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STAATSKOERANT

GOVERNMENT GAZETTE

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KANTOOR VAN DIE PRESIDENT

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

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

No. 38 van 1994: Wet op Intelligensiedienste, 1994.

No. 38 of 1994: Intelligence Services Act, 1994.

- (xii) "voorgeskryf" by regulasie voorgeskryf; (ix)
- (xiii) "wangedrag"—
 - (a) die pleeg van 'n misdryf; of
 - (b) die oortreding van of versuim om te voldoen aan 'n bepaling van hierdie Wet wat nie 'n misdryf is nie. (vii) 5

Toepassing van Wet

2. Tensy uit die samehang anders blyk, is die bepalings van hierdie Wet van toepassing ten opsigte van alle lede, hetsy hulle by die inwerkingtreding van hierdie Wet lede geword het of na die inwerkingtreding van hierdie Wet as lede aangestel is, en hetsy hulle binne of buite die Republiek diens verrig. 10

HOOFSTUK II

Instelling, samestelling en organisasie van Agentskap en Diens

Instelling van Agentskap en Diens

3. (1) Daar word hierby 'n Nasionale Intelligensie-agentskap en 'n Suid-Afrikaanse Geheime diens ingestel, wat bestaan uit— 15
- (a) die persone wat op die datum van inwerkingtreding van hierdie Wet lede is van die Buro soos omskryf in artikel 1 van die Wet op die Buro vir Staatsveiligheid, 1978 (Wet No. 104 van 1978);
 - (b) die persone wat op die datum van inwerkingtreding van hierdie Wet lede is van die Departement van Intelligensie en Sekuriteit van die African National Congress; 20
 - (c) die persone wat op die datum van inwerkingtreding van hierdie Wet lede is van die Bophuthatswana Binnelandse Inligtingtdiens uit hoofde van hulle aanstelling ingevolge die Wet op die Bophuthatswana Binnelandse Inligtingtdiens, 1982 (Wet No. 25 van 1982), of aangestel is ingevolge artikel 15 van die Wet op die Nasionale Veiligheidsraad, 1981 (Wet No. 27 van 1981), van Bophuthatswana; 25
 - (d) die persone wat op die datum van inwerkingtreding van hierdie Wet lede is van die Transkeise Intelligensiediens uit hoofde van hulle aanstelling ingevolge die Intelligence Service and State Security Council Act, 1987 (Wet No. 67 van 1987), van Transkei; 30
 - (e) die persone wat op die datum van inwerkingtreding van hierdie Wet lede is van die Venda Nasionale Intelligensiediens uit hoofde van hulle aanstelling ingevolge die National Intelligence Service Act, 1988 (Wet No. 31 van 1988), van Venda; 35
 - (f) die persone wat onmiddellik voor die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), lede was van enige intelligensiediens of -struktuur van—
 - (i) 'n Regering van 'n selfregerende gebied soos omskryf in artikel 38(1) van die Grondwet van die Selfregerende Gebiede, 1971 (Wet No. 21 van 1971); of 40
 - (ii) 'n politieke party of organisasie, en ten opsigte van wie sodanige diens of struktuur binne sewe dae na die inwerkingtreding van hierdie Wet by die Direkteur-generaal aansoek doen om lede van die Agentskap of die Diens te word; en 45
 - (g) die persone wat na die inwerkingtreding van hierdie Wet ingevolge die bepalings daarvan, as lede van die Agentskap of die Diens aangestel word: 50

Met dien verstande dat enige persoon in paragrawe (a) tot (f) beoog wat, binne twee maande na die inwerkingtreding van hierdie Wet skriftelik aan die Direkteur-generaal verkies om nie 'n lid van die Agentskap of die Diens te wees nie, geag word vrywillig te bedank het met ingang van die datum van sodanige keuse: Met dien verstande voorts dat die persone in paragrawe (a) tot (f) beoog, Suid-Afrikaanse burgers is, en dat hulle name voorkom op 'n lys van personeel wat binne sewe dae na die inwerkingtreding van hierdie Wet deur die hoof van elke organisasiekomponent bedoel in subartikel (2)(a) aan die President verstrekk word. 55

- (xi) "regulation" means a regulation made under this Act; (x)
- (xii) "Service" means the South African Secret Service established by section 3; (iv)
- (xiii) "this Act" includes the regulations. (vi)

5 Application of Act

2. Unless the context otherwise indicates, the provisions of this Act shall apply in respect of all members, irrespective of whether they became members at the commencement of this Act or were appointed as members after the commencement of this Act, and irrespective of whether they work in or outside the Republic.

