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No. 36695

THE PRESIDENCY

No. 528 23 July 2013

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

Act No. 11 of 2013: General Intelligence Laws Amendment Act, 2013

DIE PRESIDENSIE

No. 528 23 Julie 2013

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

Wet No 11 van 2013: Algemene Wysigingswet op Intelligensiewette, 2013



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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 President)
(Assented to 19 July 2013)

ACT

To amend the National Strategic Intelligence Act, 1994, the Intelligence Services Oversight Act, 1994, and the Intelligence Services Act, 2002, and repeal the Electronic Communications Security (Pty) Ltd Act, 2002, so as to accommodate the establishment of the State Security Agency as a body into which certain governments components are absorbed; to effect technical amendments to certain laws brought about by the abolishment of those government components; to effect certain other technical amendments to laws; 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 39 of 1994, as amended by section 1 of Act 37 of 1998, section 24 of Act 66 of 2000, section 1 of Act 67 of 2002 and section 1 of Act 52 of 2003

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:
- “ ‘Agency’ means the [National Intelligence] State Security Agency 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 “counter-intelligence” of the following definition:
- “ ‘counter-intelligence’ means measures and activities conducted, instituted or taken to impede and to neutralise the effectiveness of foreign or hostile intelligence operations, to protect intelligence and any classified information, to conduct [security screening] vetting investigations and to counter [subversion, treason, sabotage and terrorism aimed at or against personnel, strategic installation or resources of the Republic] any threat or potential threat to national security;”;
- (c) by the substitution for the definition of “departmental intelligence” of the following definition:
- “ ‘departmental intelligence’ means intelligence [about any] on any threat or potential threat to [the] national security [and stability of the Republic] which falls within the functions of a department of State, and includes intelligence needed by such department in order to neutralise such a threat;”;

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk en vierkantige hake dui uitlatings uit
bestaande verordenings aan.

_____ Woorde wat onderstreep is dui invoegings in bestaande
verordenings aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 19 Julie 2013)

WET

Tot wysiging van die Wet op Nasionale Strategiese Intelligensie, 1994, die Wet op Toesig oor Intelligensiedienste, 1994, en die Wet op Intelligensiedienste, 2002, en tot herroeping van die Wet op *Electronic Communications Security (Pty) Ltd*, 2002, ten einde voorsiening te maak vir die stigting van die Staatsveiligheidsagentskap as 'n liggaam waarin sekere regeringskomponente geabsorbeer word; tegniese wysigings aan sekere wette aan te bring wat deur die afskaffing van daardie regeringskomponente nodig gemaak word; sekere ander tegniese wysigings aan wette aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 1 van Wet 39 van 1994, soos gewysig deur artikel 1 van Wet 37 van 1998, artikel 24 van Wet 66 van 2000, artikel 1 van Wet 67 van 2002 en artikel 1 van Wet 52 van 2003

1. Artikel 1 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig—

- (a) deur die volgende omskrywing voor die omskrywing van “Agentskap” in te voeg:
- “**‘aangeleentheid van Staatsveiligheid’** ook enige aangeleentheid wat ingevolge enige nasionale wetsbepaling geklassifiseer is en deur die Agentskap hanteer word, of betreffende die werksaamhede van die Agentskap of die verhouding tussen enige persoon en die Agentskap;”;
- (b) deur die omskrywing van “Agentskap” deur die volgende omskrywing te vervang:
- “**‘Agentskap’** die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap soos bedoel in artikel 3(1) van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002);”;
- (c) deur die omskrywing van “binnelandse intelligensie” deur die volgende omskrywing te vervang:
- “**‘binnelandse intelligensie’** intelligensie [aangaande] oor enige interne [bedrywigheid, faktor of ontwikkeling wat vir die nasionale stabiliteit van die Republiek nadelig is, sowel as bedreigings of potensiële bedreigings van die staatsbestel van die Republiek en die veiligheid en welsyn van sy mense] bedreiging of potensiële bedreiging vir nasionale veiligheid;”;

- (d) by the substitution for the definition of “domestic intelligence” of the following definition:
- “**‘domestic intelligence’** means intelligence on any internal [activity, factor or development which is detrimental to the national stability of the Republic, as well as threats or potential threats to the constitutional order of the Republic and the safety and the well-being of its people] threat or potential threat to national security;”;
- (e) by the insertion after the definition of “foreign military intelligence” of the following definition:
- “**‘intelligence’** means any information obtained and processed by a National Intelligence Structure for the purposes of informing any government decision or policy-making process carried out in order to protect or advance the national security, and includes—
- (a) counter-intelligence;
 - (b) crime intelligence;
 - (c) departmental intelligence;
 - (d) domestic intelligence;
 - (e) domestic military intelligence;
 - (f) foreign intelligence; and
 - (g) foreign military intelligence;”;
- (f) by the substitution for the definition of “National Intelligence Structures” of the following definition:
- “**‘National Intelligence Structures’** means—
- (a) Nicoc;
 - (b) the intelligence division of the National Defence Force, established under the Defence Act, 2002 (Act No. 42 of 2002);
 - (c) the intelligence division of the South African Police Service; and
 - (d) the Agency; [and
 - (e) the Service];”;
- (g) by the insertion after the definition of “National Intelligence Structures” of the following definition:
- “**‘national security’** includes the protection of the people of the Republic and the territorial integrity of the Republic against—
- (a) the threat of use of force or the use of force;
 - (b) the following acts:
 - (i) Hostile acts of foreign intervention directed at undermining the constitutional order of the Republic;
 - (ii) terrorism or terrorist-related activities;
 - (iii) espionage;
 - (iv) exposure of a state security matter with the intention of undermining the constitutional order of the Republic;
 - (v) exposure of economic, scientific or technological secrets vital to the Republic;
 - (vi) sabotage; and
 - (vii) serious violence directed at overthrowing the constitutional order of the Republic;
 - (c) acts directed at undermining the capacity of the Republic to respond to the use of, or the threat of the use of, force and carrying out of the Republic’s responsibilities to any foreign country and international organisation in relation to any of the matters referred to in this definition, whether directed from, or committed within, the Republic or not,

- (d) deur die omskrywing van “departementele intelligensie” deur die volgende omskrywing te vervang:
 “**‘departementele intelligensie’** intelligensie [**aangaande**] oor enige bedreiging of potensiële bedreiging van [**die**] nasionale veiligheid [**en stabiliteit van die Republiek**] wat binne die werksaamhede van ’n Staatsdepartement val, en ook intelligensie wat deur so ’n departement benodig word ten einde so ’n bedreiging te neutraliseer;”;
- (e) deur die omskrywing van “Diens” te skrap;
- (f) deur die volgende omskrywing na die omskrywing van “Diens” in te voeg:
 “**‘eenhede vir klaringsveldwerk’** in artikel 2A(5A) bedoelde eenhede wat klaringsveldwerk doen;”;
- (g) deur die volgende omskrywing voor die omskrywing van “Intelligensie-koördineerder” in te voeg:
 “**‘intelligensie’** enige inligting verkry en verwerk deur ’n Nasionale Intelligensiestruktuur met die doel om enige regeringsbesluit of beleidmakingsproses in te lig wat uitgevoer word om nasionale veiligheid te beskerm of te bevorder, ook—
 (a) teenintelligensie;
 (b) misdaadintelligensie;
 (c) departementele intelligensie;
 (d) binnelandse intelligensie;
 (e) binnelandse militêre intelligensie;
 (f) buitelandse intelligensie; en
 (g) buitelandse militêre intelligensie;”;
- (h) deur die volgende omskrywing na die omskrywing van “kabinet” in te voeg:
 “**‘klaringsondersoek’** die voorgeskrewe ondersoek wat gedoen word ter bepaling van ’n persoon se veiligheidsbevoegdheid;”;
- (i) deur die omskrywing van “Nasionale Intelligensiestruktuur” deur die volgende omskrywing te vervang:
 “**‘Nasionale Intelligensiestruktuur’**—
 (a) Nikok;
 (b) die intelligensie-afdeling van die Nasionale Weermag ingestel kragtens die ‘Defence Act, 2002’ (Wet No. 42 van 2002);
 (c) die intelligensie-afdeling van die Suid-Afrikaanse Polisiediens; en
 (d) die Agentskap; [**en die Diens**];”;
- (j) deur die volgende omskrywing na die omskrywing van “Nasionale Strategiese Intelligensie” in te voeg:
 “**‘nasionale veiligheid’** ook die beskerming van die mense van die Republiek en die territoriale integriteit van die Republiek teen—
 (a) die bedreiging van die gebruik van geweld of die gebruik van geweld;
 (b) die volgende handelinge:
 (i) Vyandelike handelinge van buitelandse inmenging wat daarop gerig is om die staatkundige orde van die Republiek te ondermyn;
 (ii) terrorisme of aktiwiteite wat met terroriste verband hou;
 (iii) spioenasie;
 (iv) openbaarmaking van ’n aangeleentheid van staatsveiligheid met die bedoeling om die staatkundige orde van die Republiek te ondermyn;
 (v) openbaarmaking van ekonomiese, wetenskaplike of tegnologiese geheime van hoogste belang vir die Republiek;
 (vi) sabotasie; en
 (vii) ernstige geweld gerig op die omverwerping van die staatkundige orde van die Republiek;
 (c) handelinge gerig op die ondermyning van Republiek se kapasiteit om te reageer op die gebruik van, of dreigement van gebruik van, geweld en nakoming van die Republiek se verantwoordelikhede teenoor enige vreemde land en internasionale organisasies ten opsigte van enige van die aangeleenthede in hierdie omskrywing bedoel, hetsy vanuit die Republiek gerig, of gepleeg, al dan nie,

- but does not include lawful political activity, advocacy, protest or dissent;”;
- (h) by the substitution for the definition of “relevant members of the National Intelligence Structures” of the following definition:
- “**‘relevant members of the National Intelligence Structures’** means—
- (a) the intelligence division of the National Defence Force;
- (b) the intelligence division of the South African Police Service; and
- (c) the Agency; **and**
- (d) **the Service**];
- (i) by the insertion after the definition of “relevant members of the National Intelligence Structures” of the following definition:
- “**‘security competence’** means a person’s ability to act in such a manner that he or she does not cause classified information or material to fall into unauthorised hands, thereby harming or endangering the security or interests of the State, and is measured against a person’s—
- (a) susceptibility to extortion or blackmail;
- (b) amenability to bribes and susceptibility to being compromised due to his or her behaviour; and
- (c) loyalty to the State and the relevant institution;”;
- (j) by the deletion of the definition of “Service”;
- (k) by the insertion after the definition of “South African Police Service” of the following definitions:
- “**‘state security matter’** includes any matter which has been classified in terms of any national law and which is dealt with by the Agency or which relates to the functions of the Agency or to the relationship existing between any person and the Agency;
- ‘terrorist and related activities’** means terrorist and related activities as defined in section 1 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004);”;
- and
- (l) by the insertion after the definition of “this Act” of the following definitions:
- “**‘vetting field work units’** means vetting field work units referred to in section 2A(5A);
- ‘vetting investigation’** means the prescribed investigation followed in determining a person’s security competence;”.

Amendment of section 2 of Act 39 of 1994, as amended by section 2 of Act 37 of 1998 and section 2 of Act 67 of 2002

2. Section 2 of the National Strategic Intelligence Act, 1994, is hereby amended—
- (a) by the substitution in subsection (1)(a) for the words preceding subparagraph (i) of the following words:
- “to gather, correlate, evaluate and analyse domestic and foreign intelligence (excluding foreign military intelligence), in order to—”;
- (b) by the substitution in subsection (1)(a) for subparagraph (i) of the following subparagraph:
- “(i) identify any threat or potential threat to **[the security of the Republic or its people]** national security;”;
- (c) by the insertion in subsection (1)(b) after subparagraph (iv) of the following subparagraph:
- “(ivA) supply intelligence relating to any such threat to any other department of State for the purposes of fulfilment of its departmental functions; and”;
- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- “It shall, subject to section 3, also be the functions of the **[Service]** Agency—”;

- maar nie ook wettige politieke aktiwiteit, voorspraak, verset of menings- |
verskille nie.”;
- (k) deur die omskrywing van “teenintelligensie” deur die volgende omskrywing
te vervang:
- “**“teenintelligensie”** maatreëls en bedrywighede verrig, ingestel of 5
getref om die doeltreffendheid van buitelandse of vyandelike
intelligensiebedrywighede te belemmer en te neutraliseer, om
intelligensie en enige geklassifiseerde inligting te beskerm, om
[sekerheidsklaringsbedrywighede] klaringsondersoeke te verrig en om
[ondermyning, hoogverraad, sabotasie en terrorisme wat teen 10
personeel, strategiese installasies of hulpbronne van die Republiek
gerig is,] enige bedreiging of potensiële bedreiging vir nasionale
veiligheid teen te werk;”;
- (l) deur die volgende omskrywing na die omskrywing van “teenintelligensie” in
te voeg:
- “**“terroriste- en verwante aktiwiteite”** terroriste- en verwante 15
aktiwiteite soos omskryf in artikel 1 van die Wet op Beskerming van
Konstitusionele Demokrasie teen Terroriste- en Verwante Aktiwiteite,
2004 (Wet No. 33 van 2004);”;
- (m) deur die omskrywing van “tersaaklike lede van die Nasionale Intelligensie-
strukture” deur die volgende omskrywing te vervang:
- “**“tersaaklike lede van die Nasionale Intelligensiestrukture”**—
(a) die intelligensie-afdeling van die Nasionale Weermag;
(b) die intelligensie-afdeling van die Suid-Afrikaanse Polisiediens; en
(c) die Agentskap; [en 25
(d) die Diens];”;
- (n) deur die volgende omskrywing na die omskrywing van “tersaaklike lede van
Nasionale Intelligensiestrukture” in te voeg:
- “**“veiligheidsbevoegdheid”** ’n persoon se vermoë om op so ’n wyse op 30
te tree dat hy of sy nie veroorsaak dat geklassifiseerde inligting of
materiaal in ongemagtigde hande beland nie, en daardeur die veiligheid
of belange van die Staat skade berokken, en word gemeet teenoor ’n
persoon se—
(a) vatbaarheid vir afpersing of afdreiging;
(b) insiklikheid vir oomkoopgeld en vatbaarheid om gekompromitteer 35
te word as gevolg van sy of haar gedrag; en
(c) lojaliteit aan die Staat en die tersaaklike instelling;”.

**Wysiging van artikel 2 van Wet 39 van 1994, soos gewysig deur artikel 2 van Wet
37 van 1998 en artikel 2 van Wet 67 van 2002**

**2. Artikel 2 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby 40
gewysig—**

- (a) deur in subartikel (1)(a) die woorde wat subparagraaf (i) voorafgaan deur die
volgende woorde te vervang:
- “om binnelandse en buitelandse intelligensie (buitelandse militêre
intelligensie uitgesluit) in te samel, te korreleer, te evalueer en te ontleed 45
ten einde”;
- (b) deur subparagraaf (i) in subartikel (1)(a) deur die volgende subparagraaf te
vervang:
- “(i) enige bedreiging of potensiële bedreiging vir [die veiligheid van
die Republiek of sy mense] nasionale veiligheid te identifiseer;” 50
- (c) deur na paragraaf (iv) in subartikel (1)(b) die volgende subparagraaf in te
voeg:
- “(ivA) intelligensie betreffende enige sodanige bedreiging aan enige
ander staatsdepartement voorsien met die oog op die vervulling
van sy departementele werksaamhede; en”;
- (d) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die
volgende woorde te vervang:
- “Dit is, behoudens artikel 3, ook die werksaamhede van die [Diens]
Agentskap—”;

- (e) by the substitution in subsection (2) for paragraphs (b) and (c) of the following paragraphs, respectively:
- “(b) **[to institute]** in the prescribed manner, and in regard to communications and cryptography—
- (i) **[counter-intelligence measures within the Service; and]** to identify, protect and secure critical electronic communications and infrastructure against unauthorised access or technical, electronic or any other related threats;
- (ii) **[in consultation with the Agency, counter-intelligence measures outside the Republic; and]** to provide cryptographic and verification services for electronic communications security systems, products and services used by organs of state;
- (iii) to provide and coordinate research and development with regard to electronic communications security systems, products and services and any other related services;
- (c) to **[gather departmental intelligence at the request of any interested department of State, and, without delay to evaluate and transmit such intelligence and any other intelligence at the disposal of the Agency and which constitutes departmental intelligence, to the department concerned and to Nicoc]** liaise with intelligence or security services or other authorities, of other countries or inter-governmental forums of intelligence or security services.”;
- (f) by the addition to subsection (2) of the following paragraphs:
- “(d) to train and support users of electronic communications systems, products and related services;
- (e) to develop, design, procure, invent, install or maintain secure electronic communications systems or products and do research in this regard; and
- (f) to cooperate with any organisation in the Republic or elsewhere to achieve its objectives.”; and
- (g) by the insertion after subsection (2) of the following subsection:
- “(2A) When performing any function referred to in subsection 2(b) the Agency is exempted from any licensing requirement contemplated in—
- (a) the Broadcasting Act, 1999 (Act No. 4 of 1999); and
- (b) the Electronic Communications Act, 2005 (Act No. 36 of 2005).”.

Amendment of section 2A of Act 39 of 1994, as amended by section 3 of Act 67 of 2002 and section 2 of Act 52 of 2003

3. Section 2A of the National Strategic Intelligence Act, 1994, is hereby amended—
- (a) by the substitution for the heading of the following heading:
- “**[Security screening] Vetting investigations**”;
- (b) 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] vetting** investigation in the prescribed manner to determine the security competence of a person if such a person—”;
- (c) by the substitution for subsections (2) and (3) of the following subsections, respectively:
- “(2) The Agency shall be responsible for **[security screening] vetting** of persons contemplated in subsection (1) and, on request of the South African Police Service[, **the Service**] or the National Defence Force, persons employed by, applicants to or persons rendering a service to the South African Police Service[, **the Service**] or the Department of Defence and Military Veterans.
- (3) Notwithstanding the provisions of subsection (2) the Agency may request the assistance of the South African Police Service, **[or]** the

- (e) deur paragrawe (b) en (c) in subartikel (2) onderskeidelik deur die volgende paragrawe te vervang:
- “(b) **[om]** op die voorgeskrewe wyse en betreffende kommunikasies en kriptografie—
- (i) **[teenintelligensiemaatreëls in die Diens; en]** kritieke elektroniese kommunikasies en infrastruktuur te identifiseer en teen ongemagtigde toegang of tegniese, elektroniese of enige ander verwante bedreigings te beskerm en beveilig;
 - (ii) **[in oorleg met die Agentskap, teenintelligensiemaatreëls buite die Republiek, in te stel; en]** om kriptografie- en verifiëeringsdienste te voorsien vir elektroniese kommunikasies-veiligheidstelsels, produkte en dienste wat deur staatsorgane gebruik word;
 - (iii) om navorsing en ontwikkeling betreffende elektroniese kommunikasies-veiligheidstelsels, produkte en dienste en enige ander verwante dienste te voorsien en te koördineer;
- (c) om **[departementele intelligensie in te samel op versoek van enige belanghebbende Staatsdepartement, en om sonder versuim sodanige intelligensie en enige ander intelligensie tot die beskikking van die Diens en wat departementele intelligensie uitmaak, te evalueer en aan die betrokke departement deur te stuur]** met intelligensie- of sekuriteitsdienste of ander owerhede van ander lande of interregeringsforums van intelligensie- of sekuriteitsdienste te skakel.”;
- (f) deur in subartikel (2) die volgende paragrawe by te voeg:
- “(d) om gebruikers van elektroniese kommunikasiestelsels, produkte en verwante dienste op te lei en te ondersteun;
- (e) om veilige kommunikasiestelsels of -produkte te ontwikkel, ontwerp, verkry, uit te vind, installeer of onderhou en navorsing in hierdie opsig te doen; en
- (f) om met enige organisasie in die Republiek of elders saam te werk om sy oogmerke te bereik.”; en
- (g) deur die volgende subartikel na subartikel (2) in te voeg:
- “(2A) Wanneer enige werksaamheid in subartikel (2)(b) bedoel verrig word, is die Agentskap vrygestel van enige lisensiëringsvereiste beoog in—
- (a) die Uitsaaiwet, 1999 (Wet No. 4 van 1999);
 - (b) die Wet op Elektroniese Kommunikasie, 2005 (Wet No. 36 van 2005).”.

