 1995: Committee of Members of Parliament on and Inspectors-General of Intelligence Amendment Act, 1995.

KANTOOR VAN DIE PRESIDENT

No. 1061.

21 Julie 1995

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

No. 31 van 1995: Wysigingswet op die Komitee van Parlementslede oor en Inspekteurs-generaal van Intelligensie, 1995.

Act No. 31, 1995 COMMITTEE OF MEMBERS OF PARLIAMENT ON AND INSPECTORS-GENERAL
OF INTELLIGENCE AMENDMENT ACT, 1995

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.

ACT

To amend the Committee of Members of Parliament on and Inspectors-General of Intelligence Act, 1994, so as to provide for the appointment of the members of the said Committee by the Speaker and the President of the Senate with the concurrence of the President; to alter the manner in which the membership of a member may be terminated; to extend the powers of the Committee with regard to budgetary control in relation to the civilian intelligence services; to make an arrangement for the tabling of the first and further reports of the Committee in Parliament; to further regulate the appointment of Inspectors-General; and to substitute the short title; and to provide for matters connected therewith.

(Afrikaans text signed by the President.)
(Assented to 10 July 1995.)

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

Amendment of section 1 of Act 40 of 1994

1. Section 1 of the Committee of Members of Parliament on and Inspectors-General of Intelligence Act, 1994 (hereinafter referred to as the principal Act), is hereby amended— 5

- (a) by the deletion of the definition of "Commission";
- (b) by the substitution for the definition of "Committee" of the following definition:

" 'Committee' means the [**Committee of Members of Parliament on Intelligence**] Joint Standing Committee on Intelligence established by section 2;" 10

- (c) by the insertion after definition of "South African Secret Service" of the following definition:

" 'Speaker' means the Speaker of the National Assembly contemplated in section 41 of the Constitution;" 15

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Wet op die Komitee van Parlementslede oor en Inspekteurs-generaal van Intelligensie, 1994, ten einde voorsiening te maak vir die aanstelling van die lede van genoemde Komitee deur die Speaker en die President van die Senaat met die instemming van die President; die wyse waarop die lidmaatskap van 'n lid beëindig kan word, te verander; die bevoegdhede van die Komitee met betrekking tot begrotingsbeheer ten opsigte van die burgerlike intelligensiedienste uit te brei; 'n reëling te tref vir die tertaaflegging in die Parlement van die eerste en verdere verslae van die Komitee; die aanstelling van die Inspekteurs-generaal verder te reguleer; en om die kort titel te vervang; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)
(Goedgekeur op 10 Julie 1995.)

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

Wysiging van artikel 1 van Wet 40 van 1994

1. Artikel 1 van die Wet op die Komitee van Parlementslede oor en Inspekteurs-generaal van Intelligensie, 1994 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur die omskrywing van “Komitee” deur die volgende omskrywing te vervang:

“ ‘Komitee’ die [**Komitee van Parlementslede oor Intelligensie**] **Gesamentlike Staande Komitee oor Intelligensie** by artikel 2 ingestel;”;

(b) deur die omskrywing van “Kommissie” te skrap; en

(c) deur na die omskrywing van “rekenpligtige beampte” die volgende omskrywing in te voeg:

“ ‘Speaker’ die Speaker van die Nasionale Vergadering in artikel 41 van die Grondwet beoog;”.

Act No. 31, 1995 COMMITTEE OF MEMBERS OF PARLIAMENT ON AND INSPECTORS-GENERAL
OF INTELLIGENCE AMENDMENT ACT, 1995

Substitution of section 2 of Act 40 of 1994

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

“Establishment of Committee on Intelligence

2. (1) There is hereby established a Parliamentary Committee to be known as the **[the Committee of Members of Parliament on Intelligence]** Joint Standing Committee on Intelligence, which shall, subject to the Constitution, perform the oversight functions set out in this Act in relation to the intelligence and counter-intelligence functions of the Services, and report thereon to Parliament.