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CHAPTER II

Establishment, composition and organisation of Agency and Service

Establishment of Agency and Service

3. (1) There is hereby established a National Intelligence Agency and a South African Secret Service, which shall consist of—
- 15 (a) the persons who, on the date of the commencement of this Act, are members of the Bureau as defined in section 1 of the Bureau for State Security Act, 1978 (Act No. 104 of 1978);
 - (b) the persons who, on the date of the commencement of this Act, are members of the Department of Intelligence and Security of the African National Congress;
 - 20 (c) the persons who, on the date of the commencement of this Act, are members of the Bophuthatswana Internal Intelligence Service by virtue of their appointment in terms of the Bophuthatswana Internal Intelligence Service Act, 1982 (Act No. 25 of 1982), or are appointed in terms of section 15 of the National Security Council Act, 1981 (Act No. 27 of 1981), of Bophuthatswana;
 - 25 (d) the persons who, on the date of the commencement of this Act, are members of the Transkei Intelligence Service by virtue of their appointment in terms of the Intelligence Service and State Security Council Act, 1987 (Act No. 67 of 1987), of Transkei;
 - 30 (e) the persons who, on the date of the commencement of this Act, are members of the Venda National Intelligence Service by virtue of their appointment in terms of the National Intelligence Service Act, 1988 (Act No. 31 of 1988), of Venda;
 - 35 (f) the persons who, immediately before the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), were members of any intelligence service or intelligence structure of—
 - 40 (i) any Government of a self-governing territory as defined in section 38(1) of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971); or
 - (ii) any political party or organisation, and in respect of whom such service or structure applies within seven days after the commencement of this Act, to the Director-General to become members of the Agency or the Service; and
 - 45 (g) the persons appointed after the commencement of this Act in terms of the provisions thereof, as members of the Agency or the Service:
- 50 Provided that any person contemplated in paragraphs (a) to (f) who, within two months after the commencement of this Act elects in writing to the Director-General not to be a member of the Agency or the Service, shall be deemed to have resigned voluntarily with effect from the date of such election: Provided further that the persons contemplated in paragraphs (a) to (f) are South African citizens and that their names appear on a personnel list submitted by the head of each organisational component referred to in subsection (2)(a) to the
- 55 President within seven days after the commencement of this Act.

(2) (a) Die persone bedoel in subartikel (1)(a) tot (f) sit hulle dienste voort en maak organisasiekomponente van beide die Agentskap en die Diens uit tot hulle integrasie in en die rasionalisering van die Agentskap en die Diens ingevolge subartikel (3).

(b) 'n Persoon wat by die inwerkingtreding van hierdie Wet die hoof is van 'n Buro, Diens, Departement of struktuur in paragraaf (a) beoog, is die organisatoriese hoof van die ooreenstemmende organisasiekomponent van die Agentskap en die Diens, maar bestuur sodanige komponent onderworpe aan die beheer van beide Direkteurs-generaal: Met dien verstande dat 'n Direkteur-generaal nie ook die hoof van 'n organisasiekomponent mag wees nie.

(c) Indien 'n organisasiekomponent, om watter rede ook al, nie by die inwerkingtreding van hierdie Wet 'n hoof het nie, kan die Direkteurs-generaal, na oorleg met die adviesraad in artikel 31 beoog en met die instemming van die President, 'n lid as hoof van sodanige komponent aanstel.

(d) Die Direkteurs-generaal kan 'n lid of lede aanwys om 'n bestuurskomitee vir 'n organisasiekomponent uit te maak en in so 'n geval bestuur die hoof van daardie organisasiekomponent die komponent in medewerking met die bestuurskomitee: Met dien verstande dat die Direkteurs-generaal in die geval waar 'n organisasiekomponent nie 'n hoof het nie, 'n bestuurskomitee as hoof van sodanige organisasiekomponent kan aanstel.

(e) Die hoof van 'n organisasiekomponent en 'n bestuurskomitee (as daar is) doen verslag aan en handel volgens die voorskrifte van die Direkteurs-generaal.

(f) Die salaris, salarisskaal en ander diensvoorwaardes van 'n lid wat diens verrig in 'n organisasiekomponent in paragraaf (a) bedoel, is die wat van toepassing was op sodanige lid onmiddellik voor die inwerkingtreding van hierdie Wet uit hoofde van 'n wet by artikel 32 herroep: Met dien verstande dat die salaris, salarisskaal en ander diensvoorwaardes van persone in subartikel (1)(b) en (f)(ii) bedoel, bepaal word deur die adviesraad soos bedoel in artikel 31 handelende met die instemming van die Direkteurs-generaal en die President: Met dien verstande voorts dat indien die salaris wat 'n lid ingevolge hierdie paragraaf na die inwerkingtreding van hierdie Wet ontvang minder is as die salaris op die skaal vasgestel vir hom of haar na sy of haar aanstelling of toewysing kragtens subartikel (3), sodanige lid geregtig is op 'n bedrag gelyk aan die verskil tussen die salaris ontvang en die salaris vasgestel, bereken sedert die inwerkingtreding van hierdie Wet.

