

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**ELECTRONIC
COMMUNICATIONS SECURITY
(PTY) LTD BILL**

[B 59—2002]

*(As agreed to by the Ad Hoc Committee on Intelligence Legislation
(National Assembly))*

[B 59A—2002]

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AMENDMENTS AGREED TO**ELECTRONIC COMMUNICATIONS SECURITY (PTY) LTD BILL
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CLAUSE 1

1. On page 2, from line 9, to omit the definition of “communication” and to substitute:

“communication” means communication as defined in an Act of Parliament providing for the regulation of interception of communications;

2. On page 2, from line 14, to omit the definition of “critical electronic communications” and to substitute:

“critical electronic communications” means electronic communications held by organs of state which are necessary for the protection of the national security of the Republic;

3. On page 2, after line 17, to insert:

“critical electronic communications infrastructure” means electronic communications products or systems used to transmit and store or transmit or store critical electronic communications;

4. On page 2, after line 19, to insert:

“joint standing committee” means the Joint Standing Committee on Intelligence established by section 2 of the Intelligence Services Control Act, 1994 (Act No. 40 of 1994);

5. On page 2, after line 23, to insert:

“telecommunication service provider” means a telecommunication service provider as defined in an Act of Parliament providing for the regulation of interception of communications;

CLAUSE 6

1. On page 3, in line 29, to omit “prejudicial” and to substitute “detrimental”.

CLAUSE 7

1. On page 4, after line 6, to insert:

(6) The head of a telecommunication service provider must, at the request of Comsec and at Comsec’s expense, render such assistance as may be necessary for the execution of the functions of Comsec contemplated in this section.

2. On page 4, from line 7, to omit subsection (6) and to substitute:

(7) Comsec is exempted from the licensing requirements contemplated in—
 (a) the Broadcasting Act, 1999 (Act No. 4 of 1999); and
 (b) the Telecommunications Act, 1996 (Act No. 103 of 1996).

CLAUSE 17

1. On page 6, from line 14, to omit subsection (2) and to substitute:

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

(3) The Board must make its request six months after Comsec's incorporation, and thereafter in every second year.

(4) Expenditure on the procurement or accessing of electronic communications products by an organ of state which has not complied with a request contemplated in subsection (2) must be regarded as unauthorised expenditure for the purposes of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

CLAUSE 18

1. On page 6, from line 39, to omit subsection (5) and to substitute:

(5) The Board must prepare a strategic plan which it must use as a basis for recommending to the Minister how excess funds may be retained and used by the Board.

2. On page 6, after line 51, to insert:

(10) The Chief Executive Officer must, at the end of each financial year, submit the report of the Auditor-General and the annual report compiled in accordance with the Public Finance Management Act, 1999 (Act No. 1 of 1999), to the Minister and the Joint Standing Committee on Intelligence for consideration.

3. On page 7, in line 1, to omit "from" and to substitute "in".

CLAUSE 21

1. On page 7, in line 19, after "must" to insert "for its own account".
 2. On page 7, in line 20, after "programmes" to insert "of organs of state".

CLAUSE 22

1. On page 7, in line 26, after "may" to insert:
 , after consultation with the joint standing committee,
 2. On page 7, in line 27, to omit "additional".
 3. On page 7, in line 27, to omit "not inconsistent" and to substitute "consistent".
 4. On page 7, after line 33, to insert:

(e) labour relations of the employees of Comsec;

5. On page 7, in line 34, to omit "not inconsistent" and to substitute "consistent".

CLAUSE 23

1. On page 7, in line 45, after "17 (1)" to insert "or (2)".

CLAUSE 24

1. On page 8, in line 7, after "Act" to insert:
 , unless that act constituted gross negligence