(2) The Committee shall consist of—

- (a) nine members of the Majority Party in Parliament;
- (b) three members of the Largest Minority Party in Parliament;
- (c) one member of the second Largest Minority Party in Parliament; and
- (d) one member of each other political party represented in Parliament:

Provided that if any political party is unwilling to serve or to continue to serve on the Committee, the membership of such political party shall not be allocated to any other political party and the Committee shall nevertheless be deemed to be properly constituted.

(3) (a) A member referred to in subsection (2) shall be appointed by the Speaker or the President of the Senate, depending upon the House of Parliament from which the member is appointed, acting with the concurrence of the President, who shall act with the concurrence of the leader of the political party concerned.

(b) In the event that agreement is not reached in respect of the appointment of a particular member, the matter shall be referred for determination to a committee consisting of the President, the Speaker, the President of the Senate and the leader of the political party concerned, and the decision of the committee shall be final.

(c) The Committee shall within a period of two years after its first meeting review the appointment procedures referred to in paragraphs (a) and (b).

(4) The Speaker and the President of the Senate acting with the concurrence of the President, who shall act after consultation with the leaders of the political parties represented on the Committee, shall appoint a member of Parliament, excluding a member appointed to the Committee in terms of subsection (3), as the chairperson of the Committee.

(5) A member of the Committee—

(a) shall, subject to paragraph (b), be appointed as a member until the Parliament to which he or she has been elected under the Constitution, is dissolved in terms of the Constitution;

(b) shall be replaced with a member of his or her party in accordance with subsection (3) or (4), as the case may be—

- (i) at the request of the leader of his or her party; or
- (ii) if he or she has conducted himself or herself in a manner which constitutes a threat to national security in the opinion of the Speaker or the President of the Senate, as the case may be, with the concurrence of the Committee and the President, acting after consultation with the leader of the party concerned.

(c) may resign by notice in writing to the Speaker or the President of the Senate, as the case may be, **[President]** in which event **[the President shall appoint]** a substitute shall be appointed in accordance with paragraph (b) and subsection (3) or (4), as the case may be.

[(d) may receive such remuneration and allowances (if any) as the Commission may determine.]

Vervanging van artikel 2 van Wet 40 van 1994

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

“Instelling van Komitee oor Intelligensie

2. (1) Daar word hierby 'n Parlementêre Komitee bekend as die [Komitee van Parlementslede oor Intelligensie] Gesamentlike Staande Komitee oor Intelligensie ingestel, wat, behoudens die Grondwet, die toesighoudende werksaamhede verrig wat in hierdie Wet uiteengesit word met betrekking tot die intelligensie- en teenintelligensiefunksies van die Dienste, en daaroor aan die Parlement verslag doen.

(2) Die Komitee bestaan uit—

- (a) nege lede van die Meerderheidsparty in die Parlement;
- (b) drie lede van die Minderheidsparty wat die meeste lede in die Parlement het;
- (c) een lid van die Minderheidsparty wat die tweede meeste lede in die Parlement het; en
- (d) een lid van elk van die ander politieke partye wat in die Parlement verteenwoordig is:

Met dien verstande dat indien 'n politieke party nie gewillig is om in die Komitee te dien nie, die lidmaatskap van daardie politieke party nie aan 'n ander politieke party toegewys word nie, maar dat die Komitee nogtans geag word behoorlik saamgestel te wees.

(3) (a) 'n Lid bedoel in subartikel (2) word deur die Speaker of die President van die Senaat aangestel, na gelang van die Huis van die Parlement waaruit die lid aangestel word, wat optree met die instemming van die President, wat met die instemming van die leier van die betrokke politieke party optree.

(b) Indien ooreenkoms nie bereik word met betrekking tot die aanstelling van 'n bepaalde lid nie, word die aangeleentheid verwys vir beslissing na 'n komitee bestaande uit die President, die Speaker, die President van die Senaat en die leier van die betrokke politieke party, en die beslissing van die komitee is afdoende.