(3) Die President moet vir die doel van die Agentskap en die Diens—

- (a) 'n Direkteur-generaal vir die Agentskap en 'n Direkteur-generaal vir die Diens aanstel;
- (b) hoofdirektorate, direktorate en afdelings vir die Agentskap en die Diens instel en die postestrukture daarvan voorskryf;
- (c) die funksies van die strukture bedoel in paragraaf (b) voorskryf;
- (d) bestuurders aanstel en uit die geledere van die organisasiekomponente lede aan die strukture bedoel in paragraaf (b) toewys; en
- (e) in die algemeen, maar behoudens die bepalinge van hierdie Wet, alle aangeleenthede bepaal en voorskryf wat nodig of dienstig is vir die stigting en instelling van die Agentskap en die Diens uit die organisasiekomponente.

Hoof van Agentskap of Diens

4. (1) Die betrokke Direkteur-generaal oefen, behoudens die voorskrifte van die President en die bepalinge van hierdie Wet, bevel, toesig en beheer uit oor die Agentskap of die Diens, na gelang van die geval.

(2) Die Direkteur-generaal kan, behoudens die voorskrifte van die President en die bepalinge van hierdie Wet, die reëls uitvaardig en die voorskrifte uitreik wat hy of sy dienstig ag vir die doelmatige bevel, toesig en beheer oor die Agentskap of die Diens, na gelang van die geval.

- (2) (a) The persons referred to in subsection (1)(a) to (f), shall continue in their service and shall form organisational components of both the Agency and the Service until their integration into and the rationalisation of the Agency and the Service in terms of subsection (3).
- 5 (b) Any person who at the commencement of this Act, is the head of a Bureau, Service, Department or structure contemplated in paragraph (a) shall be the organisational head of the corresponding organisational component of the Agency and the Service, but shall manage such component subject to the control of both Directors-General: Provided that a Director-General may not also be
- 10 the head of an organisational component.
- (c) If an organisational component, for whatever reason, does not have a head at the commencement of this Act, the Directors-General may, after consultation with the advisory board contemplated in section 31 and with the concurrence of the President, appoint a member as head of such component.
- 15 (d) The Directors-General may designate a member or members to form a management committee for an organisational component, and in such a case the head of such organisational component shall manage such component with the concurrence of such management committee: Provided that the Directors-General may, in the case where an organisational component does not have a head, appoint
- 20 a management committee as head of such organisational component.
- (e) The head of an organisational component and a management committee (if any) shall report to and act upon the directions of the Directors-General.
- (f) The salary, salary scale and other conditions of employment of a member
- 25 serving in an organisational component contemplated in paragraph (a) shall be those that were applicable to such member immediately before the commencement of this Act by virtue of a law repealed by section 32: Provided that the salary, salary scale and other conditions of employment of persons referred to in subsection (1)(b) and (f)(ii) shall be determined by the advisory board contemplated in section 31, acting with the concurrence of the Directors-General and the President: Provided
- 30 further that if the salary which a member receives in terms of this paragraph after the commencement of this Act is less than the salary on the scale determined for him or her after his or her appointment or allocation under subsection (3), such member will be entitled to a sum equal to the difference between the salary received and the salary determined, calculated from the commencement of this Act.
- 35 (3) The President shall for the purpose of the Agency and the Service—
- (a) appoint a Director-General for the Agency and a Director-General for the Service;
- (b) establish chief directorates, directorates and divisions for the Agency and the Service, and prescribe the post structures thereof;
- 40 (c) prescribe the functions of the structures contemplated in paragraph (b);
- (d) appoint managers and allocate members to the structures referred to in paragraph (b) from among members of the organisational components; and
- (e) in general, but subject to the provisions of this Act, determine and
- 45 prescribe all matters that are necessary or expedient for the creation and establishment of the Agency and the Service out of the organisational components.

Head of Agency or Service

4. (1) The Director-General concerned shall, subject to the directions of the
- 50 President and the provisions of this Act, exercise command, superintendence and control of the Agency or the Service, as the case may be.
- (2) The Director-General may, subject to the directions of the President and the provisions of this Act, make such rules and issue such directions as he or she may deem expedient for the efficient command, superintendence and control of
- 55 the Agency or the Service, as the case may be.