Wysiging van artikel 2A van Wet 39 van 1994, soos gewysig deur artikel 3 van Wet 67 van 2002 en artikel 2 van Wet 52 van 2003

3. Artikel 2A van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:
- “**[Veiligheidskeuringsondersoeke] Klaringsondersoeke**”;
- (b) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Die betrokke lede van die Nasionale Intelligensiestrukture kan ’n **[veiligheidskeuringsondersoek]** **klaringsondersoek** op die voorgeskrewe wyse uitvoer om die veiligheidsbevoegdheid van ’n persoon vas te stel indien so ’n persoon—”;
- (c) deur subartikel (2) en (3) onderskeidelik deur die volgende subartikels te vervang:
- “(2) Die Agentskap is verantwoordelik vir **[veiligheidskeuring]** **klaring** van persone in subartikel (1) beoog en, op versoek van die Suid-Afrikaanse Polisie diens[, **die Diens**] of die Nasionale Weermag, persone in diens van, applikante aan of persone wat ’n diens verskaf aan die Suid-Afrikaanse Polisie diens[, **die Diens**] of die Departement van Verdediging en Militêre Veterane.
- (3) Ondanks die bepalinge van subartikel (2) kan die Agentskap die bystand van die Suid-Afrikaanse Polisie diens, die **[Diens of die**

National Defence Force or the vetting field work units in the performance of the function contemplated in subsection (2).”;

- (d) by the substitution in subsection (4) for paragraph (a) of the following paragraph:

“(a) In performing the [security screening] vetting investigation contemplated in subsection (1), the relevant members of the National Intelligence Structures may use a polygraph to determine the reliability of information gathered during the investigation.”;

- (e) by the insertion after subsection (5) of the following subsection:

“(5A) (a) Departments of State may, at the request of the Agency, establish units to be known as vetting field work units.

(b) Vetting field work units may, on request by the Agency, assist a relevant National Intelligence Structure in gathering the information contemplated in subsection (5).”; and

- (f) by the substitution for subsections (6) and (7) of the following subsections, respectively:

“(6) The head of the relevant National Intelligence Structure or any officials delegated by him or her in writing may, after evaluating the information gathered during the [security screening] vetting investigation, issue, degrade, withdraw or refuse to grant a security clearance.

(7) The head of the relevant National Intelligence Structure may establish a [security screening] Vetting Advisory Board comprising of members or employees of the relevant National Intelligence Structure to assist him or her or any delegated officials contemplated in subsection (6) in the determination of the security [competency] competence of a person.”.

Amendment of section 3 of Act 39 of 1994, as amended by section 3 of Act 37 of 1998

4. Section 3 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:

“If any law expressly or by implication requires any department of State, other than the Agency [or the Service], to perform any function with regard to the security of the Republic or the combating of any threat to the security of the Republic, such law shall be deemed to empower such department to gather departmental intelligence, and to evaluate, correlate and interpret such intelligence for the purpose of discharging such function: Provided that such department of State—”;

- (b) by the deletion in subsection (1)(b) of subparagraph (iii) of the second proviso; and

- (c) by addition of the following subsections:

“(5) Notwithstanding any law to the contrary, no department of State or statutory body shall withhold information in its possession or under its control from the Agency when such information is reasonably required for any investigation in terms of section 2(1) and (2).

(6) It shall be the duty of any of the members of the National Intelligence Structures to immediately transfer any intelligence in its possession that is required by another member of the National Intelligence Structures for the fulfilment of its statutory functions.

(7) The head of an organ of state must ensure that the organ of state under his or her administration procures and accesses electronic communications products with the verification and approval of the Agency.

(8) The head of an organ of state must, at the request of the Agency and in the prescribed manner, submit to the Agency an analysis of the electronic communications security needs of the organ of state under his or her administration.”.

Departement van Verdediging] Nasionale Weermag of eenhede vir klaringsveldwerk versoek in die uitvoer van die werksaamheid in subartikel (2) beoog;”;

- (d) deur paragraaf (a) in subartikel (4) deur die volgende paragraaf te vervang: 5
 “(a) In die uitvoer van die **[veiligheidskeuringondersoek]** klaringsondersoek in subartikel (1) beoog, kan die betrokke lede van die Nasionale Intelligensiestrukture ’n poligraaf gebruik om die betroubaarheid van die inligting wat tydens die ondersoek ingesamel is, te bepaal;”;
- (e) deur die volgende subartikel na subartikel (5) in te voeg: 10
 “(5A) (a) Staatsdepartemente kan, op versoek van die Agentskap, eenhede stig wat as eenhede vir klaringsondersoeke bekend moet staan.
 (b) Eenhede vir klaringsveldwerk kan, op versoek van die Agentskap, ’n toepaslike Nasionale Intelligensiestrukture bystaan in die insameling van inligting in subartikel (5) beoog.”; en 15
- (f) deur subartikel (6) en (7) onderskeidelik deur die volgende subartikels te vervang: 20
 “(6) Die hoof van die betrokke Nasionale Intelligensiestrukture of enige beamptes skriftelik deur hom of haar gedelegeer kan, na evaluering van die inligting wat tydens die **[veiligheidskeuringondersoek]** klaringsondersoek ingesamel is, ’n veiligheidsklaring uitreik, afgradeer of terugtrek, of weier om ’n veiligheidsklaring uit te reik.
 (7) Die hoof van die betrokke Nasionale Intelligensiestrukture kan ’n Adviserende Raad op **[Veiligheidskeurings]** Klarings instel, saamgestel uit lede of werknemers van die betrokke Nasionale Intelligensiestrukture, om hom of haar of enige aangewese beamptes in subartikel (6) beoog, met die bepaling van ’n persoon se veiligheidsbevoegdheid by te staan.”. 25

Wysiging van artikel 3 van Wet 39 van 1994, soos gewysig deur artikel 3 van Wet 37 van 1998 30

4. Artikel 3 van die Wet op Nasionale Strategiese Intelligensie, 1994, word hierby gewysig—

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: 35
 “Indien ’n wet uitdruklik of by implikasie van ’n ander Staatsdepartement as die Agentskap **[of die Diens]** vereis om enige werksaamheid met betrekking tot die veiligheid van die Republiek of die bekamping van enige bedreiging vir die veiligheid van die Republiek te verrig, word so ’n wet geag aan so ’n departement die bevoegdheid te verleen om departementele intelligensie in te samel en dit te evalueer, te korreleer en te vertolk ten einde bedoelde werksaamheid te verrig: Met dien verstande dat so ’n Staatsdepartement—”; 40
- (b) deur in subartikel (1)(b) subparagraaf (iii) van die tweede voorbehoudsbepaling te skrap;
- (c) deur die volgende subartikels by te voeg: 45
 “(5) Ondanks enige teenstrydige wetsbepaling mag geen Staatsdepartement of statutêre liggaam inligting wat in sy besit of onder sy beheer is van die Agentskap weerhou wanneer sodanige inligting redelik benodig word vir enige ondersoek ingevolge artikel 2(1) en (2) nie.
 (6) Dit is die plig van enige van die lede van die Nasionale Intelligensiestrukture om enige inligting in hul besit wat ’n ander lid van die Nasionale Intelligensiestrukture vir die verrigting van sy of haar statutêre werksaamhede benodig, onmiddellik oor te dra.
 (7) Die hoof van ’n staatsorgaan moet verseker dat die staatsorgaan onder sy of haar administrasie met die verifiëring en goedkeuring van die Agentskap elektroniese kommunikasieprodukte verkry en toegang daartoe kry. 55
 (8) Die hoof van ’n staatsorgaan moet, op versoek van die Agentskap en op die voorgeskrewe wyse, ’n analise van die elektroniese kommunikasiebehoefes van die staatsorgaan onder sy of haar administrasie aan die Agentskap voorlê.”. 60

Amendment of section 4 of Act 39 of 1994, as amended by section 4 of Act 37 of 1998, section 25 of Act 66 of 2000 and section 4 of Act 67 of 2002

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

- “(1) There is hereby established a National Intelligence Co-ordinating Committee, which shall consist of the following persons: 5
- (a) The Co-ordinator for Intelligence appointed under section 5(1), who shall be the Chairperson;
 - (b) the Director-General of the Agency;
 - (c) the head of the domestic division of the Agency; 10
 - (d) the head of the foreign division of the Agency;
 - (e) the head of the intelligence division of the South African Police Service; and
 - (f) the chief of the intelligence division of the National Defence Force, or the alternates of the said persons, and such members of departments of State who may be co-opted by Nicoc on a permanent or an *ad hoc* basis.”. 15

Insertion of section 5B in Act 39 of 1994

6. The following section is hereby inserted in the National Strategic Intelligence Act, 1994, after section 5A:

“Compliance with Constitution

5B. When performing any function provided for in this Act, the Constitution, in particular section 199(5) and (7), must be duly complied with.”. 20

Amendment of section 6 of Act 39 of 1994, as amended by section 7 of Act 37 of 1998, section 26 of Act 66 of 2000 and section 7 of Act 67 of 2002

7. Section 6 of the National Strategic Intelligence Act, 1994, is hereby amended— 25

- (a) by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

- “(b) the carrying out of [security screening] vetting investigations by members of the National Intelligence Structures;
- (c) the [co-ordination of intelligence as an activity] conduct of counter-intelligence operations, counter-measures and intrusive operations;”;

- (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

- “(f) the [co-ordination of crime intelligence; and] supply of intelligence products to the Minister;”;

- (c) by the deletion in subsection (1) of the word “and” at the end of paragraph (f) and the insertion after that paragraph of the following paragraphs:

- “(fA) the manner and form in which departmental intelligence shall be supplied to State departments; 40
- (fB) the manner and form in which Nicoc may be tasked to gather and produce intelligence products;
- (fC) the provision of staff required for the administration of this Act;
- (fD) any matter necessary for the effective execution and administration of counter-intelligence functions and the co-ordination and interpretation of intelligence products; and”;

- (d) by the substitution for subsection (3) of the following subsection:

“(3) A [security screening] vetting investigation contemplated in subsection (1)(b) may entitle the relevant members of the National Intelligence Structures concerned to subject the person undergoing a [security screening] vetting investigation to a polygraph examination as prescribed, in order to determine the reliability of information provided by him or her.”. 50

Wysiging van artikel 4 van Wet 39 van 1994, soos gewysig deur artikel 4 van Wet 37 van 1998, artikel 25 van Wet 66 van 2000 en artikel 4 van Wet 67 van 2002

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

- “(1) ’n Nasionale Intelligensie Koördineringskomitee word hierby ingestel wat 5
uit die volgende persone sal bestaan:
- (a) Koördineerder vir Intelligensie kragtens artikel 5(1) aangestel, wat die Voorsitter sal wees;
 - (b) die Direkteur-generaal van die Agentskap;
 - (c) die hoof van die binnelandse afdeling van die Agentskap; 10
 - (d) die hoof van die buitelandse afdeling van die Agentskap;
 - (e) die hoof van die intelligensie-afdeling van die Suid-Afrikaanse Polisiediens; en
 - (f) die hoof van die intelligensie-afdeling van die Nasionale Weermag, 15
of die plaasvervangers van die genoemde persone, en sodanige lede van staatsdepartemente wat op ’n permanente of ’n *ad hoc*-basis deur Nikok gekoöpteer kan word.”.

Invoeging van artikel 5B in Wet 39 van 1994

6. Die volgende artikel word hierby na artikel 5A in die Wet op Nasionale Strategiese Intelligensie, 1994, ingevoeg: 20

“Voldoening aan Grondwet

5B. Die Grondwet, veral artikel 199(5) en (7), moet behoorlik nagekom word wanneer enige werksaamheid ingevolge hierdie Wet verrig word.”.

Wysiging van artikel 6 van Wet 39 van 1994, soos gewysig deur artikel 7 van Wet 37 van 1998, artikel 26 van Wet 66 van 2000 en artikel 7 van Wet 67 van 2002 25

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

- (a) deur paragrawe (b) en (c) in subartikel (1) onderskeidelik deur die volgende paragrawe te vervang:
 - “(b) die uitvoer van [sekerheidsklaringsondersoeke] klaringsonder- 30
soeke deur lede van die Nasionale Intelligensiestrukture;
 - (c) [die koördinering van intelligensie as ’n aktiwiteit] die uitvoer van teenintelligensie-operasies, teenmaatreëls en indringende 35
operasies;”;
- (b) deur paragraaf (f) in subartikel (1) deur die volgende paragraaf te vervang: 35
 - “(f) die [koördinering van misdaadintelligensie; en] voorsiening van intelligensieprodukte aan die Minister;”;
- (c) deur in subartikel (1) die woord “en” aan die einde van paragraaf (f) te skrap en die volgende paragrawe na daardie paragraaf in te voeg:
 - “(fA) die wyse en vorm waarop departementele intelligensie aan 40
staatsdepartemente voorsien moet word;
 - (fB) die wyse en vorm waarop Nikok getaak kan word om intelligensie-produkte in te samel en te produseer;
 - (fC) die voorsiening van personeel nodig vir die administrasie van hierdie Wet; 45
 - (fD) enige aangeleentheid nodig vir die doeltreffende uitvoering en administrasie van teenintelligensiewerksaamhede en die koördinasie en vertolking van intelligensieprodukte; en”; en
- (d) deur subartikel (3) deur die volgende subartikel te vervang:
 - “(3) ’n [Sekerheidsklaringsondersoek] Klaringsondersoek beoog in 50
subartikel (1)(b) kan die tersaaklike lede van die betrokke Nasionale Intelligensiestrukture daarop geregtig maak om die persoon wat ’n [sekerheidsklaringsondersoek] klaringsondersoek ondergaan, te onderwerp aan ’n poligraafondersoek soos voorgeskryf ten einde die betroubaarheid vas te stel van inligting deur hom of haar verstrek.”. 55

Amendment of section 1 of Act 40 of 1994, as amended by section 1 of Act 31 of 1995, section 1 of Act 42 of 1999, section 1 of Act 66 of 2002 and section 3 of Act 52 of 2003

8. Section 1 of the Intelligence Services Oversight Act, 1994, is hereby amended—
- (a) by the deletion of the definition of “Academy”;
 - (b) by the substitution for the definition of “Agency” of the following definition:
 “ ‘**Agency**’ means the [National Intelligence] State Security Agency referred in section 3 of the Intelligence Services Act, [1994 (Act No. 38 of 1994)] 2002 (Act No. 65 of 2002);”;
 - (c) by the deletion of the definition of “CEO”;
 - (d) by the deletion of the definition of “Comsec”;
 - (e) by the substitution for the definition of “Head of a Service” of the following definition:
 “ ‘**Head of a Service**’ means the Director-General of the Agency [or of the South African Secret Service], the head of the Intelligence Division of the National Defence Force or the head of the Intelligence Division of the South African Police Service, but for the purposes of financial and administrative accounting, the head of the Intelligence Division of the South African National Defence Force means the Secretary for Defence and of the South African Police Service means the National Commissioner;”;
 - (f) by the deletion of the definition of “intelligence services”;
 - (g) by the deletion of the definition of “Intelligence Services Entities”;
 - (h) by the substitution for the definition of “Services” of the following definition:
 “ ‘**Services**’ means the Agency, [the South African Secret Service,] the Intelligence Division of the National Defence Force and the Intelligence Division of the South African Police Service;”; and
 - (i) by the deletion of the definition of “South African Secret Service”.

Amendment of section 2 of Act 40 of 1994, as amended by section 2 of Act 31 of 1995, section 2 of Act 42 of 1999, section 2 of Act 66 of 2002 and section 4 of Act 52 of 2003

9. Section 2 of the Intelligence Services Oversight Act, 1994, is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 “(b) in respect of the administration, financial management and expenditure of the [Intelligence Services Entities] Office,”.

Amendment of section 3 of Act 40 of 1994, as amended by section 3 of Act 31 of 1995, section 3 of Act 42 of 1999, section 3 of Act 66 of 2002, section 61 of Act 70 of 2002 and section 5 of Act 52 of 2003

10. Section 3 of the Intelligence Services Oversight Act, 1994, is hereby amended—
- (a) by the substitution in paragraph (a)(i) for the words preceding item (aa) of the following words:
 “the Auditor-General an audit report compiled in accordance with section [4(6) of the Auditor-General Act, 1995 (Act No. 12 of 1995)] 22 of the Public Audit Act, 2004 (Act No. 25 of 2004), and after obtaining the report, to consider—”;
 - (b) by the substitution in paragraph (a)(i) for item (aa) of the following item:
 “(aa) the financial statements of the Services[, Academy and Comsec] and the Office;”;
 - (c) 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 and the [Intelligence Services Entities] Office;”;

Wysiging van artikel 1 van Wet 40 van 1994, soos gewysig deur artikel 1 van Wet 31 van 1995, artikel 1 van Wet 42 van 1999, artikel 1 van Wet 66 van 2002 en artikel 3 van Wet 52 van 2003

8. Artikel 1 van die Wet op Toesig oor Intelligensiedienste, 1994, word hierby gewysig—

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

“**‘Agentskap’** die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap bedoel in artikel 3 van die Wet op Intelligensiedienste, [1994 (Wet No. 38 van 1994)] 2002 (Wet No. 65 van 2002);”;
- (b) deur die omskrywing van “Akademie” te skrap;
- (c) deur die omskrywing van “Comsec” te skrap;
- (d) deur die omskrywing van “Dienste” deur die volgende omskrywing te vervang:

“**‘Dienste’** die Agentskap, [die Suid-Afrikaanse Geheime diens], die Inligtingsafdeling van die Nasionale Weermag en die Intelligensieafdeling van die Suid-Afrikaanse Polisiediens;”;
- (e) deur die omskrywing van “Hoof van ’n Diens” deur die volgende omskrywing te vervang:

“**‘Hoof van ’n Diens’** die Direkteur-generaal van die Agentskap [of van die Suid-Afrikaanse Geheime diens], die hoof van die Intelligensieafdeling van die Nasionale Weermag of die hoof van die Intelligensieafdeling van die Suid-Afrikaanse Polisiediens, maar vir die doeleindes van finansiële en administratiewe rekenpligtigheid, die hoof van die Intelligensieafdeling van die Nasionale Weermag die Sekretaris van Verdediging en vir die Suid-Afrikaanse Polisiediens die Nasionale Kommissaris;”;
- (f) deur die omskrywing van “HUB” te skrap;
- (g) deur die omskrywing van “intelligensiedienste” te skrap;
- (h) deur die omskrywing van “Intelligensiedienste-entiteite” te skrap; en
- (i) deur die omskrywing van “Suid-Afrikaanse Geheime diens” te skrap.

Wysiging van artikel 2 van Wet 40 van 1994, soos gewysig deur artikel 2 van Wet 31 van 1995, artikel 2 van Wet 42 van 1999, artikel 2 van Wet 66 van 2002 en artikel 4 van Wet 52 van 2003

9. Artikel 2 van die Wet op Toesig oor Intelligensiedienste, 1994, word hierby gewysig deur paragraaf (b) in subartikel (1) deur die volgende paragraaf te vervang:

- “(b) ten opsigte van die administrasie, finansiële bestuur en besteding van die [Intelligensiedienste-entiteite] Kantoor.”.