(c) Die Komitee moet binne 'n tydperk van twee jaar na sy eerste vergadering die aanstellingsprosedure bedoel in paragrafe (a) en (b) hersien.

(4) Die Speaker en die President van die Senaat, handelende met die instemming van die President, wat optree na oorleg met die leiers van die politieke partye wat lede in die Komitee het, stel 'n lid van die Parlement, welke lid nie ingevolge subartikel (3) in die Komitee aangestel is nie, as voorsitter van die komitee aan.

(5) 'n Lid van die Komitee—

(a) word, behoudens paragraaf (b), as 'n lid aangestel totdat die Parlement waartoe hy of sy kragtens die Grondwet verkies is, ingevolge die Grondwet ontbind;

(b) moet vervang word deur 'n lid van sy of haar party ooreenkomstig subartikel (3) of (4), na gelang van die geval—

- (i) op versoek van die leier van sy of haar party; of
- (ii) indien hy of sy volgens die oordeel van die Speaker of die President van die Senaat, na gelang van die geval, met die instemming van die Komitee en die President, wat optree na oorleg met die leier van die betrokke party, homself of haarself op 'n wyse gedra wat 'n bedreiging vir die nasionale veiligheid uitmaak.

(c) kan by skriftelike kennisgewing aan die Speaker of die President van die Senaat, na gelang van die geval, [President] bedank in watter geval [die President] 'n plaasvervanger ooreenkomstig paragraaf (b) en subartikel (3) of (4), na gelang van die geval, [aanstel] aangestel word.

[(d) kan die besoldiging en toelaes (as daar is) ontvang wat die Kommissie bepaal.]

Act No. 31, 1995 COMMITTEE OF MEMBERS OF PARLIAMENT ON AND INSPECTORS-GENERAL OF INTELLIGENCE AMENDMENT ACT, 1995

(6) (a) The Committee shall meet at such times and follow such procedures as may be prescribed by the rules and orders contemplated in section 58 of the Constitution.

(b) The Committee shall be competent to initiate and recommend any such rules and orders in so far as they relate to the functioning of the Committee. 5

(7) No person other than members of the Committee or members of the staff referred to in subsection (8) may be present during the proceedings of the Committee, except with the permission of the Committee.

(8) The Committee shall be assisted in the performance of its functions by— 10

(a) officers of Parliament designated for that purpose by the Speaker and the President of the Senate; and

(b) persons designated for that purpose by the Minister, after consultation with the Speaker, the President of the Senate, the chairperson and the Heads of the Services.”. 15

Amendment of section 3 of Act 40 of 1994

3. Section 3 of the principal Act is hereby amended by—

(a) the deletion of the expression “(1)”;

(b) the substitution for paragraph (i) of the following paragraph: 20

“(i) to request the officials or bodies referred to in paragraphs (a), (b) and (f) to explain any aspect of a report;”;

(c) by the addition of the following paragraphs:

“(l) to consider and report on the appropriation of revenue or moneys for the functions of the Agency and the South African Secret Service.”. 25

Substitution of section 6 of Act 40 of 1994

4. The following section is hereby substituted for section 6 of the principal Act:

“Report to Parliament

6. (1) The Committee shall, within five months after its first appointment, and thereafter within two months after 31 March in each year, table in Parliament [submit to the President and to each Minister concerned] a report on the activities of the Committee during the preceding year, together with the findings made by it and the recommendations it deems appropriate, and provide a copy thereof to the President and each Minister concerned [and the President shall cause such report to be tabled in Parliament within 15 days of session of Parliament after the report was submitted to him or her]. 30 35

(2) The Committee may at the request of Parliament, the President or the Minister concerned or at any other time which the Committee deems necessary, furnish Parliament, the President or such Minister with a special report concerning any matter relating to the performance of its functions, and shall table a copy of such report in Parliament or furnish the President and the Minister concerned with copies, as the case may be. 40