(3) Die Direkteur-generaal doen, sover dit redelik prakties is, stappe om te verseker dat—

- (a) nasionale veiligheidsintelligensie, metodes van insameling van informasie, bronne van informasie en die identiteit van lede van die Agentskap of die Diens, na gelang van die geval, teen ongemagtigde openbaarmaking beskerm word; 5
- (b) geen handeling verrig word nie wat kan aanleiding gee tot enige redelike verdenking dat die Agentskap of die Diens, na gelang van die geval, betrokke is by die bevordering, beskerming of ondermyning van die belange van enige deel van die bevolking of enige politieke party of organisasie; en 10
- (c) die werksaamhede van die Agentskap of die Diens, na gelang van die geval, beperk is tot dit wat noodsaaklik is vir die doeleindes van die nakoming van sy werksaamhede ingevolge die Wet op Nasionale Strategiese Intelligensie, 1994, en die Wet op Geheime Dienste, 1978 (Wet No. 56 van 1978). 15

(4) Die Direkteurs-generaal doen stappe ten einde die spoedige integrasie en rasionalisering van die organisasiekomponente in die Agentskap en die Diens te verseker.

Bevoegdheid en pligte van lede

20

5. (1) 'n Lid kan die bevoegdheid uitoefen en moet die pligte verrig wat by of kragtens hierdie Wet of 'n ander wet aan hom of haar verleen of opgedra word, en moet by die verrigting van sy of haar werksaamhede alle wettige opdragte gehoorsaam wat hy of sy van tyd tot tyd ontvang van 'n persoon wat die bevoegdheid besit om sodanige opdragte te gee. 25

(2) Indien 'n regter, soos omskryf in artikel 1 van die Wet op die Verbod op Onderskepping en Meeluistering, 1992 (Wet No. 127 of 1992), op die gronde vermeld in 'n skriftelike aansoek wat voldoen aan die voorskrifte uitgereik ingevolge subartikel (7), oortuig is dat—

- (a) informasie wat betrekking het of moontlik betrekking kan hê op die werksaamhede van die Agentskap of die Diens soos beoog in artikel 2 van die Wet op Nasionale Strategiese Intelligensie, 1994, verkry kan word op enige perseel en sodanige informasie van wesenlike belang is vir die Agentskap of die Diens in die uitvoering van sy werksaamhede; of 30
- (b) daar op enige perseel informasie is wat betrekking het of moontlik kan hê op die werksaamhede van die Agentskap of die Diens soos beoog in artikel 2 van die Wet op Nasionale Strategiese Intelligensie, 1994, welke informasie deur die Agentskap of die Diens benodig word vir die behoorlike uitvoering van sy werksaamhede, 35

en dat sodanige informasie nie redelikerwys op enige ander wyse verkry kan word nie, kan hy of sy 'n lasgewing aan die Agentskap of die Diens uitreik wat magtiging aan enige lid verleen om wanneer redelik nodig— 40

- (i) daardie perseel te betree;
- (ii) die perseel te deursoek met die doel om sodanige informasie te verkry;
- (iii) enige voorwerp, stuk of ander materiaal op die perseel te ondersoek, kopieer, fotografeer of transkribeer; en 45
- (iv) vir die doeleindes van die ondersoek, kopiëring, fotografering of transkribering daarvan, na gelang van die geval, so 'n voorwerp, stuk of materiaal van die perseel te verwyder vir solank as wat redelik noodsaaklik mag wees. 50

(3) (a) 'n Lasgewing in subartikel (2) bedoel, word vir 'n bepaalde tydperk van hoogstens drie maande deur die betrokke regter uitgereik.

(b) 'n Lasgewing in paragraaf (a) bedoel kan deur 'n lid van die Agentskap of die Diens, na gelang van die geval, uitgevoer word mits so 'n lid daartoe gemagtig is deur 'n ander lid van daardie Agentskap of Diens wat 'n pos van ten minste hoofbestuurder beklee. 55

- (3) The Director-General shall, as far as is reasonably practicable, take steps to ensure that—
- 5 (a) national security intelligence, intelligence collection methods, sources of information and the identity of members of the Agency or the Service, as the case may be, are protected from unauthorised disclosure;
 - 10 (b) no action is carried out that could give rise to any reasonable suspicion that the Agency or the Service, as the case may be, is concerned in furthering, protecting or undermining the interests of any section of the population or any political party or organisation; and
 - 15 (c) the functions of the Agency or the Service, as the case may be, are limited to what is necessary for the purposes of the discharge of its functions in terms of the National Strategic Intelligence Act, 1994, and the Secret Services Act, 1978 (Act No. 56 of 1978).
- (4) The Directors-General shall take steps to ensure the expeditious integration and rationalisation of the organisational components into the Agency and the Service.

Powers and duties of members

5. (1) A member may exercise such powers and shall perform such duties as
20 are by or under this Act or any other law conferred or imposed upon him or her, and shall in the performance of his or her functions obey all lawful directions which he or she may from time to time receive from a person having the authority to give such directions.