Wysiging van artikel 3 van Wet 40 van 1994, soos gewysig deur artikel 3 van Wet 31 van 1995, artikel 3 van Wet 42 van 1999, artikel 3 van Wet 66 van 2002, artikel 61 van Wet 70 van 2002 en artikel 5 van Wet 52 van 2003

10. Artikel 3 van die Wet op Toesig oor Intelligensiedienste, 1994, word hierby gewysig—

- (a) deur in paragraaf (a)(i) die woorde wat item (aa) voorafgaan deur die volgende woorde te vervang:

“van die Ouditeur-generaal ’n ouditverslag te verkry wat saamgestel is in ooreenstemming met artikel 4(6) van die Wet op die Ouditeur-generaal, 1995 (Wet No. 12 van 1995)] 22 van die Wet op Openbare Oudit, 2004 (Wet No. 25 van 2004), en om, nadat die verslag verkry is—”;
- (b) deur in paragraaf (a)(i) item (aa) deur die volgende item te vervang:

“(aa) die finansiële state van die Dienste, [Akademie en Comsec] en die Kantoor;”;
- (c) deur in paragraaf (a)(i) item (cc) deur die volgende item te vervang:

“(cc) enige verslae wat deur die Ouditeur-generaal uitgereik is oor die sake van die Dienste en die [Intelligensiedienste-entiteite] Kantoor;”;

- (d) by the substitution in paragraph (a) for subparagraph (iii) of the following subparagraph:
- “(iii) any designated judge 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), a report regarding the functions performed by him or her in terms of that Act, including statistics regarding such functions, together with any comments or recommendations which such designated judge may deem appropriate: Provided that such report shall not disclose any information contained in an application or direction referred to in that Act;”;
- (e) by the substitution in paragraph (a) for subparagraph (iv) of the following subparagraph:
- “(iv) the Ministers responsible for the Services and the **[Intelligence Services Entities] Office**, a report regarding the budget for each Service or **[Entity for which he or she is responsible] the Office**, as the case may be;”;
- (f) by the substitution for paragraphs (d) and (e) of the following paragraphs, respectively:
- “(d) to review and make recommendations on regulations made under section 6 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), and regulations regarding the intelligence and counter-intelligence functions of **[a Service] the Agency**, made under section **[29] 37** of the Intelligence Services Act, **[1994 (Act No. 38 of 1994)] 2002** (Act No. 65 of 2002), section **[87] 82** of the Defence Act, **[1957, (Act No. 44 of 1957)] 2002** (Act No. 42 of 2002), or section 24 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (e) to review and make recommendations regarding interdepartmental co-operation and the rationalisation and demarcation of functions relating to intelligence and counter-intelligence between the Agency, **[the South African Secret Service,]** the National Defence Force and the South African Police Service;”;
- (g) 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 and the **[Intelligence Services Entities] Office**.”.

Amendment of section 4 of Act 40 of 1994, as amended by section 4 of Act 66 of 2002 and section 6 of Act 52 of 2003

- 11.** 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:
- “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 Office**, 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;”;
- (b) by the substitution in subsection (3) for paragraph (c) of the following paragraph:
- “(c) have the right to be assisted by members of the Services or **[Intelligence Services Entities in question] the Office**, as the case may be.”.

- (d) deur subparagraaf (iii) in paragraaf (a) deur die volgende subparagraaf te vervang:
- (iii) van 'n aangewese regter soos omskryf in artikel 1 van die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002 (Wet No. 70 van 2002), 'n verslag te verkry betreffende die werksaamhede deur hom of haar ingevolge daardie Wet verrig, met inbegrip van statistieke betreffende sodanige werksaamhede, saam met die kommentaar of aanbevelings wat so 'n aangewese regter geskik ag: Met dien verstande dat so 'n verslag nie enige informasie vervat in 'n aansoek of lasgewing bedoel in daardie Wet mag openbaar nie;";
- (e) deur subparagraaf (iv) in paragraaf (a) deur die volgende subparagraaf te vervang:
- “(iv) van die Ministers wat vir die Dienste en die **[Intelligensiedienste-entiteite]** Kantoor verantwoordelik is, 'n verslag betreffende die begroting vir elke Diens of **[Entiteit waarvoor hy of sy verantwoordelik is]** Kantoor, na gelang van die geval, te verkry;”;
- (f) deur paragraaf (d) en (e) onderskeidelik te vervang:
- “(d) om regulasies kragtens artikel 6 van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994), uitgevaardig, en regulasies betreffende die intelligensie- en teenintelligensie-werksaamhede van **[’n Diens]** die Agentskap wat kragtens artikel [29] 37 van die Wet op Intelligensiedienste, **[1994 (Wet No. 38 van 1994)]** 2002 (Wet No. 65 van 2002), artikel [87] 82 van die **[Verdedigingswet, 1957 (Wet No. 44 van 1957)]** ‘Defence Act, 2002’ (Wet No. 42 van 2002), of artikel 24 van die Wet op die Suid-Afrikaanse Polisie, 1995 (Wet No. 68 van 1995), uitgevaardig is, te hersien en aanbevelings daaroor te doen;
- (e) om interdepartementele samewerking en die rasionalisering en afbakening van werksaamhede betreffende intelligensie en teenintelligensie tussen die Agentskap, **[die Suid-Afrikaanse Geheime diens,** die Nasionale Weermag en die Suid-Afrikaanse Polisie diens te hersien en aanbevelings daaroor te doen;”; en
- (g) deur paragraaf (l) deur die volgende paragraaf te vervang:
- “(l) om die bewilliging van inkomste of gelde vir die werksaamhede van die Dienste en die **[Intelligensiedienste-entiteite]** Kantoor te oorweeg en daarvoor verslag te doen.”.

Wysiging van artikel 4 van Wet 40 van 1994, soos gewysig deur artikel 4 van Wet 66 van 2002 en artikel 6 van Wet 52 van 2003

11. Artikel 4 van die Wet op Toesig oor Intelligensiedienste, 1994, word hierby gewysig—

- (a) deur die woorde wat die voorbehoudsbepaling in subartikel (3) voorafgaan, deur die volgende woorde te vervang:
- “Die Komitee kan vir doeleindes van die verrigting van sy werksaamhede van enige Minister wat vir 'n Diens of die Kantoor verantwoordelik is **[of ’n Intelligensiedienste-entiteit]**, die Hoof van 'n Diens, **[die HUB,** die Direkteur of die Inspekteur-generaal vereis om voor hom te verskyn ten einde getuienis af te lê, enige stuk of saak voor te lê en vrae wat aan hom of haar gestel word, te beantwoord;”; en
- (b) deur paragraaf (c) in subartikel (3) deur die volgende paragraaf te vervang:
- “(c) die reg hê om bygestaan te word deur lede van die **[betrokke]** Dienste of **[Intelligensiedienste-entiteite]** die Kantoor, na gelang van die geval.”.

Amendment of section 7 of Act 40 of 1994, as amended by section 5 of Act 31 of 1995, section 5 of Act 42 of 1999, section 7 of Act 66 of 2002, section 7 of Act 52 of 2003 and section 36 of Act 12 of 2004

12. Section 7 of the Intelligence Services Oversight Act, 1994, is hereby amended by the substitution in subsection (10) for paragraph (a) of the following paragraph: 5

“(a) shall comply with all security requirements applicable to the employees of the [intelligence services] Agency; and”.

Amendment of section 1 of Act 65 of 2002, as amended by section 8 of Act 52 of 2003

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

(a) by the deletion of the definition of “Academy”; 10

(b) by the insertion before the definition of “Advisory Committee” of the following definition:

“**‘accounting officer’** means the accounting officer as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);”;

(c) by the substitution for the definition of “Agency” of the following definition: 15

“**‘Agency’** means the [National Intelligence] State Security Agency referred to in section 3;”;

(d) by the insertion after the definition of “Agency” of the following definitions:

“**‘Auditor-General’** means the Auditor-General referred to in section 188 of the Constitution;

‘classified information’ means the State information that has been classified under national legislation;

‘Council’ means the Intelligence Council on Conditions of Service established by section 22;”;

(e) by the deletion of the definition of “Chief Executive Officer”; 20

(f) 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] Agency or of the former National Intelligence Agency, South African Secret Service or South African National Academy of Intelligence whose services have been terminated for any reason;”;

(g) by the deletion of the definition of “Intelligence Services”; 25

(h) by the deletion of the definition of “Intelligence Services Council”; 30

(i) by the insertion after the definition of “regulation” of the following definition: 35

“**‘security competence’** means security competence as defined in section 1 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994);”;

(j) by the deletion of the definition of “Service”; and

(k) by the insertion after the definition of “this Act” of the following definition: 40

“**‘vetting investigation’** means vetting investigation as defined in section 1 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).”.

Wysiging van artikel 7 van Wet 40 van 1994, soos gewysig deur artikel 5 van Wet 31 van 1995, artikel 5 van Wet 42 van 1999, artikel 7 van Wet 66 van 2002, artikel 7 van Wet 52 van 2003 en artikel 36 van Wet 12 van 2004

12. Artikel 7 van die Wet op Toesig oor Intelligensiedienste, 1994, word hierby gewysig deur paragraaf (a) in subartikel (10) deur die volgende paragraaf te vervang: 5

“(a) moet alle veiligheidsvereistes wat op die werknemers van die [intelligensiedienste] Agentskap van toepassing is, nakom; en”.

Wysiging van artikel 1 van Wet 65 van 2002, soos gewysig deur artikel 8 van Wet 52 van 2003

13. Artikel 1 van die Wet op Intelligensiedienste, 2002, word hierby gewysig— 10

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

“‘**Agentskap**’ die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap in artikel 3 bedoel;”;

(b) deur die omskrywing van “Akademie” te skrap; 15

(c) deur die omskrywing van “Diens” te skrap;

(d) deur die volgende omskrywing na die omskrywing van “Direkteur-generaal” in te voeg:

“‘**geklassifiseerde inligting**’ die staatsinligting wat kragtens nasionale wetgewing geklassifiseer is;” 20

(e) deur die omskrywing van “gewese lid” deur die volgende omskrywing te vervang:

“‘**gewese lid**’ enige lid van die [Intelligensiedienste] Agentskap of die [Akademie] voormalige Nasionale Intelligensie-agentskap, Suid-Afrikaanse Geheimeidiens of Suid-Afrikaanse Nasionale Akademie van Intelligensie wie se dienste om enige rede beëindig is;” 25

(f) deur die omskrywing van “Hoof- Uitvoerende Beampte” te skrap;

(g) deur die omskrywing van “Intelligensiedienste” te skrap;

(h) deur die omskrywing van “Intelligensiediensteraad” te skrap;

(i) deur die volgende omskrywing na die omskrywing van “hierdie Wet” in te voeg: 30

“‘**klaringsondersoek**’ klaringsondersoek soos in artikel 1 van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994) bedoel;”;

(j) deur die volgende omskrywing na die omskrywing van “niestatutêre diens” in te voeg: 35

“‘**Ouditeur-generaal**’ die Ouditeur-generaal in artikel 188 van die Grondwet bedoel;”;

(k) deur die volgende omskrywing na die omskrywing van “private ondersoeker” in te voeg: 40

“‘**Raad**’ die Intelligensieraad oor Diensvoorwaardes by artikel 22 ingestel;”;

(l) deur die volgende omskrywing na die omskrywing van “regulasie” in te voeg: “‘**rekenpligtige beampte**’ die rekenpligtige beampte soos omskryf in artikel 1 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);” en 45

(m) deur die volgende omskrywing na die omskrywing van “teenintelligensie” in te voeg:

“‘**veiligheidsbevoegdheid**’ veiligheidsbevoegdheid soos in artikel 1 van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994), bedoel;” 50

Substitution of heading of Chapter II of Act 65 of 2002

14. The following heading is hereby substituted for Chapter II of the Intelligence Services Act, 2002:

“ESTABLISHMENT, COMPOSITION AND ORGANISATION OF AGENCY[, SERVICE AND ACADEMY]”.

5

Amendment of section 3 of Act 65 of 2002

15. Section 3 of the Intelligence Services Act, 2002, is hereby amended—

(a) by the substitution for the heading of the following heading:

“Continued existence of Agency [and Service]”;

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

“The State Security Agency referred to in Schedule 1 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), and established by virtue of Proclamation No. 59 of 2009, continues to exist and consists of the following persons—”;

15

(c) by the insertion after subsection (1) of the following subsection:

“(1A) The following government components listed in Part A of Schedule 3 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), as that Part read immediately prior to the commencement of the General Intelligence Laws Amendment Act, 2013, are hereby absorbed into and make up the State Security Agency:

20

(a) Electronic Communications Security (Pty) Ltd;

(b) the South African National Academy of Intelligence;

(c) the National Intelligence Agency; and

(d) the South African Secret Service.”; and

25

(d) by the substitution for subsection (3) of the following subsection:

“(3) (a) The President must appoint a Director-General for [each of the Intelligence Services] the Agency.

(b) [A] The Director-General is the head and accounting officer of the [Intelligence Service in question] Agency.”.

30

Substitution of section 4 of Act 65 of 2002

16. The following section is hereby substituted for section 4 of the Intelligence Services Act, 2002:

“Composition of Agency [and Service]

4. (1) The Minister must for [each of the Intelligence Services] the Agency—

35

(a) create posts [of] at the equivalent level of Deputy Director-General [and of Assistant Director-General];

(b) establish branches, chief directorates and directorates and prescribe the functions and post structures thereof;

40

(c) establish divisions and components and prescribe the functions and post structures thereof.

(2) The creation of [Deputy Directors-General] posts at the equivalent level of Deputy Director-General must be done in consultation with the President.”.

45

Amendment of section 5 of Act 65 of 2002

17. Section 5 of the Intelligence Services Act, 2002, is hereby amended—

(a) by the substitution for the heading of the following heading:

“Establishment of [South African National Academy of Intelligence] Training Fund for Agency”;

50

(b) by the deletion of subsection (1);

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

“The [Academy] Agency—”;

Vervanging van opskrif van Hoofstuk II van Wet 65 van 2002

14. Die opskrif van Hoofstuk II van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende opskrif vervang:

**“INSTELLING, SAMESTELLING EN ORGANISASIE VAN AGENTS-
SKAP, DIENS EN AKADEMIE”.**

5

Wysiging van artikel 3 van Wet 65 van 2002

15. Artikel 3 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“Voortbestaan van Agentskap [en Diens]”;

(b) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die Staatsveiligheidsagentskap bedoel in Bylae 1 tot die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), ingestel kragtens Proklamasie No. 59 van 2009, bestaan voort en bestaan uit die volgende persone—”;

15

(c) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) Die volgende regeringskomponente genoem in Deel A van Bylae 3 tot die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), soos daardie Deel onmiddellik voor die inwerkingtreding van die Algemene Wysigingswet op Intelligensiewette, 2013, gelees het, word hierby opgeneem deur en vorm die Staatsveiligheidsagentskap:

20

(a) ‘Electronic Communications Security (Pty) Ltd’;

(b) die Suid-Afrikaanse Nasionale Akademie van Intelligensie;

(c) die Nasionale Intelligensie-agentskap; en

(d) die Suid-Afrikaanse Geheimeiens.”; en

25

(d) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) (a) Die President moet ’n Direkteur-generaal vir [elk van die Intelligensiedienste] die Agentskap aanstel.

(b) [’n] Die Direkteur-generaal is die hoof en rekenpligtige beampte van die [betrokke Intelligensiediens] Agentskap.”.

30

Vervanging van artikel 4 van Wet 65 van 2002

16. Artikel 4 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Samestelling van Agentskap [en Diens]

4. (1) Die Minister moet vir [elk van die Intelligensiedienste] die Agentskap—

35

(a) poste [van] op ’n vlak gelyk aan Adjunk-direkteur-generaal [en van Assistent-direkteur-generaal] skep;

(b) takke, hoofdirektorate en direktorate instel en die werksaamhede en postestruktuur daarvan voorskryf;

40

(c) afdelings en komponente instel en die werksaamhede en postestruktuur daarvan voorskryf.

(2) Die skepping van poste [van] op ’n vlak gelyk aan Adjunk-direkteur-generaal moet in oorleg met die President geskied.”.

Wysiging van artikel 5 van Wet 65 van 2002

45

17. Artikel 5 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“Instelling van [Suid-Afrikaanse Nasionale Akademie van Intelligensie] Opleidingsfonds vir Agentskap”;

(b) deur subartikel (1) te skrap;

50

(c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die [Akademie] Agentskap—”;

- (d) by the substitution in subsection (2) for paragraph (a) of the following paragraph:
 “(a) must provide training for persons in, or conduct such examinations or tests as a qualification for the appointment, promotion or transfer of persons in or to, the **[Intelligence Services] Agency** or departments, as the case may be, as the Minister may prescribe; and”;
- (e) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
 “The **[Academy] Agency** must have a Training Fund of which the funding consists of—”;
- (f) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
 “(a) all moneys which immediately prior to the commencement of this Act were moneys defrayed for training under the **[Agency] former National Intelligence Agency**”;
- (g) by the insertion in subsection (3) after paragraph (a) of the following paragraph:
 “(aA) all moneys which immediately prior to the commencement of the General Intelligence Laws Amendment Act, 2011, were moneys defrayed for training under the South African National Academy of Intelligence”;
- (h) by the substitution in subsection (4) for paragraph (a) of the following paragraph:
 “(a) The Training Fund must be administered by the **[Chief Executive Officer] Director-General**.”;
- (i) by the substitution in subsection (4) for paragraph (c) of the following paragraph:
 “(c) The **[Chief Executive Officer] Director-General** may invest money in the Training Fund which is not required for immediate use in such a manner as the Minister may approve with the concurrence of the Minister of Finance.”;
- (j) by the substitution in subsection (5)(b) for the words preceding subparagraph (i) of the following words:
 “The **[Chief Executive Officer] Director-General** must—”;
- (k) by the deletion of subsection (6); and
- (l) by the substitution for subsections (7) and (8) of the following subsections, respectively:
 “(7) The **[Academy] Agency** may in relation to training co-operate with any institution of higher learning, in the Republic or elsewhere, to achieve its objectives.
 (8) The accreditation and recognition of the **[Academy’s] Agency’s** qualifications must be done in accordance with the provisions of the **[South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)] National Qualifications Framework Act, 2008 (Act No. 67 of 2008)**.”.

Repeal of section 6 of Act 65 of 2002

18. Section 6 of the Intelligence Services Act, 2002, is hereby repealed.

Repeal of section 7 of Act 65 of 2002

19. Section 7 of the Intelligence Services Act, 2002, is hereby repealed.

Amendment of section 8 of Act 65 of 2002

20. Section 8 of the Intelligence Services Act, 2002, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) appoint any person as a member of the **[Intelligence Services or the Academy] Agency**”.

Amendment of section 9 of Act 65 of 2002

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

- (d) deur paragraaf (a) in subartikel (2) deur die volgende paragraaf te vervang:
 “(a) moet opleiding verskaf vir persone in, of die eksamens of toetse afneem as ’n kwalifikasie vir die aanstelling, bevordering of oorpasing van persone in of na, die **[Intelligensiedienste] Agentskap** of departemente, na gelang van die geval, wat die Minister voorskryf; en”;
- (e) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Die **[Akademie] Agentskap** moet ’n Opleidingsfonds hê waarvan die fondse bestaan uit—”;
- (f) deur paragraaf (a) in subartikel (3) deur die volgende paragraaf te vervang:
 “(a) alle gelde wat onmiddellik voor die inwerkingtreding van hierdie Wet gelde was wat vir opleiding onder die **[Agentskap] voormalige Nasionale Intelligensie-agentskap** aangewend is;”;
- (g) deur na paragraaf (a) in subartikel (3) die volgende paragraaf in te voeg:
 “(aA) alle gelde wat onmiddellik voor die inwerkingtreding van die Algemene Wysigingswet op Intelligensiewette, 2013, gelde is wat vir opleiding onder die Suid-Afrikaanse Nasionale Akademie van Intelligensie aangewend is;”;
- (h) deur paragraaf (a) in subartikel (4) deur die volgende paragraaf te vervang:
 “(a) Die Opleidingsfonds moet deur die **[Hoof- Uitvoerende Beampte] Direkteur-generaal** gadministreer word.”;
- (i) deur paragraaf (c) in subartikel (4) deur die volgende paragraaf te vervang:
 “(c) Die **[Hoof- Uitvoerende Beampte] Direkteur-generaal** kan geld in die Opleidingsfonds wat nie vir onmiddellike gebruik nodig is nie belê op ’n wyse wat die Minister met die instemming van die Minister van Finansies goedkeur.”;
- (j) deur in subartikel (5)(b) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang:
 “(b) Die **[Hoof- Uitvoerende Beampte] Direkteur-generaal** moet—”;
- (k) deur subartikel (6) te skrap; en
- (l) deur subartikels (7) en (8) onderskeidelik deur die volgende subartikels te vervang:
 “(7) Die **[Akademie] Agentskap** kan in verband met opleiding met enige inrigting vir hoër onderwys, in die Republiek of elders, saamwerk om sy oogmerke te bereik.
 (8) Die akkreditering en erkenning van die **[Akademie] Agentskap** se kwalifikasies moet ooreenkomstig die bepalings van die **[Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van 1995)] ‘National Qualifications Framework Act, 2008’ (Wet No. 67 van 2008)**, gedoen word.”.

