

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**REGULATION OF INTERCEPTION
OF COMMUNICATIONS AND
PROVISION OF
COMMUNICATION-RELATED
INFORMATION AMENDMENT BILL**

[B 9B—2006]

*(As agreed to by the Portfolio Committee on Justice and
Constitutional Development (National Assembly))*

[B 9C—2006]

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AMENDMENTS AGREED TO

REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION-RELATED INFORMATION AMENDMENT BILL

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CLAUSE 1

1. On page 2, in line 9, to omit “network”, and to substitute: “electronic communications system”.
2. On page 3, from line 4, to omit paragraph (a) and to substitute:
 - (a) to whom an electronic communication service provider provides an electronic communications service, including an employee of the electronic communication service provider or any person who receives or received such service as a gift, reward, favour, benefit or donation;.

CLAUSE 2

1. On page 4, from line 14, to omit subsection (1) and to substitute:

(1) (a) Subject to paragraph (b), an electronic communication service provider who provides a mobile cellular electronic communications service shall not activate a SIM-card on its electronic communications system unless subsection (2) has been complied with.

(b) Paragraph (a) does not apply to a customer of an electronic communication service provider who provides a mobile cellular electronic communications service outside the Republic who enters the geographical coverage area of a mobile cellular electronic communication service provider in the Republic and uses the electronic communications system of such provider to make, receive and send voice calls or data or access other services.
2. On page 4, in line 26, to omit “(d) and (e)”, and to substitute: “(b) and (c)”.
3. On page 4, from line 27, to omit paragraphs (b) and (c).
4. On page 4, in line 31, to omit “(d)” and to substitute “(b)”.
5. On page 4, in line 35, to omit “or a cellular phone”.
6. On page 4, from line 39, to omit “or a cellular phone”.
7. On page 4, in line 45, to omit “(e)” and to substitute “(c)”.
8. On page 4, in line 53, to omit “(2)(d) and (e)(i)” and to substitute “(2)(b) and (c)(i)”.
9. On page 4, in line 57, to omit “(2)(d)(i) and (e)” and to substitute “(2)(b)(i) and (c)”.
10. On page 5, line 23, to omit “after” and to substitute “in”.

11. On page 5, in line 27, to omit “cellular phone or”.
12. On page 5, in line 29, to omit “cellular phone or the”.
13. On page 5, in line 30, to omit “cellular phone or”.
14. On page 5, in line 34, to omit “the cellular phone or”.
15. On page 5, in line 37, to omit the first “and” and to substitute “;”.
16. On page 5, in line 40, to omit “or the cellular phone”.
17. On page 5, in line 42, to omit “, (b) and (c)”.
18. On page 5, in line 52, to omit “; and” and to substitute “;”.
19. On page 5, in line 58, to omit “identity” and to substitute “identification”.
20. On page 5, from line 61, to omit subsection (9) and to substitute:

(9) An electronic communication service provider must, on its electronic communications system, record and store—

(a) every MSISDN-number used with every IMEI-number; and

(b) every IMEI-number used with every MSISDN-number, which must, on production of a direction, be provided to an applicant within 12 hours.

(10) The information recorded and stored in terms of subsections (2), (6) and (9) must be stored by an electronic communication service provider for a period of five years after—

(a) a customer has cancelled his or her contract with the electronic communication service provider; or

(b) the electronic communication service provider has ended the electronic communications service provided to the customer.

CLAUSE 3

1. On page 6, from line 33, to omit “(6) or (7)” and to substitute “(6), (7), (9) or (10)”.
2. On page 6, in line 48, to omit “the provision in question” and to substitute “section 62C”.
3. On page 6, in line 57, to omit “(6) or (7) and to substitute “(6), (7), (9) or (10)”.

CLAUSE 4

1. On page 7, in line 6, to omit “12” and to substitute “18”.
2. On page 7, in line 8, to omit “cellular phones or”.
3. On page 7, in line 11, to omit “and (4),” and to substitute “, (4), (9) and (10),”.
4. On page 7, in line 16, after “any”, to insert “activated”.
5. On page 7, in line 16, to omit “or cellular phone”.
6. On page 7, in line 18, to omit “12-month” and to substitute “18-month”.

CLAUSE 5

1. On page 7, line 22, to omit “after” and to substitute “in”.
2. On page 7, in line 31, after “provider”, to insert “who provides a mobile cellular electronic communications service”.
3. On page 7, in line 34, after “62(6)”, to insert “and 62C”.
4. On page 7, in line 40, to omit “**or cellular phones**”.
5. On page 7, from line 41, to omit subsection (1) and to substitute:

(1) Any juristic person, having complied with section 40(2) or 62(6), and who provides a SIM-card to a person in its employment must, before handing over the SIM-card to the other person—

(a) record the particulars as required in section 40(2) and the date on and period for which the SIM-card is provided; and

(b) verify—

(i) the full names, surname, identity number and identity of the person to whom the SIM-card is provided; and

(ii) the address contemplated in section 40(3)(a)(iii), by means of documentation contemplated in section 40(3)(b).

6. On page 7, in line 45, after “Any person”, to insert “, having complied with section 40(2) or 62(6), and”.
7. On page 7, in line 45, to omit “or cellular phone”.
8. On page 7, in line 46, to omit “cellular phone or”.
9. On page 7, in line 49, to omit “cellular phone or”.
10. On page 7, in line 52, to omit “cellular phone or”.
11. On page 8, in line 6, to omit “5” and to substitute “five”.
12. On page 8, after line 6, to add:

(4) (a) An applicant may, for the purposes of making an application for the issuing of a direction, in writing request a person contemplated in subsection (1) or (2) to provide the applicant with the information recorded and stored in terms of subsection (1) or (2), respectively.

(b) A person contemplated in subsection (1) or (2) who receives a request referred to in paragraph (a) must immediately comply with that request if the request relates to any SIM-card in its, his or her possession or to any person to whom the SIM-card was provided or rented.

(5) If a person contemplated in subsection (1) or (2) knows or suspects that an identification document submitted for verification as contemplated in section 40(3) is false, it, he or she must, within 24 hours, report the matter to a police official at any police station.

CLAUSE 6

1. On page 8, in line 17 to omit “2007” and to substitute “2008”.

CLAUSE 7

1. On page 8, in line 20, to omit “2007” and to substitute “2008”.

2. On page 8, in line 21, to omit “1 January 2008 or on such earlier date as the President may determine” and to substitute “a date determined by the President”.