(2) If a judge as defined in section 1 of the Interception and Monitoring
25 Prohibition Act, 1992 (Act No. 127 of 1992), is convinced, on the grounds mentioned in a written application complying with directives issued under subsection (7), that—

(a) information which has or could probably have a bearing on the
30 functions of the Agency or the Service as contemplated in section 2 of the National Strategic Intelligence Act, 1994, can be obtained on any premises and such information is of substantial importance to the Agency or the Service in the discharge of its functions; or

(b) there is on any premises information which has or could probably have
35 a bearing on the functions of the Agency or the Service as contemplated in section 2 of the National Strategic Intelligence Act, 1994, which information is required by the Agency or the Service for the proper discharge of its functions,

and that such information cannot reasonably be obtained by other means, he or she may issue the Agency or the Service with a direction authorising any member
40 when reasonably necessary—

- (i) to enter such premises;
- (ii) to search such premises with the purpose of obtaining such information;
- 45 (iii) to examine, copy, photograph or transcribe any article, document or other material on such premises; and
- (iv) to remove any article, document or other material from the premises, for as long as is reasonably necessary, for the purposes of examining, copying, photographing or transcribing it, as the case may be.

(3) (a) A direction referred to in subsection (2) shall be issued by the judge
50 concerned for a specific period not exceeding three months.

(b) A direction referred to in paragraph (a) may be executed by a member of the Agency or the Service, as the case may be, provided that such member has been authorised thereto by another member of such Agency or Service holding a post of at least chief manager.

(4) Die regter in subartikel (2) bedoel, kan, op 'n skriftelike aansoek wat voldoen aan die voorskrifte uitgereik ingevolge subartikel (7), die tydperk bedoel in subartikel (3) vir 'n verdere tydperk van hoogstens drie maande op 'n keer verleng, indien so 'n regter oortuig is dat die verlenging nodig is weens 'n rede in subartikel (2) vermeld. 5

(5) 'n Aansoek bedoel in subartikels (2) en (4) word aangehoor en 'n lasgewing uitgereik sonder enige kennisgewing aan die persoon, liggaam of organisasie waarop die aansoek of lasgewing betrekking het en sonder om sodanige persoon, liggaam of organisasie aan te hoor.

(6) Ondanks andersluidende bepalings van enige ander wet of die gemene reg, is die betreding van enige perseel of die hantering van enige eiendom, voorwerp, stuk of enige ander materiaal in of op of in verband met die perseel deur 'n lid, nie onwettig nie indien dit uitgevoer word op gesag van 'n lasgewing ingevolge hierdie artikel uitgereik. 10

(7) Die Regters-president van die onderskeie Afdelings van die Hooggeregshof van Suid-Afrika kan gesamentlik voorskrifte uitreik waarin die wyse en prosedure van aansoeke ingevolge subartikel (2) eenvormig gereël word. 15

Algemene bevoegdhede van Adjunkpresident of Minister

6. (1) Die Adjunkpresident of die Minister kan, behoudens die bepalings van hierdie Wet, alles doen of laat doen wat volgens sy of haar oordeel nodig is vir die doelmatige toesig en beheer oor en funksionering van, en die stappe gedoen deur, die Agentskap of die Diens. 20

(2) Sonder om afbreuk te doen aan die algemeenheid van sy of haar bevoegdhede ingevolge subartikel (1) kan die Adjunkpresident of die Minister—

- (a) 'n perseel, met of sonder geboue daarop, wat vir die doelmatige funksionering van die Agentskap of die Diens nodig is, verkry of huur en geboue wat aldus nodig is, oprig en in stand hou, en met die instemming van die Minister van Finansies, waarborge, vrywarings en sekuriteite vir daardie doel verstrekk; 25
- (b) 'n perseel, roerende eiendom en ander uitrusting wat vir die doelmatige funksionering van die Agentskap of die Diens nodig is, verkry en gebruik; 30
- (c) met die instemming van die Minister van Finansies, 'n perseel, met of sonder geboue daarop, en enigiets in paragraaf (b) bedoel, wat nie meer vir genoemde doeleindes nodig is nie, verkoop, verhuur of op 'n ander wyse daarvoor beskik. 35

Aanstelling, bevordering, ontslag, verlaging in rang of oorpasing van lede

7. (1) Die Adjunkpresident of die Minister kan, behoudens die bepalings van hierdie Wet, enige persoon as 'n lid aanstel, en 'n lid kan ooreenkomstig genoemde bepalings bevorder, ontslaan, in rang of graad verlaag of oorgeplaas word. 40

(2) 'n Stuk in die voorgeskrewe vorm wat deur die Adjunkpresident of die Minister heet onderteken te wees en waarby gesertifiseer word dat iemand as 'n lid aangestel is, is *prima facie*-bewys dat so iemand aldus aangestel is.