(3) Nothing shall be included in any report of the Committee, the inclusion of which will be more harmful to the national security than its exclusion will be to the national interest.”. 45

Amendment of section 7 of Act 40 of 1994

5. Section 7 of the principal Act is hereby amended by the substitution in subsection (1) for the proviso of the following proviso: 50

“Provided that—

(i) the same Inspector-General may be appointed with regard to some of or all the Services; and

(ii) if any nomination is not approved as required in paragraph (b), the Committee shall nominate another person.”.

(6) (a) Die Komitee vergader op die tye en volg die prosedure wat by die reëls en orders in artikel 58 van die Grondwet beoog, voorgeskryf word.

(b) Die Komitee is bevoeg om enige sodanige reëls en orders voor te stel en aan te beveel vir sover hulle op die funksionering van die Komitee betrekking het.

(7) Met die uitsondering van lede van die Komitee of lede van die personeel bedoel in subartikel (8) mag niemand gedurende die verrigtings van die Komitee aanwesig wees nie behalwe met die toestemming van die Komitee.

(8) Die Komitee word by die verrigting van sy werksaamhede bygestaan deur—

(a) amptenare van die Parlement wat vir die doel deur die Speaker en die President van die Senaat aangewys is; en

(b) persone wat vir die doel deur die Minister, na oorleg met die Speaker, die President van die Senaat, die voorsitter en die Hoofde van die Dienste, aangewys word.”

Wysiging van artikel 3 van Wet 40 van 1994

3. Artikel 3 van die Hoofwet word hierby gewysig deur—

(a) die uitdrukking “(1)” te skrap;

(b) paragraaf (i) deur die volgende paragraaf te vervang:

“(i) om die beamptes of liggame bedoel in paragrafe (a), (b) en (f) te versoek om enige aspek van ’n verslag te verduidelik;”;

(c) deur die volgende paragraaf by te voeg:

“(l) om die bewilliging van inkomste en gelde vir die werksaamhede van die Agentskap en die Suid-Afrikaanse Geheime Diens te oorweeg en daarvoor verslag te doen.”.

Vervanging van artikel 6 van Wet 40 van 1994

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

“Verslag aan Parlement

6. (1) Die Komitee lê binne vyf maande na sy eerste aanstelling en daarna binne twee maande na 31 Maart in elke jaar ’n verslag in die Parlement ter Tafel [aan die President en aan elke betrokke Minister ’n verslag voor] aangaande die bedrywighede van die Komitee gedurende die voorafgaande jaar, tesaam met sy bevindings en die aanbevelings wat hy geskik ag, en besorg ’n afskrif daarvan aan die President en aan elke betrokke Minister [en die President laat so ’n verslag in die Parlement ter Tafel lê binne 15 sittingsdae van die Parlement, nadat die verslag aan hom of haar voorgelê is].

(2) Die Komitee kan op versoek van die Parlement, die President of die betrokke Minister of te eniger tyd wat die Komitee nodig ag die Parlement, die President of so ’n Minister voorsien van ’n spesiale verslag betreffende die verrigting van sy werksaamhede, en moet ’n afskrif van sodanige verslag in die Parlement ter Tafel lê of afskrifte aan die President en die betrokke Minister besorg, na gelang van die geval.

(3) Die verslag van die Komitee bevat niks ten opsigte waarvan die insluiting daarvan skadeliker vir die nasionale veiligheid sal wees as wat die uitsluiting daarvan vir die nasionale belang sal wees nie.”.

Wysiging van artikel 7 van Wet 40 van 1994

5. Artikel 7 van die Hoofwet word hierby gewysig deur in subartikel (1) die voorbehoudsbepaling deur die volgende voorbehoudsbepaling te vervang:

“Met dien verstande dat—

(i) dieselfde Inspekteur-generaal met betrekking tot sommige of al die Dienste aangewys kan word; en

(ii) indien ’n benoeming nie volgens voorskrif van paragraaf (b) goedgekeur word nie, die Komitee ’n ander persoon moet benoem.”.