Herroeping van artikel 6 van Wet 65 van 2002

18. Artikel 6 van die Wet op Intelligensiedienste, 2002, word hierby herroep.

Herroeping van artikel 7 van Wet 65 van 2002

19. Artikel 7 van die Wet op Intelligensiedienste, 2002, word hierby herroep. 45

Wysiging van artikel 8 van Wet 65 van 2002

20. Artikel 8 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang:

“(a) enige persoon as ’n lid van die **[Intelligensiedienste of die Akademie] Agentskap** aanstel;”.

Wysiging van artikel 9 van Wet 65 van 2002

21. Artikel 9 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) There is hereby established a Ministerial Advisory Committee on Training, which consists of—
 [(a) **the head of the Academy;**
 (b) **the deputy head of the Academy;** 5
 (c) the heads of the National Intelligence Structures or their alternates; and
 (d) not more than [8] eight other persons appointed by the Minister on the basis of necessity and required expertise.”; and
 (b) by the substitution in subsection (7) for paragraph (b) of the following 10 paragraph:
 “(b) assist the [**head and deputy head of the Academy**] Director-General to develop a curriculum [**and business plans for the Academy**] and to make recommendations to the Minister in that regard.”.

Amendment of section 10 of Act 65 of 2002, as amended by section 9 of Act 52 of 15 2003

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

- (a) by the substitution for the heading of the following heading:
 “[**Heads of Intelligence Services and Academy**] Head of Agency”;
 (b) by the substitution for subsections (1) and (2) of the following subsections, 20 respectively:
 “(1) The Director-General [**concerned or the Chief Executive Officer**] must, subject to the directions of the Minister and this Act, exercise command and control of the [**Intelligence Services or the Academy, as the case may be**] Agency. 25
 (2) The Director-General [**concerned or the Chief Executive Officer, as the case may be,**] may, in a prescribed manner and subject to the approval of the Minister and the provisions of this Act, issue functional directives applicable to—
 (a) conditions of service and human resources of the [**Intelligence Services or the Academy, as the case may be**] Agency: Provided that such functional directives must be submitted to the [**Intelligence Services**] Council for consideration; and 30
 (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**] Agency.”; 35
 (c) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
 “The Director-General [**concerned**] may, in a prescribed manner, subject to the approval of the Minister and the provisions of this Act, 40 issue functional directives applicable to—”;
 (d) by the substitution in subsection (3) for paragraph (f) of the following paragraph:
 “(f) any other matter that is necessary for the intelligence and counter-intelligence functions of the [**Intelligence Services**] Agency.”; 45
 (e) by the substitution for subsection (4) of the following subsection:
 “(4) The Director-General [**concerned or the Chief Executive Officer**] must, as far as is reasonably practicable, take steps to ensure that— 50
 (a) national security intelligence, intelligence collection methods, sources of information and the identity of members of the [**Intelligence Services or the Academy, as the case may be**] Agency, are protected from unauthorised disclosure;
 (b) neither the [**Intelligence Services, the Academy,**] Agency nor any 55 of [**their**] its members[,], may, in the performance of their functions—
 (i) prejudice a political party interest that is legitimate in terms of the Constitution; or
 (ii) further, in a partisan manner, any interest of a political party; 60 and

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) ’n Ministeriële Advieskomitee oor Opleiding word hierby ingestel, wat bestaan uit—
- [(a) **die hoof van die Akademie;**
 - (b) **die adjunkhoof van die Akademie;** 5
 - (c) die hoofde van die Nasionale Intelligensiestrukture of hulle plaasvervangers; en
 - (d) hoogstens agt ander persone deur die Minister aangestel op die grondslag van behoefte en verlangde kundigheid.”; en
- (b) deur paragraaf (b) in subartikel (7) deur die volgende paragraaf te vervang: 10
- “(b) die **[hoof en die adjunkhoof van die Akademie]** Direkteur-generaal by te staan om ’n kurrikulum **[en sakeplanne vir die Akademie]** te ontwikkel en om aanbevelings in dié verband aan die Minister te doen.”.

Wysiging van artikel 10 van Wet 65 van 2002, soos gewysig deur artikel 9 van Wet 52 van 2003 15

22. Artikel 10 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:
- “**[Hoofde van Intelligensiedienste en Akademie]** Hoof van Agentskap”; 20
- (b) deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:
- “(1) Die **[betrokke]** Direkteur-generaal [of die Hoof- Uitvoerende Beampte] moet, behoudens die lasgewings van die Minister en hierdie Wet, bevel en beheer uitoefen oor die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap. 25
- (2) Die **[betrokke]** Direkteur-generaal [of die Hoof- Uitvoerende Beampte, na gelang van die geval,] kan, op ’n voorgeskrewe wyse en behoudens die goedkeuring van die Minister en die bepalings van hierdie Wet, funksionele direkteiewe uitreik wat van toepassing is op— 30
- (a) diensvoorwaardes en mensehulpbronne van die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap: Met dien verstande dat sodanige funksionele direkteiewe vir oorweging voorgelê moet word aan die **[Intelligensiediensteraad]** Raad; en
 - (b) enige ander aangeleentheid wat hy of sy dienstig ag vir die doeltreffende bevel en beheer van die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap.”; 35
- (c) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- “Die **[betrokke]** Direkteur-generaal kan, op ’n voorgeskrewe wyse, behoudens die goedkeuring van die Minister en die bepalings van hierdie Wet, funksionele direkteiewe uitreik wat van toepassing is op—”; 40
- (d) deur paragraaf (f) in subartikel (3) deur die volgende paragraaf te vervang:
- “(f) enige ander aangeleentheid wat nodig is vir die intelligensie en teenintelligensiefunksies van die **[Intelligensiedienste]** Agentskap.”; 45
- (e) deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) Die **[betrokke]** Direkteur-generaal [of die Hoof- Uitvoerende Beampte] moet, so ver dit redelikerwys doenlik is, stappe doen om te verseker dat— 50
- (a) nasionale veiligheidsintelligensie, intelligensie-insamelingsmetodes, bronne van inligting en die identiteit van lede van die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap teen ongemagtigde openbaarmaking beskerm word;
 - (b) **nóg die [Intelligensiedienste nóg die Akademie]** Agentskap **nóg** enige van **[hulle]** sy lede, in die uitvoer van hulle werksaamhede kan— 55
 - (i) enige politieke partybelang wat wettig is ingevolge die Grondwet, benadeel; of
 - (ii) op ’n partydige manier enige belang van ’n politieke party bevorder; en 60

- (c) the powers of the **[Intelligence Services or the Academy] Agency** are limited to what is necessary for the purposes of the discharge of its functions in terms of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), and the Secret Services Act, 1978 (Act No. 56 of 1978).”; and 5
- (f) by the addition of the following subsection:
- “(5) (a) The Director-General must at the end of each financial year submit to the Minister a report on the activities of the Agency for the relevant financial year, that must—
- (i) include information about any co-operation by the Agency with an authority of another country in planning or undertaking activities pertaining to the Agency’s mandate; and 10
- (ii) except for classified information, be publicly accessible.
- (b) As soon as practicable after receipt of the report contemplated in paragraph (a), the Minister must table it in Parliament.”. 15

Amendment of section 11 of Act 65 of 2002, as amended by section 10 of Act 52 of 2003

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

- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 20
- “(a) there is on any premises information which has or could probably have a bearing on the functions of the **[Intelligence Services] Agency** as contemplated in section 2 of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994), which information is of substantial importance and is necessary for the proper discharge of the functions of the **[Intelligence Services] Agency**.”; 25
- (b) by the substitution in subsection (2) for the words preceding subparagraph (i) of the following words:
- “he or she may issue the **[Intelligence Services] Agency** with a direction authorising any member when reasonably necessary—”; and 30
- (c) 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] Agency** who is authorised to do so by a senior member of **[such Intelligence Services] the Agency** holding a post of at least a General Manager.”. 35

Amendment of section 12 of Act 65 of 2002, as amended by section 11 of Act 52 of 2003

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

- (a) by the substitution for subsection (1) of the following subsection: 40
- “(1) The Minister may, subject to this Act, do or cause to be done all things which are necessary for the efficient superintendence, control and functioning of the **[Intelligence Services and the Academy] Agency**.”;
- (b) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 45
- “(a) acquire 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 and maintain any buildings on the property so acquired] Agency** and, subject to section 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), supply guarantees, indemnities and securities for **[those purposes] that purpose**.”; 50
- (c) by the insertion in subsection (2) after paragraph (a) of the following paragraph:
- “(aA) erect or maintain buildings on the property so acquired.”; and 55

- (c) die bevoegdheid van die [Intelligensiedienste of die Akademie] Agentskap beperk word tot wat noodsaaklik is met die oog op die verrigting van sy werksaamhede ingevolge die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994), en die Wet op Geheime Dienste, 1978 (Wet No. 56 van 1978);” en 5
- (f) deur die volgende subartikel by te voeg:
- “(5) (a) Die Direkteur-generaal moet aan die einde van elke boekjaar ’n verslag oor die aktiwiteite van die Agentskap vir die toepaslike boekjaar aan die Minister voorlê wat—
- (i) inligting moet insluit oor enige samewerking deur die Agentskap met ’n owerheid van ’n ander land in die beplanning of onderneming van aktiwiteite wat met die Agentskap se mandaat verband hou; en 10
- (ii) met uitsondering van geklassifiseerde inligting, vir die publiek toeganklik moet wees. 15
- (b) Die Minister moet die verslag in paragraaf (a) beoog, so gou as prakties moontlik na ontvangs in die Parlement ter tafel lê.”.

Wysiging van artikel 11 van Wet 65 van 2002, soos gewysig deur artikel 10 van Wet 52 van 2003

23. Artikel 11 van die Wet op Intelligensiedienste, 2002, word hierby gewysig— 20
- (a) deur paragraaf (a) in subartikel (2) deur die volgende paragraaf te vervang:
- “(a) daar op enige perseel inligting is wat betrekking het of waarskynlik kan hê op die werksaamhede van die [Intelligensiedienste] Agentskap soos beoog in artikel 2 van die Wet op Nasionale Strategiese Intelligensie, 1994 (Wet No. 39 van 1994), welke inligting van wesenlike belang is en nodig is vir die behoorlike verrigting van die werksaamhede van die [Intelligensiedienste] Agentskap;”;
- (b) deur in subartikel (2) die woorde wat subparagraaf (i) voorafgaan deur die volgende woorde te vervang: 30
- “kan hy of sy ’n lasgewing aan die [Intelligensiedienste] Agentskap uitreik wat enige lid magtig om, wanneer dit redelikerwys nodig is—”;
- en
- (c) deur paragraaf (b) in subartikel (3) deur die volgende paragraaf te vervang: 35
- “(b) ’n Lasgewing in paragraaf (a) bedoel, kan uitgevoer word deur ’n lid van die [Intelligensiedienste] Agentskap wat gemagtig is om dit te doen deur ’n senior lid van [sodanige Intelligensiedienste] Agentskap wat ’n pos van minstens Algemene Bestuurder beklee.”.

Wysiging van artikel 12 van Wet 65 van 2002, soos gewysig deur artikel 11 van Wet 52 van 2003

24. Artikel 12 van die Wet op Intelligensiedienste, 2002, word hierby gewysig— 40
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Die Minister kan behoudens hierdie Wet, alle dinge doen of laat doen wat nodig is vir die doeltreffende toesig en beheer oor en funksionering van die [Intelligensiedienste en die Akademie] Agentskap.”;
- (b) deur paragraaf (a) in subartikel (2) deur die volgende paragraaf te vervang:
- “(a) enige onroerende eiendom, met of sonder enige geboue daarop, wat nodig is vir die doeltreffende funksionering van die [Intelligensiedienste of die Akademie, verkry en enige geboue oprig of in stand hou op die eiendom wat aldus] Agentskap verkry [is] en, behoudens artikel 70 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), waarborge, vrywarings en sekuriteite vir daardie [doeleindes] doeleinde verskaf;”;
- (c) deur die volgende paragraaf na paragraaf (a) in subartikel (2) in te voeg: 55
- “(aA) geboue oprig of in stand hou op die eiendom wat aldus verkry is;” en

- (d) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

“(c) acquire, 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] Agency**.”.

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Amendment of section 13 of Act 65 of 2002

25. Section 13 of the Intelligence Services Act, 2002, is hereby amended—

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

“(1) A member must be retired on the date when he or she attains the age of 60 years: Provided that a person who was an employee of the **[Intelligence Services] former National Intelligence Agency or the South African Secret Service** on the day immediately before the date of commencement of this Act may retire on reaching the retirement age or prescribed retirement date provided for in any other law applicable to him or her on that day.”; and

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- (b) by the addition of the following subsection:

“(4) Notwithstanding subsection (1), a member shall have the right to retire from the Agency on the date on which he or she attains the age of 55 years, or on any date after that date.”.

Amendment of section 14 of Act 65 of 2002, as amended by section 12 of Act 52 of 2003

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

- (a) by the substitution for the heading of the following heading:

“**[Security screening] Vetting and discharge of members**”;

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

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“(a) information with respect to that person has been gathered in the prescribed manner in a **[security screening] vetting** investigation by the **[Intelligence Services] Agency**; and”;

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

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“In order to gather the information contemplated in subsection (1)(a), the **[Intelligence Services] Agency** may, in a prescribed manner, have access to—”;

- (d) by the substitution in subsection (2) for the proviso of the following proviso:

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“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] Agency** must perform this function in accordance with the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No. 70 of 2002).”;

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- (e) by the substitution for subsection (6) of the following subsection:

“(6) Notwithstanding the provisions of subsection (5), if the Minister is of the reasonable opinion that a person may be appointed as a member without the possibility that such a person might be a security risk or might act in a way prejudicial to the security interests of the Republic, he or she may issue a document with respect to such a person in which it is stipulated that such a person may be appointed as a member without the possibility that such a person could be a security risk or could possibly act in any manner prejudicial to the security interests of the Republic, pending the outcome of the **[security screening] vetting** investigations.”;

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

“If the certificate referred to in subsection (5) is withdrawn, the member concerned is deemed unfit for further membership of the **[Intelligence Services or the Academy, as the case may be] Agency**, and the Minister may—”;

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- (d) deur paragraaf (c) in subartikel (2) deur die volgende paragraaf te vervang:
 “(c) enige roerende eiendom en enige ander toerusting wat nodig is vir die doeltreffende funksionering van die **[Intelligensiedienste of die Akademie] Agentskap**, verkry, huur of benut;”.

Wysiging van artikel 13 van Wet 65 van 2002

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25. Artikel 13 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
 “(1) ’n Lid is verplig om af te tree op die datum waarop hy of sy die ouderdom van 60 jaar bereik: Met dien verstande dat ’n persoon wat ’n werknemer van die **[Intelligensiedienste] voormalige Nasionale Intelligensie-agentskap** of die Suid-Afrikaanse Geheime diens was op die dag onmiddellik voor die datum van inwerkingtreding van hierdie Wet, kan aftree by bereiking van die aftree-ouderdom of voorgeskrewe aftreedatum waarvoor voorsiening gemaak word in enige ander wet wat op daardie dag op hom of haar van toepassing is.”; en
 (b) deur die volgende subartikel by te voeg:
 “(4) Ondanks subartikel (1), het ’n lid die reg om uit die Agentskap af te tree op die datum waarop hy of sy die ouderdom van 55 jaar bereik, of op enige datum na daardie datum.”.

Wysiging van artikel 14 van Wet 65 van 2002, soos gewysig deur artikel 12 van Wet 52 van 2003

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26. Artikel 14 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur die opskrif deur die volgende opskrif te vervang:
 “[**Veiligheidskeuring**] **Klaring en ontslag van lede**”;
 (b) deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang:
 “(a) inligting met betrekking tot daardie persoon op die voorgeskrewe wyse ingesamel is in ’n **[veiligheidskeuringsondersoek] klarings-ondersoek** deur die **[Intelligensiedienste] Agentskap**; en”;
 (c) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Ten einde die inligting in subartikel (1)(a) bedoel in te samel, kan die **[Intelligensiedienste] Agentskap**, op ’n voorgeskrewe wyse, toegang hê tot—”;
 (d) deur die voorbehoudsbepaling in subartikel (2) deur die volgende voorbehoudsbepaling te vervang:
 “Met dien verstande dat waar die insameling van inligting in paragrafe (c) en (d) beoog die onderskepping en meeluistering van die kommunikasie van sodanige persoon verg, die **[Intelligensiedienste] Agentskap** hierdie werksaamheid ooreenkomstig die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002 (Wet No. 70 van 2002), moet uitvoer.”;
 (e) deur subartikel (6) deur die volgende subartikel te vervang:
 “(6) Nieteenstaande die bepalings van subartikel (5), indien die Minister redelik van mening is dat ’n persoon as lid aangestel kan word sonder die moontlikheid dat sodanige persoon ’n veiligheidsrisiko is of sal optree op enige manier wat vir die veiligheidsbelange van die Republiek nadelig is, kan die Minister met betrekking tot sodanige persoon ’n dokument uitreik waarin gestipuleer word dat sodanige persoon as lid aangestel mag word sonder die moontlikheid dat sodanige persoon ’n veiligheidsrisiko is of op enige manier wat vir die veiligheidsbelange van die Republiek nadelig is, sal optree, hangende die uitslag van die **[veiligheidsklaringsondersoeke] klaringsondersoeke**.”;
 (f) deur in subartikel (7) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
 “Indien die sertifikaat in subartikel (5) bedoel, teruggetrek word, word die betrokke lid onbevoeg geag vir verdere lidmaatskap van die **[Intelligensiedienste of die Akademie, na gelang van die geval,] Agentskap** en die Minister kan—”;

- (g) by the substitution in subsection (7) for paragraph (a) of the following paragraph:

“(a) discharge such person or member from the **[Intelligence Services or the Academy, as the case may be]** Agency; or”; and

- (h) by the substitution for subsections (9) and (10) of the following subsections respectively: 5

“(9) On intervals prescribed by the Minister, a member may be subjected to a **[security screening] vetting** investigation to determine his or her security competence to remain in the **[Intelligence Services] Agency**. 10

(10) All the provisions regarding **[security screening] vetting** investigations, applicable to a person contemplated in subsection (1), shall apply to the **[security screening] vetting** of a member contemplated in subsection (9).”.

Substitution of section 15 of Act 65 of 2002 15

27. The following section is hereby substituted for section 15 of the Intelligence Services Act, 2002:

“Discharge of members on account of long absence without leave

15. (1) Any member who absents himself or herself, whether voluntarily or involuntarily, from his or her official duties without the permission of the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** for a period exceeding **[14] 10** consecutive working days, is deemed to have been discharged from the **[Intelligence Services or the Academy, as the case may be,]** Agency on account of misconduct, 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— 20 25

- (a) any member absents himself or herself from his or her official duties without such permission and accepts other employment, he or she is deemed to have been discharged even if he or she has not yet absented himself or herself for a period of **[14] 10** consecutive working days; 30
- (b) a member deemed to have been so discharged again reports for duty, the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** may, on good cause shown and notwithstanding anything to the contrary contained in any law but subject to the approval of the Minister, reinstate the member in his or her former post or appoint him or her to any other post in the **[Intelligence Services or the Academy, as the case may be]** Agency, on such conditions as the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** may deem fit and in that event the period of his or her absence from his or her official duties is deemed to have been absent on vacation leave without pay, or leave on such other conditions as the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** may determine; 35 40
- (c) the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** refuses to reinstate the member, the latter may appeal to the Minister, stating the reasons why he or she should be reinstated. 45

(2) The Minister may in the prescribed manner, for the purposes of any appeal lodged in terms of subsection (1)(c), establish an advisory panel to assist him or her in considering the appeal.”.