Sekerheidsklaring en ontslag van lede 45

8. (1) Behoudens artikel 3(1)(a), (b), (c), (d), (e) en (f), mag geen persoon as 'n lid aangestel word nie voordat—

- (a) informasie met betrekking tot daardie persoon op die voorgeskrewe wyse in 'n sekerheidsklaringsondersoek deur die Agentskap of die Diens, na gelang van die geval, ingesamel is; en 50
- (b) die Adjunkpresident of die Minister, na evaluering van die ingesamelde informasie, redelikerwys van oordeel is dat so 'n persoon as 'n lid aangestel kan word sonder die moontlikheid dat die persoon 'n sekerheidsrisiko kan wees of dat hy of sy kan optree op enige wyse wat nadelig vir die sekerheidsbelange van die Republiek is. 55

(4) The judge referred to in subsection (2) may, upon a written application complying with the directives issued under subsection (7), extend the period referred to in subsection (3) for a further period not exceeding three months at a time, if that judge is convinced that the extension is necessary for a reason mentioned in subsection (2).

(5) An application referred to in subsections (2) and (4) shall be heard and a direction issued without any notice to the person, body or organisation to which the application applies and without hearing such person, body or organisation.

(6) Notwithstanding anything to the contrary contained in any other law or the common law, the entry of any premises or the handling of any property, article, document or any other material in or on or relating to such premises by a member shall not be unlawful if it is done on the authority of a direction issued in terms of this section.

(7) The Judges-President of the several Divisions of the Supreme Court of South Africa may jointly issue directives to uniformly regulate the manner and procedure of applications in terms of subsection (2).

General powers of Deputy President or Minister

6. (1) The Deputy President or the Minister may, subject to the provisions of this Act, do or cause to be done all things which in his or her opinion are necessary for the efficient superintendence, control and functioning of, and action taken by, the Agency or the Service.

(2) Without derogating from the generality of his or her powers in terms of subsection (1), the Deputy President or the Minister may—

(a) acquire or hire any premises, with or without any buildings thereon, which may be necessary for the efficient functioning of the Agency or the Service, and erect and maintain any buildings so required and, with the concurrence of the Minister of Finance, supply guarantees, indemnities and securities for those purposes;

(b) acquire and utilise any premises, movable property and any other equipment which may be necessary for the efficient functioning of the Agency or the Service;

(c) with the concurrence of the Minister of Finance, sell, let or otherwise dispose of any premises, with or without any building thereon, and anything referred to in paragraph (b), which are no longer required for the said purposes.

Appointment, promotion, discharge, demotion and transfer of members

7. (1) The Deputy President or the Minister may, subject to the provisions of this Act, appoint any person as a member and any member may in accordance with the said provisions be promoted, discharged, reduced in rank or grade or transferred.

(2) Any document in the prescribed form purporting to have been signed by the Deputy President or the Minister and certifying that any person has been appointed as a member shall be *prima facie* proof that such person has been so appointed.

45 Security screening and discharge of members

8. (1) Subject to section 3(1)(a), (b), (c), (d), (e) and (f), no person may be appointed as a member before—

(a) information with respect to that person has been gathered in the prescribed manner in a security screening investigation by the Agency or the Service, as the case may be; and

(b) the Deputy President or the Minister after evaluating the collected information, is reasonably of the opinion that such person may be appointed as a member without the possibility that such person might be a security risk or that he or she might act in any way prejudicial to security interests of the Republic.

(2) Indien die Adjunkpresident of die Minister redelikerwys van oordeel is dat 'n persoon aangestel kan word sonder die moontlikheid dat so 'n persoon 'n sekerheidsrisiko kan wees of kan optree op 'n wyse wat nadelig is vir die sekerheidsbelange soos beoog in subartikel (1)(b), reik hy of sy 'n dokument met betrekking tot sodanige persoon uit waarin gesertifiseer word dat sodanige persoon 'n sekerheidsklaring suksesvol deurloop het en deur hom of haar as sekerheidsbevoeg beskou word: Met dien verstande dat die Adjunkpresident of die Minister die sertifikaat kan intrek indien hy of sy informasie sou bekom, wat, na evaluering deur hom of haar, veroorsaak dat hy of sy nie meer redelikerwys van oordeel is nie dat die lid as lid in diens gehou kan word sonder die moontlikheid dat die lid 'n sekerheidsrisiko kan wees of moontlik kan optree op 'n wyse wat nadelig is vir die sekerheidsbelange van die Republiek.