Act No. 31, 1995 COMMITTEE OF MEMBERS OF PARLIAMENT ON AND INSPECTORS-GENERAL OF INTELLIGENCE AMENDMENT ACT, 1995

Substitution of section 8 of Act 40 of 1994

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

“Regulations

8. (1) A Minister acting with the concurrence of the Committee may make regulations as to all matters which are necessary or expedient for the achievement of the purposes of this Act, including but not limited to—

- (a) the conditions of employment of Inspectors-General;
- (b) the exercise of their powers and the performance of their functions by Inspectors-General;
- (c) the reports to be submitted by Inspectors-General and the Heads of Services;
- (d) the suspension or removal from office of Inspectors-General;
- (e) an oath or affirmation of secrecy to be subscribed by members and staff of the Committee, the leaders of political parties represented or willing to serve on the Committee, and staff appointed in terms of section 7(12);
- (f) anything which shall or may be prescribed by regulation under this Act.

(2) A regulation made under this section need not be published in the *Gazette*, but shall be notified to any person affected thereby in such manner as the Minister concerned acting with the concurrence of the Committee may determine.”

Substitution of section 9 of Act 40 of 1994

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

“Short title [and commencement]

9. This Act shall be called the [Committee of Members of Parliament on and Inspectors-General of Intelligence] Intelligence Services Control Act, 1994 [and shall come into operation on a date fixed by the President by proclamation in the *Gazette*].”

Short title

8. This Act shall be called the Committee of Members of Parliament on and Inspectors-General of Intelligence Amendment Act, 1995.

Vervanging van artikel 8 van Wet 40 van 1994

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

“Regulasies

- 5 8. (1) 'n Minister, handelende met die instemming van die Komitee, kan
regulasies uitvaardig aangaande alle aangeleenthede wat nodig of dienstig
is om die oogmerke van hierdie Wet te verwesenlik, met inbegrip van,
maar nie beperk nie tot—
 (a) die diensvoorwaardes van Inspekteurs-generaal;
 (b) die uitoefening van hul bevoegdhede en die verrigting van hul
10 werksaamhede, deur Inspekteurs-generaal;
 (c) die verslae wat deur Inspekteurs-generaal en Hoofde van Dienste
voorgelê moet word;
 (d) die skorsing of ampsontheffing van Inspekteurs-generaal;
 (e) 'n eed of bevestiging van geheimhouding wat afgelê of gedoen moet
15 word deur lede en personeellede van die Komitee, die leiers van
politieke partye wat in die Komitee verteenwoordig is of gewillig is
om daarin te dien, en die personeellede ingevolge artikel 7(12)
aangestel;
 (f) enigiets wat kragtens hierdie Wet by regulasie voorgeskryf moet of
20 kan word.
 (2) 'n Regulasie wat ingevolge hierdie artikel uitgevaardig word, hoef
nie in die *Staatskoerant* gepubliseer te word nie, maar word op die wyse
wat die betrokke Minister, met die instemming van die Komitee bepaal,
aan enigiemand op wie dit van toepassing is, bekend gemaak.”.

25 Vervanging van artikel 9 van Wet 40 van 1994

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

“Kort titel [en inwerkingtreding]

- 30 9. Hierdie Wet heet die Wet op [die Komitee van Parlementslede oor
en Inspekteurs-generaal van Intelligensie] Beheer oor Intelligensie-
dienste, 1994 [en tree in werking op 'n datum deur die President by
proklamasie in die Staatskoerant bepaal].”.

Kort titel

8. Hierdie Wet heet die Wysigingswet op die Komitee van Parlementslede oor en
Inspekteurs-generaal van Intelligensie, 1995.