Substitution of section 16 of Act 65 of 2002 50

28. The following section is hereby substituted for section 16 of the Intelligence Services Act, 2002:

- (g) deur paragraaf (a) in subartikel (7) deur die volgende paragraaf te vervang:
 “(a) sodanige persoon of lid uit die **[Intelligensiedienste of Akademie, na gelang van die geval,]** Agentskap ontslaan; of”; en
- (h) deur subartikels (9) en (10) onderskeidelik deur die volgende subartikels te vervang:
- “**(9)** By tussenposes deur die Minister voorgeskryf, kan ’n lid aan ’n **[veiligheidskeuringsondersoek]** **klaringsondersoek** onderwerp word om sy of haar veiligheidsbevoegdheid om in die **[Intelligensiedienste]** Agentskap aan te bly, te bepaal.
- (10)** Al die bepalings met betrekking tot **[veiligheidskeurings-ondersoeke]** **klaringsondersoeke** wat op ’n persoon in subartikel (1) beoog van toepassing is, is van toepassing op die **[veiligheidskeuring]** klaring van ’n lid beoog in subartikel (9).”.

Vervanging van artikel 15 van Wet 65 van 2002

27. Artikel 15 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Ontslag van lede op grond van lang afwesigheid sonder verlof

- 15. (1)** Enige lid wat vrywillig of onvrywillig afwesig is van sy of haar amptelike pligte sonder die toestemming van die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** vir ’n tydperk van langer as **[14]** 10 agtereenvolgende **[dae]** werksdae, word geag uit die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap ontslaan te wees op grond van wangedrag, met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy of sy op sy of haar plek van diens was: Met dien verstande dat indien—
- (a) enige lid sonder sodanige toestemming van sy of haar amptelike pligte afwesig is en ander diens aanvaar, hy of sy geag word ontslaan te wees selfs al was hy of sy nog nie vir ’n tydperk van **[14]** 10 agtereenvolgende **[dae]** werksdae afwesig nie;
- (b) ’n lid wat geag word aldus ontslaan te wees, weer vir diens aanmeld, die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** by die aanvoer van goeie gronde en ondanks enige andersluidende bepaling vervat in enige wet maar behoudens die goedkeuring van die Minister, hom of haar in sy of haar vorige pos kan herstel of hom of haar in enige ander pos in die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap kan aanstel op die voorwaardes wat die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** geskik ag, en in daardie geval word die tydperk van sy of haar afwesigheid van sy of haar amptelike pligte geag afwesigheid met vakansieverlof sonder besoldiging te wees, of verlof op die ander voorwaardes wat die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** bepaal;
- (c) die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** weier om die lid in sy of haar pos te herstel, laasgenoemde na die Minister kan appelleer met vermelding van die redes waarom hy of sy aldus herstel moet word.
- (2)** Die Minister kan op die voorgeskrewe wyse, vir die doeleindes van ’n appèl ingevolge subartikel (1)(c) aangeteken, ’n adviespaneel instel om hom of haar in die oorweging van die appèl by te staan.”.

Vervanging van artikel 16 van Wet 65 van 2002

28. Artikel 16 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Discharge of members on account of ill-health

16. (1) Any member may be discharged from the **[Intelligence Services or the Academy, as the case may be,]** Agency by the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** if, after a hearing in the prescribed manner as to his or her state of health, **[such] the** Director-General **[or the Chief Executive Officer, as the case may be,]** is of the opinion that the member is by reason of ill-health unfit to remain in the **[Intelligence Services or the Academy, as the case may be] Agency.** 5

(2) Any member discharged from the **[Intelligence Services or the Academy] Agency** in terms of subsection (1) may in the prescribed manner appeal to the Minister, who may thereupon set aside or confirm his or her discharge. 10

(3) The Minister may in the prescribed manner, for the purposes of any appeal lodged in terms of subsection (2), establish an advisory panel to assist him or her in considering the appeal.”. 15

Amendment of section 17 of Act 65 of 2002

29. The following section is hereby substituted for section 17 of the Intelligence Services Act, 2002:

“Discharge or demotion of members on account of poor performance

17. (1) A member may be discharged from the **[Intelligence Services or the Academy] Agency** or demoted by the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** if, after a hearing in the prescribed manner as to his or her fitness to remain in employment or to retain his or her rank or grade, **[such] the** Director-General **[or the Chief Executive Officer, as the case may be,]** is of the opinion that such member is incapable of performing his or her duties efficiently. 20 25

(2) A member who has been discharged from the **[Intelligence Services or the Academy] Agency** or demoted in terms of subsection (1) may in the prescribed manner appeal to the Minister, who may thereupon set aside or confirm his or her discharge or demotion, as the case may be. 30

(3) The Minister may in the prescribed manner, for the purposes of any appeal lodged in terms of subsection (2), establish an advisory panel to assist him or her in considering the appeal.”.

Amendment of section 18 of Act 65 of 2002

30. Section 18 of the Intelligence Services Act, 2002, is hereby amended— 35

(a) by the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) A member may be discharged from the **[Intelligence Services or the Academy] Agency** or demoted by the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** if, after **[an inquiry] a hearing** in the prescribed manner as to his or her fitness to remain in employment or to retain his or her rank or grade, **[such] the** Director-General **[or the Chief Executive Officer, as the case may be,]** is of the opinion that such member is guilty of misconduct. 40

(3) A member who has been discharged from the **[Intelligence Services or the Academy] Agency** or demoted in terms of subsection (2) may in the prescribed manner appeal to the Minister, who may thereupon set aside or confirm his or her discharge or demotion, as the case may be.”; and 45

(b) by the addition of the following subsection: 50

“(4) The Minister may in the prescribed manner, for the purposes of any appeal lodged in terms of subsection (3), establish an advisory panel to assist him or her in considering the appeal.”.

“Ontslag van lede op grond van swak gesondheid

16. (1) Enige lid kan uit die [Intelligensiedienste of die Akademie, na gelang van die geval,] Agentskap ontslaan word deur die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] indien na 'n verhoor op die voorgeskrewe wyse oor sy of haar gesondheidstoestand, [sodanige] die Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] van mening is dat die lid as gevolg van swak gesondheid ongeskik is om in die [Intelligensiedienste of die Akademie, na gelang van die geval,] Agentskap te bly. 5

(2) Enige lid wat ingevolge subartikel (1) uit die [Intelligensiedienste of die Akademie] Agentskap ontslaan word, kan op die voorgeskrewe wyse na die Minister appelleer, wat sy of haar ontslag dan ter syde kan stel of bevestig. 10

(3) Die Minister kan op die voorgeskrewe wyse, vir die doeleindes van 'n appèl ingevolge subartikel (2) aangeteken, 'n adviespaneel instel om hom of haar in die oorweging van die appèl by te staan.”. 15

Wysiging van artikel 17 van Wet 65 van 2002

29. Artikel 17 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Ontslag of demovering van lede op grond van swak prestasie 20

17. (1) 'n Lid kan uit die [Intelligensiedienste of die Akademie] Agentskap ontslaan of gedemoveer word deur die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] indien na 'n verhoor op die voorgeskrewe wyse oor sy of haar geskiktheid om in diens te bly of om sy of haar rang of graad te behou, [sodanige] die Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] van mening is dat sodanige lid onbekwaam is om sy of haar pligte doeltreffend te verrig. 25

(2) Enige lid wat ingevolge subartikel (1) uit die [Intelligensiedienste of die Akademie] Agentskap ontslaan word of gedemoveer word, kan op die voorgeskrewe wyse na die Minister appelleer, wat sy of haar ontslag of demovering, na gelang van die geval, dan ter syde kan stel of bevestig. 30

(3) Die Minister kan op die voorgeskrewe wyse, vir die doeleindes van 'n appèl ingevolge subartikel (2) aangeteken, 'n adviespaneel instel om hom of haar in die oorweging van die appèl by te staan.”. 35

Wysiging van artikel 18 van Wet 65 van 2002

30. Artikel 18 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

(a) deur subartikels (2) en (3) onderskeidelik deur die volgende subartikels te vervang:

“(2) 'n Lid kan uit die [Intelligensiedienste of die Akademie] Agentskap ontslaan of gedemoveer word deur die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] indien na 'n [ondersoek] verhoor op die voorgeskrewe wyse oor sy of haar geskiktheid om in diens te bly of om sy of haar rang of graad te behou, [sodanige] die Direkteur-generaal [of die Hoof- Uitvoerende Beamppte, na gelang van die geval,] van mening is dat sodanige lid hom of haar aan wangedrag skuldig gemaak het. 40 45

(3) Enige lid wat ingevolge subartikel (2) uit die [Intelligensiedienste of die Akademie] Agentskap ontslaan of gedemoveer is, kan op die voorgeskrewe wyse na die Minister appelleer, wat sy of haar ontslag of demovering, na gelang van die geval, dan ter syde kan stel of bevestig.”; en 50

(b) deur die volgende subartikel by te voeg:

“(4) Die Minister kan op die voorgeskrewe wyse, vir die doeleindes van 'n appèl ingevolge subartikel (3) aangeteken, 'n adviespaneel instel om hom of haar in die oorweging van die appèl by te staan.”. 55

Amendment of section 19 of Act 65 of 2002

31. Section 19 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the substitution in subsection (1)(a) for subparagraph (i) of the following subparagraph:
 “(i) in the **[Intelligence Services or the Academy] Agency**”; 5
- (b) by the substitution in subsection (1)(a) for item (cc) of the proviso of the following item:
 “(cc) a member may not without his or her consent be transferred to a post outside the **[Intelligence Services or the Academy] Agency** if such transfer will, save for his or her salary, result in a change in his or her conditions of service;”; 10
- (c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 “(b) discharge any member from the **[Intelligence Services or the Academy] Agency** on such conditions as the Minister may determine.”; and 15
- (d) by the substitution for subsection (2) of the following subsection:
 “(2) The Minister may, with the consent of a member and upon such conditions as the Minister may determine, second a member, for the performance of a particular service or for a specified period, to the service of any other department, **[or the Intelligence Services or the Academy]** or to any other authority, board, entity, establishment, institution or body, but, while so seconded, the member remains subject to this Act and any other law which applies to him or her.”. 20

Substitution of section 20 of Act 65 of 2002, as amended by section 13 of Act 52 of 2003 25

32. The following section is hereby substituted for section 20 of the Intelligence Services Act, 2002:

“Delegation of powers

20. (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, excluding any power conferred upon or duty 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), (2) and (3), 12(1) and (2)(a) and (b), 13(3), 14(6), (7), (8), (9) and (11), 15(b) and (c), 16(2), 17(2), 18(3), 19(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 Executive Officer]** or any other member of the **[Intelligence Services or the Academy, as the case may be] Agency**. 30

(2) **[A]** The Director-General **[or the Chief Executive Officer]** may delegate any power conferred upon or duty assigned to him or her by or under this Act to any other member of the **[Intelligence Services or the Academy, as the case may be] Agency**, but not any power or duty delegated under subsection (1).” 35 40

Amendment of section 21 of Act 65 of 2002

33. Section 21 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively: 45

“(1) No member of the **[Intelligence Services or the Academy] Agency** may strike or induce or conspire with any other member or person to strike.

(2) The Minister must in the prescribed manner make provision for internal rules to deal with complaints, grievances and consultation on conditions of service and human resources within the **[Academy or Intelligence Services, as the case may be] Agency**.”. 50

Wysiging van artikel 19 van Wet 65 van 2002

31. Artikel 19 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—
- (a) deur subparagraaf (i) in subartikel (1)(a) deur die volgende subparagraaf te vervang:
“(i) in die **[Intelligensiedienste of die Akademie] Agentskap**”; 5
 - (b) deur item (cc) van die voorbehoudsbepaling in subartikel (1)(a) deur die volgende item te vervang:
“(cc) ’n lid nie sonder sy of haar instemming na ’n pos buite die **[Intelligensiedienste of die Akademie] Agentskap** oorgeplaas mag word nie indien sodanige oorplasing sal lei tot ’n verandering in sy of haar diensvoorwaardes, uitgesonderd sy of haar salaris”; 10
 - (c) deur paragraaf (b) in subartikel (1) deur die volgende paragraaf te vervang:
“(b) enige lid uit die **[Intelligensiedienste of die Akademie] Agentskap** ontslaan op die voorwaardes wat die Minister bepaal.”; en
 - (d) deur subartikel (2) deur die volgende subartikel te vervang: 15
“(2) Die Minister kan, met die instemming van ’n lid en op die voorwaardes wat die Minister bepaal, ’n lid vir die verrigting van ’n bepaalde diens of vir ’n bepaalde tydperk sekondeer aan die diens van enige ander departement, **[of die Intelligensiedienste of die Akademie]** of na enige ander owerheid, raad, entiteit, instelling, inrigting of liggaam, 20
maar terwyl sodanige lid aldus gesekondeer is, bly hy of sy onderworpe aan hierdie Wet en enige ander wet wat op hom of haar van toepassing is.”.

Vervanging van artikel 20 van Wet 65 van 2002, soos gewysig deur artikel 13 van Wet 52 van 2003 25

32. Artikel 20 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Delegering van bevoegdhede

20. (1) Die Minister kan skriftelik en op die voorwaardes wat hy of sy geskik ag, enige bevoegdheid of plig wat by hierdie Wet aan hom of haar verleen of hom of haar opgelê is, behalwe enige bevoegdheid aan hom of haar verleen of plig aan hom of haar opgelê by artikels 4(1)(a) en (b), 5(1), (2)(a) en (4)(c), **[6(2),]** 9(3), (4), (5), (8) en (9), 10(1), (2) en (3), 12(1) en (2)(a) en (b), 13(3), 14(6), (7), (8), (9) en (11), 15(b) en (c), 16(2), 17(2), 18(3), 19(4), 21(2), 22(1), (5) en (7), 23(3)(a)(i) en (ii), 28(2), 30 en 37, aan die **[betrokke] Direkteur-generaal[, die Hoof-Uitvoerende Beampte]** of enige ander lid van die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** **Agentskap** delegeer. 35

(2) **[’n]** Die Direkteur-generaal **[of die Hoof-Uitvoerende Beampte]** kan enige bevoegdheid of plig wat by of kragtens hierdie Wet aan hom of haar verleen of opgelê is, delegeer aan enige ander lid van die **[Intelligensiedienste of die Akademie, na gelang van die geval]** **Agentskap**, maar nie ’n bevoegdheid of plig wat kragtens subartikel (1) gedelegeer is nie.”. 40

Wysiging van artikel 21 van Wet 65 van 2002 45

33. Artikel 21 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikels (1) en (2) onderskeidelik deur die volgende subartikels te vervang:

“(1) Geen lid van die **[Intelligensiedienste of die Akademie] Agentskap** mag staak of enige ander lid daartoe oorhaal of met enige ander lid of persoon saamsweer om te staak nie. 50

(2) Die Minister moet op die voorgeskrewe wyse voorsiening maak vir interne reëls om klagtes, griewe en oorleg oor diensvoorwaardes en menslike hulpbronne in die **[Akademie of Intelligensiedienste, na gelang van die geval,]** **Agentskap** te hanteer.”.

Substitution of section 22 of Act 65 of 2002, as amended by section 14 of Act 52 of 2003

34. The following section is hereby substituted for section 22 of the Intelligence Services Act, 2002:

“Establishment of Intelligence [Services] Council on Conditions of Service 5

22. (1) There is hereby established an Intelligence [Services] Council on Conditions of Service which consists of not more than three persons [or members] appointed on contract by the Minister, one of whom must be Chairperson. 10

(2) The [members] persons contemplated in subsection (1) must be fit and proper persons [with a thorough knowledge of the functioning of the Intelligence Services] to fulfil the functions referred to in subsection (3).

(3) The functions of the [Intelligence Services] Council are—

(a) to make recommendations to the Minister on the development of policies on conditions of service and human resource matters; 15

(b) to make recommendations to the Minister on improvements of salaries and fringe benefits of members on an annual basis;

(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] Agency, and to make recommendations to the Minister; 20

(c) for the purposes of making recommendations as contemplated in paragraphs (a), (b) and (bA)—

(i) to conduct research; 25

(ii) to review such policies;

(iii) to evaluate and monitor the implementation of such policies;

(iv) to invite the [Directors-General, the Chief Executive Officer] Director-General, the Chairpersons of the staff forum, members and any other interested party to give representations on any matter relating to the purview of its functions; 30

(v) to evaluate representations contemplated in subparagraph (iv);

(vi) to confer with the Public Service Commission.

(4) The Chairperson may co-opt [a] the Director-General [or the Chief Executive Officer] to participate in the functioning of the [Intelligence Services] Council: Provided that [such] the Director-General [or the Chief Executive Officer] does not have voting powers. 35

(5) The conditions of service of the members of the [Intelligence Services] Council may be determined by the Minister in accordance with the conditions of service applicable to members. 40

(6) The [Intelligence Services] Council must perform its functions impartially, without bias, fear or prejudice.

(7) The Minister may appoint members or persons to give research, administrative, logistical and technical support to the [Intelligence Services] Council. 45

(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.

(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. 50

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

Vervanging van artikel 22 van Wet 65 van 2002, soos gewysig deur artikel 14 van Wet 52 van 2003

34. Artikel 22 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende subartikel vervang:

**“Instelling van [Intelligensiediensteraad] Intelligensieraad op Diens- 5
voorwaardes**

22. (1) Daar word hierby ’n [**Intelligensiediensteraad**] Intelligensieraad op Diensvoorwaardes ingestel, wat bestaan uit nie meer nie as drie persone [of lede] op kontrak deur die Minister aangestel, van wie een Voorsitter moet wees. 10

(2) Die [lede] persone in subartikel (1) beoog, moet geskikte en gepaste persone wees [met ’n deeglike kennis van die funksionering van die Intelligensiedienste] om die werksaamhede in subartikel (3) bedoel, te verrig.

(3) Die werksaamhede van die [**Intelligensiediensteraad**] Raad is— 15

(a) om aanbevelings aan die Minister te doen oor die ontwikkeling van beleid oor diensvoorwaardes en mensehulpbronaangeleenthede;

(b) om aanbevelings aan die Minister te doen oor verbetering van salarisse en byvoordele van lede op ’n jaarlikse grondslag;

(bA) om maatreëls te bevorder en standaarde te stel om die doeltreffende en doelmatige uitvoering en implementering van beleidsrigtings oor mensehulpbronne binne die [**Akademie of die Intelligensiedienste, na gelang van die geval**] Agentskap, te verseker en aanbevelings aan die Minister te doen; 20

(c) ten einde aanbevelings te doen soos beoog in paragrawe (a), (b) en (bA)— 25

(i) om navorsing te doen;

(ii) om sodanige beleid te hersien;

(iii) om die toepassing van sodanige beleid te evalueer en te moniteer; 30

(iv) om die [**Direkteurs-generaal, die Hoof- Uitvoerende Beampte**] Direkteur-generaal, die Voorsitters van die personeelforum, lede en enige ander belanghebbende party uit te nooi om vertoë te rig oor enige aangeleentheid rakende die bestek van sy werksaamhede; 35

(v) om vertoë in subparagraaf (iv) beoog, te evalueer;

(vi) om met die Staatsdienskommissie oorleg te pleeg.

(4) Die Voorsitter kan [’n] die Direkteur-generaal [of die Hoof- Uitvoerende Beampte] koöpteer om deel te neem aan die funksionering van die [**Intelligensiediensteraad**] Raad: Met dien verstande dat [sodanige] die Direkteur-generaal of [die Hoof- Uitvoerende Beampte] nie stemreg het nie. 40

(5) Die diensvoorwaardes van die lede van die [**Intelligensiediensteraad**] Raad kan deur die Minister bepaal word in ooreenstemming met diensvoorwaardes wat op lede van toepassing is. 45

(6) Die [**Intelligensiediensteraad**] Raad moet sy werksaamhede onpartydig en sonder vooroordeel, vrees of benadeling verrig.

(7) Die Minister kan lede of persone aanstel om navorsings-, administratiewe, logistieke en tegniese steun aan die [**Intelligensiediensteraad**] Raad te verleen. 50

(8) Die [**Intelligensiediensteraad**] Raad—

(a) is aanspreeklik teenoor die Minister; en

(b) moet aan die einde van elke boekjaar ’n verslag oor sy aktiwiteite en bevindings aan die Minister voorlê.

(9) (a) Die Minister moet die verslag bedoel in subartikel (8)(b) aan die Gesamentlike Staande Komitee oor Intelligensie en aan die Minister vir die Staatsdiens en Administrasie voorlê. 55

(b) Die verslag mag nie vertroulike inligting bevat wat nadelig vir nasionale veiligheid sal wees nie.”.