(3) Indien—

- (a) die sertifikaat in subartikel (2) bedoel, ingetrek word; of
- (b) die Adjunkpresident of die Minister informasie bekom aangaande 'n persoon wat 'n lid geword het ingevolge artikel 3(1)(a), (b), (c), (d), (e) of (f), wat veroorsaak dat hy of sy redelikerwys van mening is dat die lid 'n sekerheidsrisiko kan wees of moontlik kan optree op 'n wyse wat nadelig is vir die sekerheidsbelange van die Republiek,

word sodanige lid geag ongeskik te wees vir verdere lidmaatskap van die Agentskap of die Diens en die Adjunkpresident of die Minister kan—

- (i) daardie persoon of lid uit die Agentskap of die Diens ontslaan; of
- (ii) na oorleg met die Staatsdienskommissie sodanige persoon of lid na 'n ander departement oorplaas op die voorwaardes wat die Adjunkpresident of die Minister bepaal.

Ontslag van lede weens lang afwesigheid sonder verlof

9. 'n Lid wat sonder die verlof van die betrokke Direkteur-generaal vir 'n tydperk van meer as een maand van sy of haar ampspligte wegbly, word geag weens wangedrag uit die Agentskap of die Diens, na gelang van die geval, ontslaan te gewees het met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy of sy op sy of haar plek van diens teenwoordig was: Met dien verstande dat as 'n lid sonder sodanige verlof van sy of haar ampspligte wegbly en ander werk aanvaar, hy of sy geag word aldus ontslaan te gewees het, al het hy of sy nog nie vir 'n tydperk van 'n maand aldus weggebly nie: Met dien verstande voorts dat as 'n lid wat geag word aldus ontslaan te wees, hom of haar weer vir diens aanmeld, die betrokke Direkteur-generaal, ondanks andersluidende bepalings van die een of ander wet, maar onderworpe aan die goedkeuring van die Adjunkpresident of die Minister hom of haar in sy of haar vorige of 'n ander pos of betrekking in die Agentskap of die Diens, na gelang van die geval, kan herstel of aanstel op die voorwaardes wat die betrokke Direkteur-generaal goedvind, en in so 'n geval word die tydperk van sy of haar afwesigheid van sy of haar ampspligte geag afwesigheid met vakansieverlof sonder besoldiging, of verlof op die ander voorwaardes wat die betrokke Direkteur-generaal bepaal, te wees.

Ontslag van lede weens swak gesondheid

10. (1) 'n Lid kan deur die betrokke Direkteur-generaal uit die Agentskap of die Diens ontslaan word indien na ondersoek, op die voorgeskrewe wyse, aangaande sy of haar gesondheidstoestand, sodanige Direkteur-generaal van oordeel is dat hy of sy weens swak gesondheid ongeskik is om in die Agentskap of die Diens, na gelang van die geval, aan te bly.

(2) 'n Lid wat ingevolge subartikel (1) ontslaan is, kan op die voorgeskrewe wyse na die Adjunkpresident of die Minister appelleer, wat daarop sy of haar ontslag kan tersyde stel of bekragtig.

Ontslag of verlaging in rang of graad van lede weens onbekwaamheid

11. (1) 'n Lid kan deur die betrokke Direkteur-generaal uit die Agentskap of die Diens ontslaan word of in rang of graad verlaag word indien, na ondersoek op die voorgeskrewe wyse aangaande sy of haar geskiktheid om in diens te bly of sy of haar rang of graad te behou, daardie Direkteur-generaal van oordeel is dat so 'n lid nie in staat is om sy of haar pligte op bekwame wyse uit te voer nie.

(2) If the Deputy President or the Minister is reasonably of the opinion that a person may be appointed without the possibility that such person might be a security risk or might act in a way prejudicial to security interests, as contemplated in subsection (1)(b), he or she shall issue a document with respect to such person in which it is certified that such person has successfully undergone a security clearance and is regarded by him or her as security competent: Provided that the Deputy President or the Minister may withdraw such certificate if he or she should obtain information which, after evaluation by him or her, causes him or her no longer to be reasonably of the opinion that the member may be employed as a member without the possibility that the member could be a security risk or could possibly act in any manner prejudicial to security interests of the Republic.

(3) If—

- (a) the certificate, referred to in subsection (2), is withdrawn; or
- (b) the Deputy President or the Minister obtains information regarding a person who became a member in terms of section 3(1)(a), (b), (c), (d), (e) or (f) which causes him or her to be reasonably of the opinion that that person could be a security risk or could possibly act in any manner prejudicial to security interests of the Republic, such member shall be deemed unfit for further membership of the Agency or the Service and the Deputy President or the Minister may—
 - (i) discharge such person or member from the Agency or the Service; or
 - (ii) after consultation with the Public Service Commission transfer such person or member to another department on the conditions determined by the Deputy President or the Minister.

