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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1061.

21 July 1995

No. 1061.

21 Julie 1995

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

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

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

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

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

GENERAL EXPLANATORY NOTE:

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

ACT

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

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

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

Amendment of section 1 of Act 40 of 1994

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

- (a) by the deletion of the definition of "Commission";
- (b) by the substitution for the definition of "Committee" of the following definition:
- " 'Committee' means the [**Committee of Members of Parliament on Intelligence**] Joint Standing Committee on Intelligence established by section 2;"; and
- (c) by the insertion after definition of "South African Secret Service" of the following definition:
- " 'Speaker' means the Speaker of the National Assembly contemplated in section 41 of the Constitution;".

Substitution of section 2 of Act 40 of 1994

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

“Establishment of Committee on Intelligence

2. (1) There is hereby established a Parliamentary Committee to be known as the **[the Committee of Members of Parliament on Intelligence]** Joint Standing Committee on Intelligence, which shall, subject to the Constitution, perform the oversight functions set out in this Act in relation to the intelligence and counter-intelligence functions of the Services, and report thereon to Parliament. 5

(2) The Committee shall consist of— 10

- (a) nine members of the Majority Party in Parliament;
 - (b) three members of the Largest Minority Party in Parliament;
 - (c) one member of the second Largest Minority Party in Parliament; and
 - (d) one member of each other political party represented in Parliament: 15
- Provided that if any political party is unwilling to serve or to continue to serve on the Committee, the membership of such political party shall not be allocated to any other political party and the Committee shall nevertheless be deemed to be properly constituted.

(3) (a) A member referred to in subsection (2) shall be appointed by the Speaker or the President of the Senate, depending upon the House of Parliament from which the member is appointed, acting with the concurrence of the President, who shall act with the concurrence of the leader of the political party concerned. 20

(b) In the event that agreement is not reached in respect of the appointment of a particular member, the matter shall be referred for determination to a committee consisting of the President, the Speaker, the President of the Senate and the leader of the political party concerned, and the decision of the committee shall be final. 25

(c) The Committee shall within a period of two years after its first meeting review the appointment procedures referred to in paragraphs (a) and (b). 30

(4) The Speaker and the President of the Senate acting with the concurrence of the President, who shall act after consultation with the leaders of the political parties represented on the Committee, shall appoint a member of Parliament, excluding a member appointed to the Committee in terms of subsection (3), as the chairperson of the Committee. 35

(5) A member of the Committee—

(a) shall, subject to paragraph (b), be appointed as a member until the Parliament to which he or she has been elected under the Constitution, is dissolved in terms of the Constitution; 40

(b) shall be replaced with a member of his or her party in accordance with subsection (3) or (4), as the case may be— 45

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

(c) may resign by notice in writing to the Speaker or the President of the Senate, as the case may be, **[President]** in which event **[the President shall appoint]** a substitute shall be appointed in accordance with paragraph (b) and subsection (3) or (4), as the case may be. 50

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

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- (6) (a) The Committee shall meet at such times and follow such procedures as may be prescribed by the rules and orders contemplated in section 58 of the Constitution.
- (b) The Committee shall be competent to initiate and recommend any such rules and orders in so far as they relate to the functioning of the Committee. 5
- (7) No person other than members of the Committee or members of the staff referred to in subsection (8) may be present during the proceedings of the Committee, except with the permission of the Committee.
- (8) The Committee shall be assisted in the performance of its functions by— 10
- (a) officers of Parliament designated for that purpose by the Speaker and the President of the Senate; and
- (b) persons designated for that purpose by the Minister, after consultation with the Speaker, the President of the Senate, the chairperson and the Heads of the Services.”. 15

Amendment of section 3 of Act 40 of 1994

3. Section 3 of the principal Act is hereby amended by—
- (a) the deletion of the expression “(1)”;
- (b) the substitution for paragraph (i) of the following paragraph: 20
- “(i) to request the officials or bodies referred to in paragraphs (a), (b) and (f) to explain any aspect of a report;” and
- (c) by the addition of the following paragraphs: 25
- “(l) to consider and report on the appropriation of revenue or moneys for the functions of the Agency and the South African Secret Service.”.

Substitution of section 6 of Act 40 of 1994

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

“Report to Parliament

6. (1) The Committee shall, within five months after its first appointment, and thereafter within two months after 31 March in each year, table in Parliament [submit to the President and to each Minister concerned] a report on the activities of the Committee during the preceding year, together with the findings made by it and the recommendations it deems appropriate, and provide a copy thereof to the President and each Minister concerned [and the President shall cause such report to be tabled in Parliament within 15 days of session of Parliament after the report was submitted to him or her]. 30 35
- (2) The Committee may at the request of Parliament, the President or the Minister concerned or at any other time which the Committee deems necessary, furnish Parliament, the President or such Minister with a special report concerning any matter relating to the performance of its functions, and shall table a copy of such report in Parliament or furnish the President and the Minister concerned with copies, as the case may be. 40
- (3) Nothing shall be included in any report of the Committee, the inclusion of which will be more harmful to the national security than its exclusion will be to the national interest.”. 45

Amendment of section 7 of Act 40 of 1994

5. Section 7 of the principal Act is hereby amended by the substitution in subsection (1) for the proviso of the following proviso: 50
- “Provided that—
- (i) the same Inspector-General may be appointed with regard to some of or all the Services; and
- (ii) if any nomination is not approved as required in paragraph (b), the Committee shall nominate another person.”.

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Substitution of section 8 of Act 40 of 1994

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

“Regulations

8. (1) A Minister acting with the concurrence of the Committee may make regulations as to all matters which are necessary or expedient for the achievement of the purposes of this Act, including but not limited to—
- (a) the conditions of employment of Inspectors-General;
 - (b) the exercise of their powers and the performance of their functions by Inspectors-General;
 - (c) the reports to be submitted by Inspectors-General and the Heads of Services;
 - (d) the suspension or removal from office of Inspectors-General;
 - (e) an oath or affirmation of secrecy to be subscribed by members and staff of the Committee, the leaders of political parties represented or willing to serve on the Committee, and staff appointed in terms of section 7(12);
 - (f) anything which shall or may be prescribed by regulation under this Act.
- (2) A regulation made under this section need not be published in the *Gazette*, but shall be notified to any person affected thereby in such manner as the Minister concerned acting with the concurrence of the Committee may determine.”

Substitution of section 9 of Act 40 of 1994

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

“Short title [and commencement] 25

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

Short title 30

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