Amendment of section 23 of Act 65 of 2002

35. Section 23 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) (a) Where a member receives any remuneration, allowance or other reward in connection with the performance of his or her work, otherwise than in accordance with this Act or in contravention of subsection (1)(b), such member must pay to the **[Intelligence Services or the Academy, as the case may be,]** Agency an amount equal to the amount of such remuneration, allowance or reward or, where it does not consist of money, the value thereof as determined by the Director-General **[concerned or the Chief Executive Officer, as the case may be]**, and if he or she does not do so, **[such]** the Director-General **[or the Chief Executive Officer]** may recover it from him or her by way of legal proceedings: Provided that—

- (i) the member has a right of appeal to the Minister against the determination by the Director-General **[concerned or the Chief Executive Officer]** of the value of the remuneration, allowance or reward;
- (ii) the Minister may approve the retaining by a member of the whole or a portion of that remuneration, allowance or reward.

(b) Where a member has received any remuneration, allowance or other reward as contemplated in paragraph (a) which is still in his or her possession or under his or her control or in the possession or under the control of some other person on his or her behalf or, if it is money, has been deposited in any bank or other financial institution in his or her name or in the name of some other person on his or her behalf, the Director-General **[concerned or Chief Executive Officer, as the case may be,]** may in writing require such member or such other person or such bank or financial institution not to dispose thereof, or, if it is money, to retain a corresponding sum of money, as the case may be, pending the outcome of any legal proceedings for the recovery of such remuneration, allowance or reward or the value thereof.”.

Substitution of section 24 of Act 65 of 2002

36. The following section is hereby substituted for section 24 of the Intelligence Services Act, 2002:

“Reward for extraordinary diligence or devotion

24. The Director-General **[concerned or the Chief Executive Officer, as the case may be,]** may, with the approval of the Minister, award to any person who is or was a member, for extraordinary diligence or devotion in the performance of his or her duties as a member, such monetary or other reward as he or she considers appropriate in the circumstances.”.

Substitution of section 25 of Act 65 of 2002

37. The following section is hereby substituted for section 25 of the Intelligence Services Act, 2002:

“Establishment of decorations and medals for members

25. (1) The Minister may establish and introduce decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by him or her, subject to such conditions as may be prescribed, to any person who is or was a member in respect of his or her services as a member or to any other person who has rendered exceptional services to the **[Intelligence Services or the Academy]** Agency.

(2) The medals contemplated in subsection (1) must be registered with the Bureau of Heraldry in terms of the Heraldry Act, 1962 (Act No. 18 of 1962), and in the prescribed manner.”.

Wysiging van artikel 23 van Wet 65 van 2002

35. Artikel 23 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

“(3) (a) Waar ’n lid enige besoldiging, toelae of ander beloning ontvang in verband met die verrigting van sy of haar werk, anders as in ooreenstemming met hierdie Wet of strydig met subartikel (1)(b), moet sodanige lid aan die [Intelligensiedienste of die Akademie, na gelang van die geval,] Agentskap ’n bedrag betaal gelyk aan die bedrag van sodanige besoldiging, toelae of beloning of, waar dit nie uit geld bestaan nie, die waarde daarvan soos bepaal deur die betrokke Direkteur-generaal [of die Hoof- Uitvoerende Beampte, na gelang van die geval,] en indien hy of sy dit nie doen nie, kan [sodanige] die Direkteur-generaal [of die Hoof- Uitvoerende Beampte] dit van hom of haar verhaal deur middel van geregtelike verrigtinge: Met dien verstande dat—

- (i) die lid ’n reg van appèl na die Minister het teen die bepaling deur die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beampte] van die waarde van die besoldiging, toelaag of beloning;
- (ii) die Minister die behoud van daardie besoldiging, toelaag of beloning deur ’n lid in geheel of gedeeltelik kan goedkeur.

(b) Waar ’n lid enige besoldiging, toelaag of ander beloning ontvang het soos in paragraaf (a) beoog wat nog in sy of haar besit of onder sy of haar beheer of in die besit of onder die beheer van ’n ander persoon namens hom of haar is of, indien dit geld is, by enige bank of ander finansiële instelling gedeponeer is op sy of haar naam of op die naam van ’n ander persoon ten behoeve van hom of haar, kan die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beampte, na gelang van die geval,] skriftelik van sodanige lid of sodanige ander persoon of sodanige bank of finansiële instelling vereis om nie daaroor te beskik nie of, indien dit geld is, om ’n ooreenstemmende bedrag geld te behou, na gelang van die geval, hangende die uitkoms van enige geregtelike verrigtinge vir die verhaal van sodanige besoldiging toelaag of beloning of die waarde daarvan.”.

Vervanging van artikel 24 van Wet 65 van 2002

36. Artikel 24 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Beloning vir buitengewone ywer of toewyding

24. Die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beampte, na gelang van die geval,] kan met die goedkeuring van die Minister aan enige persoon wat ’n lid is of was, vir buitengewone ywer of toewyding by die uitvoering van sy of haar pligte as lid, die monetêre of ander beloning toeken wat hy of sy in die omstandighede gepas ag.”.

Vervanging van artikel 25 van Wet 65 van 2002

37. Artikel 25 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Instelling van dekorasies en medaljes vir lede

25. (1) Die Minister kan dekorasies en medaljes, asook stawe, knippe en linte ten opsigte van sodanige dekorasies en medaljes, instel en bekendstel, wat deur hom of haar toegeken kan word, behoudens die voorwaardes wat voorgeskryf word, aan enige persoon wat ’n lid is of was, ten opsigte van sy of haar dienste as lid of aan enige ander persoon wat uitsonderlike dienste aan die [Intelligensiedienste of die Akademie] Agentskap gelewer het.

(2) Die medaljes in subartikel (1) beoog moet ingevolge die Heraldiekwet, 1962 (Wet No. 18 van 1962), en op die voorgeskrewe wyse by die Buro vir Heraldiek geregistreer word.”.

Amendment of section 26 of Act 65 of 2002, as amended by section 15 of Act 52 of 2003

38. Section 26 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the substitution in subsection (1)(a) for subparagraph (iii) of the following subparagraph: 5
 - “(iii) discloses classified information or material entrusted to him or her by the Director-General[, **the Chief Executive Officer**] or a member without the permission of the Director-General [**or the Chief Executive Officer, as the case may be**];”;
- (b) by the substitution in subsection (1) for paragraphs (c) and (d) of the following paragraphs, respectively: 10
 - “(c) not being the person to whom a decoration or medal was awarded, wears it or, without the written permission of the Director-General [**concerned or the Chief Executive Officer, as the case may be**], makes use of any decoration or medal established or introduced 15 under this Act, or of its bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive;
 - (d) without the approval of the Minister, in connection with any activity carried on by him or her, takes, assumes, uses or in any manner 20 publishes any name, description, title or symbol that indicates or conveys or purports to indicate or which is likely to lead other persons to believe or infer that such activity is carried on under or by virtue of this Act or under the patronage of the [**Intelligence Services or the Academy**] Agency or is in any manner associated 25 or connected with the [**Intelligence Services or the Academy**] Agency;”;
- (c) by the substitution in subsection (1)(f) for subparagraph (i) of the following subparagraph:
 - “(i) discloses classified information or material without the permission 30 of the Director-General [**concerned or the Chief Executive Officer**];”;
- (d) by the substitution in subsection (1) for paragraph (g) of the following paragraph:
 - “(g) being a member, discloses classified information or material to an 35 unauthorised person without the permission of the Director-General [**concerned or the Chief Executive Officer, as the case may be**].”.

Amendment of section 27 of Act 65 of 2002

39. Section 27 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsections (1), (2) and (3) of the following subsections, respectively: 40

- “(1) Subject to section (10)(3)(a), a former member may not disclose in any form or any manner any information or material to any other person unless the Director-General [**concerned or the Chief Executive Officer, as the case may be,**] has granted permission for the disclosure of such information or material.
- (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 [**Intelligence Services or the Academy, as the case may be**] Agency or with the former National Intelligence Agency, the South African Secret Service or the South African Academy of Intelligence, that was marked as classified or that the former member knew or ought reasonably to have known was 50 classified.

(3) For the purposes of subsection (1), the Director-General [**concerned or the Chief Executive Officer**] may consult any member or person to advise him or her

Wysiging van artikel 26 van Wet 65 van 2002, soos gewysig deur artikel 15 van Wet 52 van 2003

38. Artikel 26 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur subparagraaf (iii) in subartikel (1)(a) deur die volgende subparagraaf te vervang: 5
- “(iii) geklassifiseerde inligting of materiaal wat aan hom of haar toevertrou is deur die Direkteur-generaal, **die Hoof- Uitvoerende Beampte** of ’n lid, sonder die toestemming van die Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** openbaar maak;”;
- (b) deur paragrafe (c) en (d) in subartikel (1) onderskeidelik deur die volgende paragrafe te vervang: 10
- “(c) ’n dekorasie of medalje dra terwyl hy of sy nie die persoon is aan wie dit toegeken is nie of, sonder die skriftelike toestemming van die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** gebruik maak van enige dekorasie of medalje wat kragtens hierdie Wet ingestel of bekendgestel is, of van die staaf, knip of lint daarvan, of enigiets wat in so ’n mate met sodanige dekorasie, medalje, staaf, knip of lint ooreenstem dat die bedoeling is om te bedrieg; 15
- (d) sonder die goedkeuring van die Minister, in verband met enige optrede wat deur hom of haar verrig word, enige naam, beskrywing, titel of simbool neem, aanneem, gebruik of op enige wyse publiseer, wat aandui of te kenne gee of voorgee om aan te dui of wat waarskynlik sal veroorsaak dat ander persone glo of aflei dat 20
- sodanige aktiwiteit uitgevoer word kragtens of uit hoofde van hierdie Wet of onder die beskerming van die **[Intelligensiedienste of die Akademie]** Agentskap of op enige wyse met of aan die **[Intelligensiedienste of Akademie]** Agentskap geassosieer of gekoppel word;”;
- (c) deur subparagraaf (i) in subartikel (1)(f) deur die volgende subparagraaf te vervang: 30
- “(i) geklassifiseerde inligting of materiaal openbaar maak sonder die toestemming van die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte];**”;
- (d) deur paragraaf (g) in subartikel (1) deur die volgende paragraaf te vervang: 35
- “(g) synde ’n lid, geklassifiseerde inligting of materiaal aan ’n ongemagtigde persoon openbaar maak sonder die toestemming van die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval].**”.

Wysiging van artikel 27 van Wet 65 van 2002

39. Artikel 27 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur subartikel (1), (2) en (3) onderskeidelik deur die volgende subartikels te vervang:
- “(1) Behoudens artikel 10(3)(a) mag ’n gewese lid geen inligting of materiaal in enige vorm of op enige wyse aan enige ander persoon openbaar maak nie tensy die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** toestemming vir die openbaarmaking van sodanige inligting of materiaal gegee het. 45
- (2) Subartikel (1) is van toepassing op enige inligting of materiaal wat die gewese lid ontvang het tydens of na die lid se indienshouding of ander diens by die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap of met die voormalige Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheime diens of die Suid-Afrikaanse Akademie van Intelligensie wat as geklassifiseer gemerk is of wat die gewese lid geweet het of redelikerwys moes geweet het geklassifiseer was. 50
- (3) Vir doeleindes van subartikel (1) kan die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte]** enige lid of persoon raadpleeg om hom of haar te adviseer oor die oorweging van aansoeke 55

on the consideration of applications by former members for permission to disclose classified information or material.”.

Amendment of section 28 of Act 65 of 2002

40. Section 28 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (1) of the following subsection: 5

“(1) A former member may not, for a period of three years after leaving the **[Intelligence Services or the Academy] Agency**, render a security service unless he or she has obtained a clearance certificate from the Director-General **[concerned or the Chief Executive Officer, as the case may be]**.”.

Amendment of section 29 of Act 65 of 2002

41. Section 29 of the Intelligence Services Act, 2002, is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively: 10

“(a) who is or was a member, representative or associate of the **[Intelligence Services or the Academy] Agency** or of the former National Intelligence Agency, the South African Secret Service or the South African Academy of Intelligence or a foreign intelligence service; 15

(b) who co-operates or who has co-operated with the **[Intelligence Services or the Academy] Agency** or with the former National Intelligence Agency, the South African Secret Service or the South African Academy of Intelligence in respect of matters concerning the security of the Republic.”. 20

Amendment of section 30 of Act 65 of 2002

42. Section 30 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A former member may appeal to the Minister against a decision of the Director-General **[concerned or the Chief Executive Officer]** in terms of section 27(1) or 28(1).”.

Substitution of section 31 of Act 65 of 2002

43. The following section is hereby substituted for section 31 of the Intelligence Services Act, 2002:

“Conduct of former members

31. The Minister may prescribe the manner in which former members must conduct themselves in order to protect the security of the Republic and the interests of the **[Intelligence Services and the Academy] Agency**.”.

Amendment of section 33 of Act 65 of 2002

44. Section 33 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (1) of the following subsection: 35

“(1) The Minister may by notice in the *Gazette* and in any other appropriate manner prohibit or restrict access to any premises under the control of the **[Intelligence Services or the Academy] Agency**.”.

Amendment of section 34 of Act 65 of 2002

45. Section 34 of the Intelligence Services Act, 2002, is hereby amended—

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

“(1) Notwithstanding anything to the contrary contained in any other law, the Minister may establish canteens for the **[Intelligence Services or the Academy] Agency** and for the organisational components thereof.”; and 45

deur voormalige lede vir toestemming om geklassifiseerde inligting of materiaal openbaar te maak.”.

Wysiging van artikel 28 van Wet 65 van 2002

40. Artikel 28 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 5

“(1) ’n Gewese lid mag nie, vir ’n tydperk van drie jaar nadat hy of sy die [Intelligensiedienste of die Akademie] Agentskap verlaat het, ’n sekuriteitsdiens lewer nie tensy hy of sy ’n klaringsertifikaat van die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beampte, na gelang van die geval,] verkry het.”.

Wysiging van artikel 29 van Wet 65 van 2002

41. Artikel 29 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur paragrawe (a) en (b) onderskeidelik deur die volgende paragrawe te vervang:

- “(a) wat ’n lid, verteenwoordiger of medewerker van die [intelligensiedienste of die Akademie] Agentskap of van die voormalige Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheime-diens of die Suid-Afrikaanse Akademie van Intelligensie of ’n buitelandse intelligensiediens is of was; 15
- (b) wat ten opsigte van aangeleenthede rakende die veiligheid van die Republiek met die [Intelligensiedienste of die Akademie] Agentskap of met die voormalige Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheime-diens of die Suid-Afrikaanse Akademie van Intelligensie saamwerk of 20 saamgewerk het.”.

Wysiging van artikel 30 van Wet 65 van 2002

42. Artikel 30 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) ’n Gewese lid kan na die Minister appelleer teen ’n besluit van die [betrokke] Direkteur-generaal [of die Hoof- Uitvoerende Beampte] ingevolge artikel 27(1) of 28(1).”.

Vervanging van artikel 31 van Wet 65 van 2002

43. Artikel 31 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang: 30

“Gedrag van gewese lede

31. Die Minister kan die wyse voorskryf waarop gewese lede hulle moet gedra ten einde die veiligheid van die Republiek en die belange van die [Intelligensiedienste en die Akademie] Agentskap te beskerm.”.

Wysiging van artikel 33 van Wet 65 van 2002

44. Artikel 33 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister kan by kennisgewing in die *Staatskoerant* en op enige ander gepaste wyse toegang tot enige perseel onder die beheer van die [Intelligensiedienste of die Akademie] Agentskap verbied of beperk.”. 40

Wysiging van artikel 34 van Wet 65 van 2002

45. Artikel 34 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

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

“(1) Ondanks enige andersluidende bepaling vervat in enige ander wet kan die Minister verversingslokale vir die [Intelligensiedienste of die Akademie] Agentskap en vir die organisasiekomponente daarvan instel.”; en

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

“(3) For the purposes of this section ‘canteen’ includes any mess, pub or institution of the **[Intelligence Services or the Academy, as the case may be]** Agency, or any premises temporarily or permanently used for providing recreation, refreshments or necessities mainly for members or retired members or for the families of such members or retired members or for persons employed in any work in or in connection with any such mess, pub, institution or premises.”.

5

Amendment of section 35 of Act 65 of 2002

46. Section 35 of the Intelligence Services Act, 2002, is hereby amended—

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

“(1) If a member is missing and the Director-General **[concerned or the Chief Executive Officer, as the case may be,]** is satisfied that his or her absence arose from the performance of his or her functions in terms of this Act, such member shall for all purposes be deemed to be still employed by the **[Intelligence Services or the Academy, as the case may be,]** Agency until the day on which he or she again reports for duty or until the day on which a competent court issues an order whereby the death of such member is presumed.”; and

15

- (b) by the substitution for subsection (4) of the following subsection:

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“(4) Notwithstanding subsection (2), the Director-General **[concerned or the Chief Executive Officer]** may in the prescribed manner direct that only a portion of the salary or wages and allowances of a member be paid or that no portion thereof be so paid.”.

Amendment of section 36 of Act 65 of 2002

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47. Section 36 of the Intelligence Services Act, 2002, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, in the event of war or when a state of emergency exists and having regard to the requirements of the **[Intelligence Services or the Academy]** Agency, second any member for service or training in the South African National Defence Force or the South African Police Service.”.

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Amendment of section 37 of Act 65 of 2002, as amended by section 16 of Act 52 of 2003

48. Section 37 of the Intelligence Services Act, 2002, is hereby amended—

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

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“(d) the numerical establishment of the **[Intelligence Services and the Academy]** Agency, the conditions of service of the members thereof, the salaries, salary scales, wages and allowances of members and the systems relating to the administration and determination thereof and the various divisions, branches, grades, ranks and designations in the **[Academy or the Intelligence Services]** Agency.”;

40

- (b) by the substitution in subsection (1) for paragraph (f) of the following paragraph:

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“(f) all matters relating to discipline, command and control of members of the **[Intelligence Services and the Academy]** Agency, the suspension of members and the establishment of boards of inquiry into the conduct and discipline of members.”;

- (c) by the substitution in subsection (1) for paragraphs (l) and (m) of the following paragraphs, respectively:

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“(l) the retention of rank on retirement or resignation from the **[Academy or the Intelligence Services]** Agency, and the award of honorary ranks;

- (b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) By die toepassing van hierdie artikel sluit **‘verversingslokaal’** in enige menasie, kroeg of instelling van die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap of enige perseel wat tydelik of permanent gebruik word vir die verskaffing van ontspanning, verversings of noodsaaklikhede hoofsaaklik vir lede of afgetrede lede of vir die gesinne van sodanige lede of afgetrede lede of vir persone in diens in enige werk in of in verband met enige sodanige menasie, kroeg, instelling of perseel.”.

Wysiging van artikel 35 van Wet 65 van 2002

46. Artikel 35 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

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

“(1) Indien ’n lid vermis word en die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte, na gelang van die geval,]** oortuig is dat sy of haar afwesigheid uit die verrigting van sy of haar werksaamhede ingevolge hierdie Wet voortspruit, word sodanige lid in alle opsigte geag steeds in diens van die **[Intelligensiedienste of die Akademie, na gelang van die geval,]** Agentskap te wees tot die dag waarop hy of sy weer vir diens aanmeld of tot die dag waarop ’n bevoegde hof ’n bevel uitreik waarvolgens die dood van sodanige lid vermoed word.”; en

- (b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Ondanks subartikel (2) kan die **[betrokke]** Direkteur-generaal **[of die Hoof- Uitvoerende Beampte]** op ’n voorgeskrewe wyse gelas dat net ’n gedeelte van die salaris of loon en toelaes van ’n lid betaal word of dat geen gedeelte daarvan aldus betaal word nie.”.

Wysiging van artikel 36 van Wet 65 van 2002

47. Artikel 36 van die Wet op Intelligensiedienste, 2002, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister kan in die geval van oorlog of wanneer daar ’n noodtoestand heers en met inagneming van die vereistes van die **[Intelligensiedienste of die Akademie]** Agentskap, enige lid vir diens of opleiding in die Suid-Afrikaanse Nasionale Weermag of die Suid-Afrikaanse Polisiediens sekondeer.”.

