

REPUBLIC OF SOUTH AFRICA

**STANDING COMMITTEE AMENDMENTS
TO**

**FINANCIAL INTELLIGENCE
CENTRE AMENDMENT BILL**

[B 33B—2015]

(As agreed to by the Standing Committee on Finance (National Assembly))

[B 33C—2015]

ISBN 978-1-4850-0353-3

No. of copies printed 400

AMENDMENTS AGREED TO

FINANCIAL INTELLIGENCE CENTRE AMENDMENT BILL [B 33B—2015]

CLAUSE 32

1. On page 24, from line 5, to omit subsection (1) and to substitute:

“(1) (a) In this section “**compliance**” means compliance with a provision of this Act or any order, determination or directive made in terms of this Act and which, if not complied with, constitutes non-compliance.

(b) **[For]** An inspector appointed in terms of section 45A may enter the premises, excluding a private residence, of an accountable institution or reporting institution which is registered in terms of section 43B or otherwise licensed or authorised by a supervisory body and inspect the affairs of the accountable institution or reporting institution, as the case may be, for the purposes of determining compliance **[with this Act or any order, determination or directive made in terms of this Act, an inspector may at any reasonable time and on reasonable notice, where appropriate, enter and inspect any premises at which the Centre or, when acting in terms of section 45(1), the supervisory body reasonably believes that the business of an accountable institution, reporting institution or other person to whom the provisions of this Act apply, is conducted].”;**

2. On pages 24 to 25, from line 19, to omit subsections (1A) to (1E) and to substitute:

“(1A) An inspector appointed in terms of section 45A may, for the purposes of determining compliance and on the authority of a warrant issued under subsection (1B), enter and inspect—

- (a) a private residence; or
- (b) any premises other than premises contemplated in subsection (1)(b) or paragraph (a) (in this section referred to as “unlicensed business premises”),

if the Centre or a supervisory body reasonably believes that the residence or premises are used for a business to which the provisions of this Act apply.

(1B) A magistrate or judge may issue a warrant contemplated in subsection (1A)—

- (a) on written application by the Centre or a supervisory body setting out under oath or affirmation why it is necessary for an inspector to enter and inspect the private residence or unlicensed business premises; and
- (b) if it appears to the magistrate or judge from the information under oath or affirmation that—
 - (i) there are reasonable grounds for suspecting that an act of non-compliance has occurred;
 - (ii) entry and inspection of the private residence or unlicensed business premises are likely to yield information pertaining to the non-compliance; and
 - (iii) entry and inspection of that residence or those premises are reasonably necessary for the purposes of determining compliance.

(1C) An inspector otherwise required to obtain a warrant for entry and inspection of a private residence or unlicensed business premises in terms of subsection (1A), may enter and inspect that residence or those premises without a warrant—

- (a) with the consent of—
 - (i) in the case of a private residence—
 - (aa) the person apparently in control of the business reasonably believed to be conducted at the private residence; and
 - (bb) the occupant of the part of the private residence to be entered and inspected; or
 - (ii) in the case of unlicensed business premises, the person apparently in control of the business reasonably believed to be conducted at the premises,

after informing him or her that he or she is under no obligation to admit the inspector in the absence of a warrant; or
- (b) with the prior authority of the Director or the head of a supervisory body, or a senior staff member of the Centre or supervisory body delegated to perform the function, if the Director, head or senior staff member on reasonable grounds believes that—
 - (i) a warrant will be issued under subsection (1B) if applied for;
 - (ii) the delay in obtaining the warrant is likely to defeat the purpose for which entry and inspection of the private residence or unlicensed business premises is sought; and
 - (iii) it is necessary to enter and inspect that residence or those premises to perform any or all of the actions contemplated in section 45B(2)(a) to (f).

(1D) Where an inspector enters and inspects premises in terms of subsection (1)(b), or a private residence or unlicensed business premises in terms of subsection (1C), he or she must do so—

- (a) at a reasonable time within ordinary business hours or, in the case of an entry and inspection in terms of subsection (1C)(b), if the inspector on reasonable grounds believes that the purpose for which the entry and inspection is sought, is likely to be defeated by a delay, as closely to ordinary business hours as the circumstances reasonably permit;
- (b) on reasonable notice, where appropriate;
- (c) with strict regard to an affected person's right to—
 - (i) dignity;
 - (ii) freedom and security;
 - (iii) privacy; and
 - (iv) other constitutional rights; and
- (d) with strict regard to decency and good order as the circumstances require, in particular by—
 - (i) entering and inspecting only such areas or objects as are reasonably required for purposes of section 45B(2);
 - (ii) conducting the inspection discreetly and with due decorum;
 - (iii) causing as little disturbance as possible; and
 - (iv) concluding the inspection as soon as possible.

(1E) Subsection (1D)(c) and (d) apply with the necessary changes where an inspector enters and inspects premises on the authority of a warrant issued under subsection (1B).”;