Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



### REPUBLIC OF SOUTH AFRICA

## **GOVERNMENT GAZETTE**

# **STAATSKOERANT**

## VAN DIE REPUBLIEK VAN SUID-AFRIKA

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No. 16691

#### OFFICE OF THE PRESIDENT

No. 1466.

20 September 1995

No. 1466.

20 September 1995

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

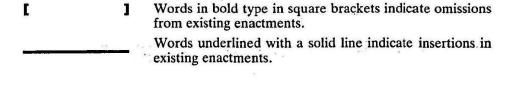
16 of 1995: Investigation of Serious Economic Offences Amendment Act, 1995. Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

KANTOOR VAN DIE PRESIDENT

No. 46 van 1995: Wysigingswet op die Ondersoek van Ernstige Ekonomiese Misdrywe, 1995. Act No. 46, 1995

## INVESTIGATION OF SERIOUS ECONOMIC OFFENCES AMENDMENT ACT, 1995

#### GENERAL EXPLANATORY NOTE:



## ACT

To amend the Investigation of Serious Economic Offences Act, 1991, so as to provide anew for the entering upon premises by the Director: Office for Serious Economic Offences; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 20 September 1995.)

**B**<sup>E</sup> IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

#### Substitution of section 6 of Act 117 of 1991

1. The following section is hereby substituted for section 6 of the Investigation of Serious Economic Offences Act, 1991—

#### "Entering upon premises by Director

6. (1) The Director or any person authorised thereto by him or her in writing may, subject to this section, for the purposes of an inquiry at any reasonable time and without prior notice or with such notice as he or she may deem appropriate, enter any premises on or in which anything connected with that inquiry is or is suspected to be, and may—

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- (a) inspect and search those premises, and there make such enquiries as he or she may deem necessary;
- (b) examine any object found on or in the premises which has a bearing or might have a bearing on the inquiry in question, and request from the owner or person in charge of the premises or from any person in whose possession or charge that object is, information regarding that object;
- (c) make copies of or take extracts from any book or document found 20 on or in the premises which has a bearing or might have a bearing on the inquiry in question, and request from any person [whom he suspects] suspected of having the necessary information, an explanation of any entry therein;
- (d) seize, against the issue of a receipt, anything on or in the premises 25 which [in his opinion] has a bearing or might have a bearing on the inquiry in question, or if he or she wishes to retain it for further examination or for safe custody.

#### INVESTIGATION OF SERIOUS ECONOMIC OFFENCES AMENDMENT ACT, 1995

(2) Any entry upon or search of any premises in terms of this section shall be	•
conducted with strict regard to decency and order, including—	
<ul><li>(a) a person's right to, respect for and the protection of his or her dignity;</li><li>(b) the right of a person to freedom and security; and</li></ul>	
(c) the right of a person to his or her personal privacy.	5
(3) No evidence regarding any questions and answers contemplated in	
subsection (1) shall be admissible in any subsequent criminal proceedings against	
a person from whom information in terms of that subsection is acquired if the	
answers incriminate him or her, except in criminal proceedings where the person	10
concerned stands trial on a charge contemplated in subsection (12).  (4) Subject to subsection (10), the premises referred to in subsection (1) may	10
only be entered, and the acts referred to in subsection (1) may only be performed,	
by virtue of a warrant issued in chambers by a magistrate, regional magistrate or	
judge of the area of jurisdiction within which the premises is situated: Provided	
that such a warrant may be issued by a judge in respect of premises situated in	15
another area of jurisdiction, if he or she deems it justified.	
(5) A warrant contemplated in subsection (4) may only be issued if it appears	
to the magistrate, regional magistrate or judge from information on oath or	is .
affirmation, stating—  (a) the nature of the inquiry in terms of section 5;	20
(b) the suspicion which gave rise to the inquiry; and	20
(c) the need, in regard to the inquiry, for a search and seizure in terms of this	
section,	
that there are reasonable grounds for believing that anything referred to in	
subsection (1) is on or in such premises or suspected to be on or in such premises.	25
(6) A warrant issued in terms of this section may be issued on any day and shall be of force until—	
(a) it has been executed;	
(b) it is cancelled by the person who issued it or, if such person is not	
available, by any person with like authority; or	20
	30
(c) the expiry of three months from the day of its issue,	30
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#### INVESTIGATION OF SERIOUS ECONOMIC OFFENCES AMENDMENT ACT, 1995

- (aa) the required warrant will be issued to him or her in terms of subsection (4) if he or she were to apply for such warrant; and
  - (bb) the delay caused by the obtaining of any such warrant would defeat the object of the entry, search, seizure and removal.

(b) Any entry and search in terms of paragraph (a) shall be executed by day, unless the execution thereof by night is justifiable and necessary.

(11) If during the execution of a warrant or the conducting of a search in terms of this section, a person claims that anything found on or in the premises concerned contains privileged information and refuses the inspection or removal of such thing, the person executing the warrant or conducting the search shall, if he or she is of the opinion that the thing contains information which is relevant to the inquiry and that such information is necessary for the inquiry, request the registrar of the Supreme Court which has jurisdiction or his or her delegate, to seize and remove that thing for safe custody until a court of law has made a ruling on the question whether the information concerned is privileged or not.

(2)](12) Any person who—
 (a) obstructs or hinders the Director or any other person in the performance of his or her functions [under subsection (1)] in terms of this section;

(b) when he or she is asked in terms of subsection (1) for information or an explanation relating to a matter within his or her knowledge, refuses or fails to give that information or explanation or gives information or an explanation which is false or misleading, knowing it to be false or misleading,

shall be guilty of an offence.".

#### Amendment of section 11 of Act 117 of 1991

2. The following section is hereby substituted for section 11 of the Investigation of Serious Economic Offences Act, 1991:

#### "Penalties

11. Any person convicted of an offence referred to in section 5(10), 6[(2)](12) or 7(2) shall be liable to a fine [not exceeding R8 000] or 30 imprisonment for a period not exceeding [two] five years or both such fine and such imprisonment."

#### Short title

3. This Act shall be called the Investigation of Serious Economic Offences Amendment Act, 1995.

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