Wysiging van artikel 37 van Wet 65 van 2002, soos gewysig deur artikel 16 van Wet 52 van 2003

48. Artikel 37 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur paragraaf (d) in subartikel (1) deur die volgende paragraaf te vervang:

“(d) die numeriese diensstaat van die **[Intelligensiedienste en die Akademie]** Agentskap, die diensvoorwaardes van die lede daarvan, die salarisse, salarisskale, lone en toelaes van lede en die stelsels rakende die administrasie en bepaling daarvan, en die verskillende afdelings, takke, grade, range en benamings in die **[Akademie of die Intelligensiedienste]** Agentskap;”;

- (b) deur paragraaf (f) in subartikel (1) deur die volgende paragraaf te vervang:

“(f) alle aangeleenthede rakende dissipline, bevel en beheer van lede van die **[Intelligensiedienste en die Akademie]** Agentskap, die skorsing van lede en die instelling van rade van ondersoek na die gedrag en dissipline van lede;”;

- (c) deur in subartikel (1) paragrawe (l) en (m) onderskeidelik deur die volgende paragrawe te vervang:

“(l) die behoud van rang by aftrede of bedanking uit die **[Akademie of die Intelligensiedienste]** Agentskap, en die toekenning van ererange;

- (m) the control over and administration of funds appropriated to the **[Academy or the Intelligence Services] Agency** in order to bring about the systematic and orderly management thereof and to promote efficiency and economy in the utilisation thereof;”;
- (d) by the substitution in subsection (1) for paragraphs (o), (p) and (q) of the following paragraphs, respectively: 5
- “(o) the conditions for and procedures regarding the permission of access to any premises under the control of the **[Intelligence Services or the Academy, as the case may be] Agency**, and matters relating thereto; 10
- (p) any matter relating to the information, communications, computer and physical security of the **[Intelligence Services and the Academy] Agency**;
- (q) the functioning of the **[Intelligence Services] Council**;”;
- (e) by the substitution in subsection (1) for paragraph (s) of the following paragraph: 15
- “(s) **[security screening] vetting** investigations of members and persons to be employed in the **[Intelligence Services or the Academy, as the case may be] Agency**;”;
- (f) by the insertion in subsection (1) after paragraph (s) of the following paragraphs: 20
- “(sA) the establishment, structure and functions of a civilian intelligence veterans association;
- (sB) the election, representation and functions of the staff forum;
- (sC) the supply of intelligence to the Minister;
- (sD) the supply of departmental intelligence to government departments;
- (sE) persons authorised to task the Agency to gather and produce intelligence;”.

Amendment of section 38 of Act 65 of 2002

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49. Section 38 of the Intelligence Services Act, 2002, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 35
- “(1) The rights in respect of all discoveries and inventions and all improvements in respect of processes, apparatus and machinery made by a member resulting from research undertaken by such member in the course of his or her employment as a member vest in the **[Intelligence Services or the Academy, as the case may be] Agency**;”;
- (b) by the substitution for subsections (3) and (4) of the following subsections, respectively:
- “(3) If the rights in respect of any discovery, invention or improvement vest in the **[Intelligence Services or the Academy] Agency** in terms of subsection (1), the Minister may award to the person responsible for the discovery, invention or improvement such bonus as he or she deems fit, or make provision for financial participation by such person in the profits derived from the discovery, invention or improvement to such extent as the Minister may determine with the concurrence of the Minister of Finance. 40
- (4) The Minister may apply for a patent in the name of the **[Intelligence Services or the Academy, as the case may be,] Agency** in respect of any discovery, invention or improvement referred to in subsection (1), and the **[Intelligence Services or the Academy, as the case may be,] Agency** must for the purposes of the Patents Act, 1978 (Act 57 of 1978), be regarded as the assignee of the discoverer or inventor concerned.”. 45 50

- (m) die beheer oor en administrasie van fondse wat vir die **[Akademie of die Intelligensiedienste]** Agentskap bewillig is ten einde die stelselmatige en ordelike bestuur daarvan teweeg te bring en om doeltreffendheid en spaarsamigheid by die aanwending daarvan te bevorder;”;
- (d) deur in paragraaf (1) paragrawe (o), (p) en (q) onderskeidelik deur die volgende paragrawe te vervang:
- “(o) die voorwaardes vir en prosedures rakende die toelating van toegang tot enige perseel onder die beheer van die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap, en aangeleenthede wat daarmee in verband staan;
- (p) enige aangeleentheid rakende inligting-, kommunikasie-, rekenaar- en fisiese veiligheid van die **[Intelligensiedienste en die Akademie]** Agentskap;
- (q) die funksionering van die **[Intelligensiediensteraad]** Raad;”;
- (e) deur paragraaf (s) in subartikel (1) deur die volgende paragraaf te vervang:
- “(s) **[veiligheidsiftingsondersoeke]** klaringsondersoeke van lede en persone vir indiensneming deur die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap;”;
- (f) deur die volgende paragrawe na paragraaf (s) in subartikel (1) in te voeg:
- “(sA) die instelling, struktuur en werksaamhede van ’n vereniging van burgerlike-intelligensie veterane;
- (sB) die verkiesing, verteenwoordiging en werksaamhede van die personeelforum;
- (sC) die verskaffing van intelligensie aan die Minister;
- (sD) die verskaffing van departementele intelligensie aan regeringsdepartemente;
- (sE) persone gemagtig om die Agentskap opdrag te gee om intelligensie in te samel en te produseer;”.

Wysiging van artikel 38 van Wet 65 van 2002

49. Artikel 38 van die Wet op Intelligensiedienste, 2002, word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Die regte ten opsigte van alle ontdekkings en uitvindings en alle verbeterings ten opsigte van prosesse, apparaat en masjinerie wat deur ’n lid gemaak word voortspruitend uit navorsing deur sodanige lid gedoen in die loop van sy of haar diens as lid, berus by die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap;”;
- (b) deur subartikels (3) en (4) onderskeidelik deur die volgende subartikels te vervang:
- “(3) Indien die regte op enige ontdekking, uitvinding of verbetering ingevolge subartikel (1) by die **[Intelligensiedienste of die Akademie]** Agentskap berus, kan die Minister aan die persoon verantwoordelik vir die ontdekking, uitvinding of verbetering die bonus toeken wat hy of sy geskik ag, of voorsiening maak vir finansiële deelname deur sodanige persoon aan die winste verkry uit die ontdekking, uitvinding of verbetering in die mate wat die Minister met die instemming van die Minister van Finansies bepaal.
- (4) Die Minister kan aansoek doen om ’n patent op naam van die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap, ten opsigte van enige ontdekking, uitvinding of verbetering in subartikel (1) bedoel, en die **[Intelligensiedienste of die Akademie, na gelang van die geval]** Agentskap, moet by die toepassing van die Wet op Patente, 1978 (Wet No. 57 van 1978), beskou word as die regsverkrygende van die betrokke ontdekker of uitvinder.”.

Substitution of section 40 of Act 65 of 2002

50. The following section is hereby substituted for section 40 of the Intelligence Services Act, 2002:

“Repeal of laws, transitional provisions and savings

40. (1) The laws specified in the Schedule are hereby repealed to the extent indicated in the third column thereof. 5

(2) All assets, liabilities, rights and duties, including funds, resources and administrative records of the former National Intelligence Agency, South African Secret Service, South African National Academy of Intelligence and Electronic Communications Security (Pty) Ltd (hereinafter referred to as Comsec) must be transferred to the Agency within six months after the commencement of the General Intelligence Laws Amendment Act, 2013, and vest from the date of transferral in, and must from that date be regarded as having been acquired or incurred by, the Agency. 10

(3) (a) Notwithstanding subsection (2) and section 3(1A), as from a date determined by the Minister by notice in the *Gazette*, Comsec ceases to exist as a juristic person and must for the purposes of the Companies Act, 2008 (Act No. 71 of 2008), be regarded as having been wound up. 15

(b) The Companies and Intellectual Property Commission must, upon receipt of a notification by the Director-General of the date contemplated in paragraph (a), deregister Comsec as a company in terms of the Companies Act, 2008 (Act No. 71 of 2008), with effect from the said date. 20

(c) No notice or filing fee or other charge is payable in respect of the deregistration of Comsec.

(4) (a) A registrar of deeds must, upon the production to him or her of a certificate by the Minister that immovable property described in the certificate vests in the Agency in terms of subsection (2), make such entries and endorsements as he or she may deem necessary in or on any relevant register, title deed or other document in his or her office, so as to give effect to subsection (2). 25 30

(b) No duty, office fee or other charge is payable in respect of any entry or endorsement in terms of paragraph (a).

(5) If an inquiry into alleged misconduct has been instituted by an entity referred to in subsection (2) but not yet concluded at the commencement of the General Intelligence Laws Amendment Act, 2013, such proceedings must be continued and concluded in accordance with the law in terms of which the inquiry was instituted. 35

(6) Disciplinary proceedings may be instituted and concluded in terms of this Act against alleged improper conduct of any person who at any time prior to the commencement of the General Intelligence Laws Amendment Act, 2013, was in the service of an entity referred to in subsection (2), provided that the act or omission concerned is substantially the same as an act constituting misconduct in terms of this Act. 40

(7) Any regulation made under section 22 of the Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002), shall remain in force for a period of six months after the date of commencement of this Act unless it is inconsistent with this Act. 45

(8) (a) Any employee of Comsec, appointed in terms of section 14(1) of the Electronic Communications Security (Pty) Ltd Act, 2002 (Act No. 68 of 2002), must be transferred to the Agency on terms and conditions which may not be less favourable than the remuneration and terms and conditions applicable to that person immediately before his or her transfer and he or she remains entitled to all rights, benefits, including pension benefits, and privileges to which he or she was entitled immediately before such transfer. 50

Vervanging van artikel 40 van Wet 65 van 2002

50. Artikel 40 van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende artikel vervang:

“Herroeping van wette, oorgangsbepalings en voorbehoudsbepalings

40. (1) Die Wette in die Bylae gespesifiseer word hierby herroep tot die mate in die derde kolom daarvan aangedui. 5

(2) Alle bates, laste, regte en pligte met inbegrip van fondse, hulpbronne en administratiewe rekords van die voormalige Nasionale Intelligensie-agentskap, Suid-Afrikaanse Geheimeidiens, Suid-Afrikaanse Nasionale Akademie van Intelligensie en *Electronic Communications Security (Pty) Ltd* (hierna Comsec genoem), moet binne ses maande na die inwerkingtreding van die Algemene Wysigingswet op Intelligensiewette, 2013, na die Agentskap oorgedra word, en vestig vanaf die datum van oordrag in die Agentskap en moet vanaf daardie datum geag word deur die Agentskap verkry of aangegaan te wees. 10 15

(3) (a) Ondanks subartikel (2) en artikel 3(1A), soos vanaf 'n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal, hou Comsec op om as 'n regspersoon te bestaan en moet by die toepassing van die Maatskappywet, 2008 (Wet No. 71 van 2008), geag word gelikwieder te wees. 20

(b) Die Kommissie vir Maatskappye en Intellektuele Eiendom moet, by ontvangs van 'n kennisgewing deur die Direkteur-generaal van die datum in paragraaf (a) beoog, die Maatskappy as 'n maatskappy ingevolge die Maatskappywet, 2008 (Wet No. 71 van 2008), deregistreer met ingang vanaf die genoemde datum. 25

(c) Geen kennisgewing of indieningsgelde is ten opsigte van die deregistrasie van Comsec betaalbaar nie.

(4) (a) 'n Aktesregistrator moet, by die toon van 'n sertifikaat van die Minister aan hom of haar dat onroerende bates in die sertifikaat beskryf ingevolge subartikel (2) in die Agentskap vestig, sodanige inskrywings en endossemente wat hy of sy nodig mag ag in of op enige toepaslike register, titelaktes of ander dokument in sy of haar kantoor maak, ten einde aan subartikel (2) gevolg te gee. 30

(b) Geen belasting, kantoorgelde of ander vordering is betaalbaar ten opsigte van 'n inskrywing of endossement ingevolge subartikel (3) nie. 35

(5) As 'n ondersoek na beweerde wangedrag deur 'n entiteit in subartikel (2) bedoel ingestel is, maar teen die inwerkingtreding van die Algemene Wysigingswet op Intelligensiewette, 2013, nog nie afgehandel is nie, moet sodanige verrigtinge ooreenkomstig die wet ingevolge waarvan die ondersoek ingestel is voortgaan en afgehandel word. 40

(6) Dissiplinêre verrigtinge kan ingevolge hierdie Wet ingestel en gevoer word teen beweerde onbehoorlike gedrag van 'n persoon wat ter enige tyd voor die inwerkingtreding van die Algemene Wysigingswet op Intelligensiewette, 2013, in diens was van 'n entiteit in subartikel (2) bedoel, met dien verstande dat die betrokke handeling of versuim wesenlik dieselfde is as 'n handeling wat wangedrag ingevolge hierdie Wet daarstel. 45

(7) Enige regulasie kragtens artikel 22 van die Wet op *Electronic Communications Security (Pty) Ltd*, 2002 (Wet No. 68 van 2002), uitgevaardig bly van krag vir 'n tydperk van ses maande na die inwerkingtredingsdatum van hierdie Wet, tensy dit onbestaanbaar met hierdie Wet is. 50

(8) (a) Enige werknemer van Comsec, ingevolge artikel 14(1) van die Wet op *Electronic Communications Security (Pty) Ltd*, 2002 (Wet No. 68 van 2002), aangestel, moet na die Agentskap verplaas word op bedinge en voorwaardes wat nie minder voordelig mag wees as die besoldiging en bedinge en voorwaardes op hom of haar van toepassing onmiddellik voor sy of haar verplasing nie en hy of sy bly geregtig op alle regte, voordele, met inbegrip van pensioenvoordele, en voorregte waarop hy of sy net voor sodanige verplasing geregtig was. 55

(b) A person transferred to the Agency in terms of paragraph (a) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before his or her transfer to the extent that they remain applicable.

(9) Unless inconsistent with the context or clearly inappropriate, any reference in any law to the National Intelligence Agency, the South African Secret Service or the South African National Academy of Intelligence or to Electronic Communications Security (Pty) Ltd or Comsec, must be regarded as a reference to the Agency.”

Substitution of Schedule to Act 65 of 2002

51. The following Schedule is hereby substituted for the Schedule to the Intelligence Services Act, 2002:

SCHEDULE

LAWS REPEALED

(Section 40)

No. and year of Act	Short title	Extent of repeal
Act 68 of 2002	Electronic Communications Security (Pty) Ltd Act, 2002	Repeal of the whole.
Act 52 of 2003	General Intelligence Laws Amendment Act, 2003	Repeal of sections 17, 18, 19, 20, 21, 22, 23 and 24

Substitution of long title of Act 65 of 2002

52. The following long title is hereby substituted for the long title of the Intelligence Services Act, 2002:

“To regulate the establishment, administration, organisation and control of the [National Intelligence Agency, the South African Secret Service and the South African National Academy of Intelligence] State Security Agency; to establish and regulate the Intelligence [Services] Council on Conditions of Service; to repeal [an Act] certain laws; and to provide for certain transitional measures and savings; and to provide for matters connected therewith.”

Amendment of laws

53. The laws specified in Schedule 1 are hereby amended to the extent indicated in the third column thereof.

Short title and commencement

54. This Act is called the General Intelligence Laws Amendment Act, 2013, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(b) 'n Persoon wat ingevolge paragraaf (a) na die Agentskap verplaas is, bly onderhewig aan enige besluite, verrigtinge, beslissings en voorskrifte van toepassing op daardie persoon onmiddellik voor sy of haar verplasing tot die mate waarin dit van toepassing bly.

(9) Tensy dit nie met die samehang ooreenstem nie of ooglopend onvanpas is, word enige verwysing in enige wet na die Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheimeidiens of die Suid-Afrikaanse Nasionale Akademie van Intelligensie of na *Electronic Communications Security (Pty) Ltd* of Comsec, geag 'n verwysing na die Agentskap te wees.”

Vervanging van Bylae tot Wet 65 van 2002

51. Die Bylae tot die Wet op Intelligensiedienste, 2002, word hierby deur die volgende Bylae vervang:

BYLAE

WETTE HERROEP

(Artikel 40)

No. en jaar van Wet	Kort titel	Omvang van herroeping
Wet 68 van 2002	Wet op <i>Electronic Communications Security (Pty) Ltd</i> , 2002	Herroeping van die geheel.
Wet 52 van 2003	Algemene Wysigingswet op Intelligensiewette, 2003	Herroeping van artikels 17, 18, 19, 20, 21, 22, 23 en 24

Vervanging van lang titel van Wet 65 van 2002

52. Die lang titel van die Wet op Intelligensiedienste, 2002, word hierby deur die volgende lang titel vervang:

“Om die instelling, administrasie, organisasie en beheer van die [Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheimeidiens en die Suid-Afrikaanse Nasionale Akademie van Intelligensie] Staatsveiligheidsagentskap te reël; om die [Intelligensiediensteraad] Intelligensieraad op Diensvoorwaardes in te stel en te reël; om [’n Wet] sekere wette te herroep; en om voorsiening te maak vir sekere oorgangsmatreëls en voorbehoudsbepalings; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”

Wysiging van wette

53. Die Wette in Bylae 1 vermeld word hierby gewysig tot die mate in die derde kolom daarvan aangedui.

Kort titel en inwerkingtreding

54. Hierdie Wet heet die Algemene Wysigingswet op Intelligensiewette, 2013, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

SCHEDULE 1

LAWS AMENDED

(Section 54)

No. and year of Act	Short title	Extent of amendment
Act 81 of 1969	Security Services Special Account Act, 1969	1. The amendment of section 2 by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively: “(a) the performance of the function and the duty of the [Intelligence Services] Agency 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 (b) by the organisation of, the exercising of the powers and the performance of the duties and functions of any member of, the exercising of the powers of the President or the Minister in relation to the superintendence and control of, and the action by and the functioning of, the [Intelligence Services and the Academy] Agency as defined in section 1 of the Intelligence Services Act, 2002.”. 2. The substitution for section 3 for the following section: “Control of expenditure 3. Subject to the provisions of section 2, the account shall be under the control of the Director-General: [National Intelligence Agency and the Director-General: South African Secret Service] State Security Agency, who shall cause proper records to be kept of all moneys received or expended.”. 3. The substitution for section 5 of the following section: “Investment of balances 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, the South African National Academy of Intelligence, Comsec] State Security Agency or the Office with the concurrence of the Minister of Finance.”.

BYLAE 1

WETTE GEWYSIG
(Artikel 54)

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 81 van 1969	Wet op die Spesiale Rekening vir Veiligheidsdienste, 1969	1. Die wysiging van artikel 2— (a) deur paragrawe (a) en (b) in subartikel (2) onderskeidelik deur die volgende paragrawe te vervang: “(a) die verrigting van die funksie en die plig van die [Intelligensiedienste] Agentskap soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), [Comsec soos omskryf in artikel 1 van die Wet op Electronic Communications Security (Pty) Ltd, 2002 (Wet No. 68 van 2002),] en die Kantoor soos omskryf in artikel 1 of die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasieverwante Inligting, 2002 (Wet No. 70 van 2002); en (b) die organisasie van, die uitoefening van die bevoegdhede en die verrigting van die pligte en werksaamhede van ’n lid van, die uitoefening van die bevoegdhede van die President of die Minister met betrekking tot die toesig en beheer oor, en die optrede en funksionering van, die [Intelligensiedienste en die Akademie] Agentskap soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 2002,”. 2. Artikel 3 word deur die volgende artikel vervang: “Beheer oor uitgawes 3. Behoudens die bepalings van artikel 2 staan die rekening onder die beheer van die Direkteur-generaal: [Nasionale Intelligensie-agentskap en die Direkteur-generaal: Suid-Afrikaanse Geheimeiens] Staatsveiligheidsagentskap, wat van alle gelde ontvang of bestee, behoorlik moet laat boekhou.”. 3. Die vervanging van artikel 5 deur die volgende artikel: “Belegging van saldo’s 5. Gelde waarmee die rekening gekrediteer is en wat nie vir onmiddellike gebruik of as ’n redelike bedryfsaldo benodig word nie, kan belê word op die wyse wat die President of Minister verantwoordelik vir die [Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheimeiens, die Suid-Afrikaanse Nasionale Akademie van Intelligensie, Comsec] Staatsveiligheidsagentskap of die Kantoor met die instemming van die Minister van Finansies bepaal.”.

No. and year of Act	Short title	Extent of amendment
Act 84 of 1982	Protection of Information Act, 1982	1. The amendment of section 1 by the substitution for the definition of “security matter” of the following definition: “‘security matter’ includes any matter which is dealt with by— (a) the Agency as defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002); or (b) 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), or which relates to the functions of the Agency or the Office or to the relationship existing between any person and the Agency or the Office.”.
Proclamation 103 of 1994	Public Service Act, 1994	1. The amendment of section 1— (a) by the substitution for the definition of “member of the Intelligence Services” of the following definition: “‘member of the Intelligence Services’ means a member of the State Security Agency appointed or deemed to have been appointed in terms of the Intelligence Services Act, 2002;”; (b) by the insertion after the definition of “salary scale” of the following definition: “‘State Security Agency’ means the State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);”. 2. The amendment of section 16 by the substitution in subsections (1)(a), (2)(a), (2A)(a), (4) and (7) for the words “Agency or the Service” of the words “State Security Agency”. 3. The deletion in Schedule 1 of the words “South African National Academy of Intelligence” and “Chief Executive Officer: South African National Academy of Intelligence”. 4. The deletion in Columns 1 and 2 of Part A of Schedule 3 of the words “COMSEC” and “Head: COMSEC”; “Intelligence Academy” and “Head: Intelligence Academy”; “National Intelligence Agency” and “Head: National Intelligence Agency”; “South African Secret Service” and “Head: South African Secret Service” and, in the Column 3, the deletion of the words “State Security Agency”, wherever they occur.

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 84 van 1982	Wet op die Beveiliging van Inligting, 1982	1. Die wysiging van artikel 1 deur die omskrywing van “veiligheidsaangeleentheid” deur die volgende omskrywing te vervang: “‘veiligheidsaangeleentheid’ ook enige aangeleentheid wat hanteer word deur— (a) die Agentskap soos in artikel 1 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), omskryf; of (b) die Kantoor soos in artikel 1 van die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002 (Wet No. 70 van 2002), omskryf, of wat verband hou met die werksaamhede van die Agentskap of die Kantoor of met die verhouding wat bestaan tussen ’n persoon en die Agentskap of die Kantoor.”.
Proklamasie 103 van 1994	Staatsdienswet, 1994	1. Die wysiging van artikel 1 deur— (a) die omskrywing van “lid van die intelligensiedienste” deur die volgende omskrywing te vervang: “‘lid van die Intelligensiedienste’ ’n lid van die Staatsveiligheidsagentskap aangestel of aangestel geag, ingevolge die Wet op Intelligensiedienste, 2002;”; (b) deur die volgende omskrywing na die omskrywing van “staatsorgaan” in te voeg: “‘Staatsveiligheidsagentskap’ die Staatsveiligheidsagentskap in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), bedoel;”. 2. Die wysiging van artikel 16 deur in subartikels (1)(a), (2)(a), (2A)(a), (4) en (7) die woord “Agentskap of die Diens” deur die woord “Staatsveiligheidsagentskap” te vervang. 3. Die skapping in Bylae 1 van die woorde “Suid-Afrikaanse Nasionale Akademie van Intelligensie” en “Hoof- Uitvoerende Beampte”. 4. Die skapping in Kolomme 1 en 2 van Deel A van Bylae 3 van die woorde “COMSEC” en “Hoof: COMSEC”; “Intelligensie-akademie” en “Hoof: Intelligensie-akademie”; “Nasionale Intelligensie-agentskap” en “Hoof: Nasionale Intelligensie-agentskap”; “Suid-Afrikaanse Geheimediens” en “Hoof: Suid-Afrikaanse Geheimediens” en, in Kolom 3, die skapping van die woorde “Staatsveiligheidsagentskap”, waar hulle ook al voorkom.

No. and year of Act	Short title	Extent of amendment
Act 66 of 1995	Labour Relations Act, 1995	1. The substitution for section 2 of the following section: “Exclusion from application of this Act 2. This Act does not apply to members of— (a) the National Defence Force; (b) the [National Intelligence] State Security Agency; [(c) the South African Secret Service; (d) the South African National Academy of intelligence; (e) Comsec.]”.
Proclamation 21 of 1996	Government Employees Pension Law, 1996	1. The amendment of section 1 by the insertion after the definition of “South African Secret Service” of the following definition: “‘State Security Agency’ means the State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);”. 2. The substitution in Rule 1.24 of the Rules of the Government Employees Pension Fund contained in Schedule 1, for the definition of “Services” of the following definition: “‘Services’, the [National Intelligence Agency,] South African National Defence Force, South African Police Service and [South African Secret Service] State Security Agency as described in section 1 of the Law;”. 3. The substitution in Rule 14.2.4 of the Rules of the Government Employees Pension Fund contained in Schedule 1, for paragraph (a) of the following paragraph: “(a) of a member who is a member of the South African Police Service, the Correctional Services, the South African National Defence Force [, the National Intelligence Agency or the South African Secret Service] or the State Security Agency, shall be increased by a period which is equal to one quarter of the period by which his or her pensionable service exceeds the period of 10 years;”. 4. The substitution for the words “, National Intelligence Agency and the South African Secret Service” of the words “and the State Security Agency”, wherever they occur, in— (i) sections 18(2) and 29(1)(a); (ii) the definition of “responsible Minister” contained in Rule 1.22 of the Rules of the Government Employees Pension Fund contained in Schedule 1; and (iii) Rule 4.1.3(b) and subparagraph (i) of the proviso to Rule 14.8 of the said Rules.

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 66 van 1995	Wet op Arbeidsverhoudinge, 1995	1. Die vervanging van artikel 2 deur die volgende artikel: “Uitsluiting van toepassing van hierdie Wet 2. Hierdie Wet is nie van toepassing nie op lede van— (a) die Nasionale Weermag; (b) die [Nasionale Intelligensie-agent-skap] Staatsveiligheidsagentskap; (c) die Suid-Afrikaanse Geheime diens; (d) die Suid-Afrikaanse Nasionale Akademie van Intelligensie; (e) Comsec.”.
Proklamasie 21 van 1996	Government Employees Pension Law, 1996	1. Die wysiging van artikel 1 in die Engelse teks deur die volgende omskrywing na die omskrywing van “South African Secret Service” in te voeg: “ ‘State Security Agency’ means the State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);”. 2. Die vervanging in Reël 1.24 van die “Rules of the Government Employees Pension Fund” vervat in Bylae 1 van die Engelse teks van die omskrywing van “Services” deur die volgende omskrywing: “ ‘Services’, the [National Intelligence Agency,] South African National Defence Force, South African Police Service and [South African Secret Service] State Security Agency as described in section 1 of the Law;”. 3. Die vervanging in Reël 14.2.4 van die “Rules of the Government Employees Pension Fund” vervat in Bylae 1 van die Engelse teks, van paragraaf (a) deur die volgende paragraaf: “(a) of a member who is a member of the South African Police Service, the Correctional Services, the South African National Defence Force [, the National Intelligence Agency or the South African Secret Service] or the State Security Agency, shall be increased by a period which is equal to one quarter of the period by which his or her pensionable service exceeds the period of 10 years;”. (4) Die vervanging van die woorde “National Intelligence Agency and the South African Secret Service” deur die woorde “State Security Agency” waar dit ook al voorkom in die Engelse teks in— (i) artikels 18(2) en 29(1)(a); (ii) die omskrywing van “responsible Minister” in Reël 1.22 van die Reëls van die “Government Employees Pension Fund” vervat in Bylae 1; en (iii) Reël 4.1.3(b) en subparagraaf (i) van die voorbehoudsbepaling tot Reël 14.8 van die genoemde Reëls.

No. and year of Act	Short title	Extent of amendment
Act 75 of 1997	Basic Conditions of Employment Act, 1997	1. The amendment of section 1 by the deletion in the definition of “Public Service” of paragraph (b), (c), (d) and (e). 2. The amendment of section 3— (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) members of the [National Intelligence Agency, the South African Secret Service and the South African National Academy of Intelligence.] <u>State Security Agency</u>”; and (b) by the deletion of paragraph (c).
Act 112 of 1998	Witness Protection Act, 1998	1. The amendment of section 1 by the substitution in the definition of “law enforcement officer” for paragraph (a) of the following paragraph: “(a) a member of the <u>State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002); and</u>”. 2. The amendment of section 6— (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: “(c) the Director-General: [National Intelligence] <u>State Security Agency</u>”; (b) by the deletion in subsection (1) of paragraph (d).
Act 131 of 1998	Medical Schemes Act, 1998	1. The amendment of section 1 by the deletion of the definitions of “Academy”, “Agency”, “Comsec” and “Service”. 2. The amendment of section 2 by the substitution for subsection (3) of the following subsection: “(3) Notwithstanding the provisions of subsections (1) and (2), this Act shall not apply to the [Agency, the Academy, the Service and the directors and staff of Comsec] <u>State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002).</u>”.
Act 38 of 2001	Financial Intelligence Centre Act, 2001	1. The amendment of section 1 by the substitution for the definition of “intelligence service” of the following definition: “‘intelligence service’ means the <u>State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);</u>”.

No. en jaar van Wet	Kort titel	Omvang van wysiging
Wet 75 van 1997	Wet op Basiese Diensvoorwaardes, 1997	1. Die wysiging van artikel 1 deur paragrawe (b), (c), (d) en (e) te skrap. 2. Die wysiging van artikel 3— (a) deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: “(a) lede van die [Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheime diens en die Suid-Afrikaanse Nasionale Akademie van Intelligensie.] Staatsveiligheidsagentskap;”; en (b) deur die skraping van paragraaf (c).
Wet 112 van 1998	Wet op Getuiebeskerming, 1998	1. Die wysiging van artikel 1 deur paragraaf (a) van die omskrywing van “wetstoepassingsbeampte” deur die volgende paragraaf te vervang: “(a) ’n lid van die Staatsveiligheidsagentskap, bedoel in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002); en”. 2. Die wysiging van artikel 6— (a) deur paragraaf (c) in subartikel (1) deur die volgende paragraaf te vervang: “(c) die Direkteur-generaal: [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap;”; en (b) deur paragraaf (d) in subartikel (1) te skrap.
Wet 131 van 1998	Wet op Mediese Skemas, 1998	1. Die wysiging van artikel 1 deur die skraping van die omskrywings van “Akademie”, “Agentskap”, “Comsec” en “Diens”. 2. Die wysiging van artikel 2 deur subartikel (3) deur die volgende subartikel te vervang: “(3) Ondanks die bepalings van subartikels (1) en (2) is hierdie Wet nie op die [Agentskap, die Akademie, die Diens en die direkteure en personeel van Comsec] Staatsveiligheidsagentskap in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), bedoel van toepassing nie.”.
Wet 38 van 2001	Wet op die Finansiële Intelligensiesentrum, 2001	1. Die wysiging van artikel 1 deur die omskrywing van “intelligensiediens” deur die volgende omskrywing te vervang: “‘intelligensiediens’ die Staatsveiligheidsagentskap bedoel in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002);”.

No. and year of Act	Short title	Extent of amendment
		2. The amendment of section 12 by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) information with respect to that person has been gathered in a [security screening] vetting investigation by the [National Intelligence Agency established by section 3 of the Intelligence Services Act, 1994 (Act No. 38 of 1994)] State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002); and”. 3. The amendment of section 13 by the substitution in subsection (1) for paragraph (a) of the following paragraph: “(a) information with respect to that person has been gathered in a [security screening] vetting investigation by the [National Intelligence Agency established by section 3 of the Intelligence Services Act, 1994 (Act No. 38 of 1994)] State Security Agency referred to in section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002); and”. 4. The amendment of section 19 by the substitution in subsection (1) for paragraph (e) of the following paragraph: “(e) the Director-General of the [National Intelligence] State Security Agency;”.
Act 56 of 2001	Private Security Industry Regulation Act, 2001	1. The amendment of section 7 by the substitution for paragraph (e) of the following paragraph: “(e) has not obtained such a security clearance by the [National Intelligence] State Security Agency as may have been determined by the Minister.”. 2. The amendment of section 14 by the substitution in subsection (4) for paragraph (c) of the following paragraph: “(c) Staff members of the Authority may not have any financial interest in the private security industry and must successfully undergo such security clearance check conducted by the [National Intelligence] State Security Agency, as may be determined by the Council if this is relevant in respect of their work.”.

No. en jaar van Wet	Kort titel	Omvang van wysiging
		2. Die wysiging van artikel 12 deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: “(a) inligting met betrekking tot daardie persoon ingesamel is in ’n [sekerheidskontroleringsondersoek] klaringsondersoek deur die [Nasionale Intelligensie-agentskap by artikel 3 van die Wet op Intelligensiedienste, 1994 (Wet No. 38 van 1994)] Staatsveiligheidsagentskap bedoel in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), ingestel; en”. 3. Die wysiging van artikel 13 deur paragraaf (a) in subartikel (1) deur die volgende paragraaf te vervang: “(a) inligting met betrekking tot daardie persoon ingesamel is in ’n [sekerheidskontroleringsondersoek] klaringsondersoek deur die [Nasionale Intelligensie-agentskap by artikel 3 van die Wet op Intelligensiedienste, 1994 (Wet No. 38 van 1994)] Staatsveiligheidsagentskap bedoel in artikel 3 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), ingestel; en”. 4. Die wysiging van artikel 19 deur paragraaf (e) in subartikel (1) deur die volgende paragraaf te vervang: “(e) die Direkteur-generaal van die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap;”.
Wet 56 van 2001	Wet op die Regulering van die Private Sekuriteitsbedryf, 2001	1. Die wysiging van artikel 7 deur paragraaf (e) deur die volgende paragraaf te vervang: “(e) nie die sekerheidsklaring deur die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap wat deur die Minister bepaal mag gewees het, verkry het nie.”. 2. Die wysiging van artikel 14 deur paragraaf (c) in subartikel (4) deur die volgende paragraaf te vervang: “(c) Personeellede van die Owerheid mag nie enige finansiële belang in die private sekuriteitsbedryf hê nie en moet, indien dit ten opsigte van hulle werk relevant is, die sekerheidsklaring deur die [Nasionale Intelligensie-agentskap] Staatsveiligheidsagentskap uitgevoer, wat deur die Raad bepaal word, suksesvol ondergaan.”.

No. and year of Act	Short title	Extent of amendment
		3. The amendment of section 23 by the substitution for subsection (5) of the following subsection: “(5) Despite any provision to the contrary, a person in the permanent employ of the Service, [the Directorate of Special Operations, the National Intelligence Agency, the South African Secret Service] the State Security Agency, the South African National Defence Force or the Department of Correctional Services may not be registered as a security service provider whilst so employed.”.
Act 40 of 2002	Institution of Legal Proceedings against certain Organs of State Act, 2002	1. The amendment of section 5 by the substitution in subsection (1)(b) for subparagraph (i) of the following subparagraph: “(i) Minister [for Intelligence] of State Security is the defendant or respondent, may be served on the Director-General: [National Intelligence Agency or the Director-General: South African Secret Service, as the case may be] State Security Agency;”.
Act 70 of 2002	Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002	1. The amendment of section 1— (a) by the substitution in subsection (1) for paragraph (c) of the definition of “applicant” of the following paragraph: “(c) a member as defined in section 1 of the Intelligence Services Act, if the member concerned obtained in writing the approval in advance of another member of the Agency, [or the Service, as the case may be,] holding a post of at least general manager;”; (b) by the substitution in subsection (1) for the definition of “Intelligence Service Act” of the following definition: “‘Intelligence Services Act’ means the Intelligence Services Act, [1994 (Act No. 38 of 1994)] 2002 (Act No. 65 of 2002);”; (c) by the substitution in subsection (1) for paragraph (c) of the definition of “law enforcement agency” of the following paragraph: “(c) the Agency [or the Service];”; (d) by the substitution in subsection (1) for paragraph (c) of the definition of “law enforcement officer” of the following paragraph: “(c) the Agency [or the Service];”; (e) by the substitution in subsection (1) for the definition of “Minister” of the following definition: “‘Minister’ means the Cabinet member responsible for the administration of justice, except in Chapter 6 where it means the Cabinet member responsible for [intelligence services] state security;”;

No. en jaar van Wet	Kort titel	Omvang van wysiging
		3. Die wysiging van artikel 23 deur subartikel (5) deur die volgende subartikel te vervang: “(5) Ondanks enige bepaling tot die teendeel, kan ’n persoon in die permanente diens van die Diens, die [Direktoraat van Spesiale Operasies, die Nasionale Intelligensie-agentskap, die Suid-Afrikaanse Geheime diens, die Suid-Afrikaanse Nasionale Weermag of die Departement van Korrektiewe Dienste] Staatsveiligheidsagentskap nie as ’n sekuriteitsdiensverskaffer geregistreer word terwyl hy of sy daar in diens is nie.”.
Wet 40 van 2002	Wet op die Instel van Regsgedinge teen Sekere Staatsorgane, 2002	1. Die wysiging van artikel 5 deur subparagraaf (i) in subartikel (1)(b) deur die volgende subparagraaf te vervang: “(i) Minister [vir Intelligensie] van <u>Staatsveiligheid</u> die verweerder of respondent is, beteken word aan die Direkteur-generaal: [Nasionale Intelligensie-agentskap of die Direkteur-generaal: Suid-Afrikaanse Geheime diens, na gelang van die geval] Staatsveiligheidsagentskap;”.
Wet 70 van 2002	Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-Verwante Inligting, 2002	1. Die wysiging van artikel 1— (a) deur paragraaf (c) in die omskrywing van “aansoeker” deur die volgende paragraaf te vervang: “(c) ’n lid soos omskryf in artikel 1 van die Wet op Intelligensiedienste, indien die betrokke lid vooraf die skriftelike goedkeuring verkry het van ’n ander lid van die Agentskap [of die Diens, na gelang van die geval,] wat ’n pos van minstens algemene bestuurder beklee;”; (b) deur die vervanging in subartikel (1) van paragraaf (c) van die omskrywing van “wetstoepassingsagentskap” deur die volgende paragraaf: “(c) die Agentskap [of die Diens];”; (c) deur die vervanging in subartikel (1) van paragraaf (c) van die omskrywing van “betrokke Ministers” deur die volgende paragraaf: “(c) [intelligensiedienste] <u>staatsveiligheid; en</u>”; (d) deur die skraping van die omskrywing van “Diens”; (e) deur die vervanging in subartikel (1) van die omskrywing van “Minister” deur die volgende omskrywing: “‘Minister’ die lid van die Kabinet verantwoordelik vir die regspleging, behalwe in Hoofstuk 6 waar dit beteken die lid van die Kabinet verantwoordelik vir [intelligensie-dienste] <u>staatsveiligheid;</u>”;

No. and year of Act	Short title	Extent of amendment
		(f) by the substitution in subsection (1) for paragraph (c) of the definition of “relevant Ministers” for the following paragraph: “(c) [intelligence services] <u>state security</u>; and”; and (g) by the deletion of the definition of “Service”. 2. The amendment of section 34— (a) by the substitution in subsection (4)(a) for subparagraph (iii) of the following subparagraph: “(iii) Director-General: [National Intelligence] <u>State Security Agency</u>; and”; and (b) by the deletion of subparagraph (iv).

No. en jaar van Wet	Kort titel	Omvang van wysiging
		(f) deur die vervanging in subartikel (1) van die omskrywing van “Wet op Intelligensiedienste” deur die volgende omskrywing: “‘Wet op Intelligensiedienste’ die Wet op Intelligensiedienste, [1994 (Wet No. 38 van 1994)] 2002 (Wet No. 65 van 2002);” en (g) deur die vervanging in subartikel (1) van paragraaf (c) van die omskrywing van “wetstoepassingsbeampte”: “(c) die Agentskap [of die Diens];”. 2. Die wysiging van artikel 34— (a) deur subparagraaf (iii) in subartikel (4)(a) deur die volgende subparagraaf te vervang: “(iii) Direkteur-generaal: [Nasionale Intelligensie-agentskap] <u>Staatsveiligheidsagentskap</u>; en” en (b) deur die skraping van subparagraaf (iv).