25 Discharge of members on account of long absence without leave

9. Any member who absents himself or herself from his or her official duties without the permission of the Director-General concerned for a period exceeding one month, shall be deemed to have been discharged from the Agency or the Service, as the case may be, on account of misconduct with effect from the date immediately following upon the last day on which he or she was present at his or her place of duty: Provided that if any member absents himself or herself from his or her official duties without such permission and accepts other employment he or she shall be deemed to have been so discharged even if he or she has not yet so absented himself or herself for a period of a month: Provided further that if a member deemed to have been so discharged, again reports for duty, the Director-General concerned may, notwithstanding anything to the contrary contained in any law but subject to the approval of the Deputy President or the Minister, reinstate him or her in his or her former post or appoint him or her to any other post or appointment in the Agency or the Service, as the case may be, on such conditions as the Director-General concerned may deem fit, and in that event the period of his or her absence from his or her official duties shall be deemed to have been absence on vacation leave without pay, or leave on such other conditions as the Director-General concerned may determine.

Discharge of members on account of ill-health

10. (1) Any member may be discharged from the Agency or the Service by the Director-General concerned if, after enquiry in the prescribed manner as to his or her state of health, such Director-General is of the opinion that he or she is by reason of ill-health unfit to remain in the Agency or the Service, as the case may be.
- (2) Any member discharged in terms of subsection (1) may in the prescribed manner appeal to the Deputy President or the Minister, who may thereupon set aside or confirm his or her discharge.

Discharge or reduction in rank or grade of members on account of inefficiency

11. (1) A member may be discharged from the Agency or the Service or reduced in rank or grade by the Director-General concerned if, after enquiry in the prescribed manner as to his or her fitness to remain in employment or to retain his or her rank or grade, such Director-General is of the opinion that such member is incapable of performing his or her duties efficiently.

(2) 'n Lid wat ingevolge subartikel (1) uit die Agentskap of die Diens, na gelang van die geval, ontslaan of in rang of graad verlaag is, kan op die voorgeskrewe wyse na die Adjunkpresident of die Minister appelleer, wat daarop sy of haar ontslag of verlagings in rang of graad, na gelang van die geval, kan tersyde stel of bekragtig.

Oorplasing en ontslag op grond van openbare belang, afstaan van lede, en tydelike indiensneming van ander persone 5

12. (1) Indien die openbare belang dit vereis, kan die Adjunkpresident of die Minister—

- (a) 'n lid uit die pos wat hy of sy beklee, oorplaas na enige ander pos— 10
 - (i) in die Agentskap of die Diens, na gelang van die geval; of
 - (ii) indien die betrokke Minister daartoe ingestem en die Staatsdienskommissie aldus aanbeveel het, in 'n ander departement, hetsy sodanige pos van 'n laer graad is of nie as dié van die pos wat hy of sy beklee het, en hetsy sodanige pos binne of buite die Republiek is: Met dien verstande dat— 15
- (aa) 'n lid se salaris en salarisskaal by so 'n oorplasing nie sonder sy of haar toestemming verlaag mag word nie, behalwe ooreenkomstig die bepaling van Hoofstuk III;
- (bb) so 'n oorplasing na 'n ander departement geskied op die voorwaardes wat op aanbeveling van die Staatsdienskommissie bepaal word; en 20
- (cc) 'n lid nie sonder sy of haar toestemming na 'n pos buite die Agentskap of die Diens, na gelang van die geval, oorgeplaas word nie, indien sodanige oorplasing 'n verandering in sy of haar diensvoorwaardes, behalwe sy of haar salaris, sal meebring; 25
- (b) sodanige lid uit die Agentskap of die Diens, na gelang van die geval, ontslaan op die voorwaardes wat die Adjunkpresident of die Minister bepaal.

(2) 'n Lid kan, met sy of haar toestemming en op die voorwaardes wat die Adjunkpresident of die Minister goedkeur, vir die verrigting van 'n bepaalde diens of vir 'n bepaalde tydperk deur die betrokke Direkteur-generaal aan die diens van 'n ander regering of 'n ander owerheid of 'n raad, instelling of liggaam afgestaan word, maar bly, terwyl hy of sy aldus afgestaan is, onderworpe aan die bepaling van hierdie Wet en enige ander wet wat op hom of haar van toepassing is. 30

(3) Die betrokke Direkteur-generaal kan iemand op kontrak in diens neem vir die verrigting van 'n bepaalde diens of vir 'n tydperk wat die Adjunkpresident of die Minister goedkeur. 35

Delegering van bevoegdhede

13. (1) Die Adjunkpresident of die Minister kan op die voorwaardes wat hy of sy goedvind 'n bevoegdheid by hierdie Wet aan hom of haar verleen, uitgesonderd 'n bevoegdheid by artikel 6(1), 8(3)(b)(i) en (ii), 9, 10(2), 11(2), 12(1)(a)(ii) en (b), 15(9), 16, 17(4), 19(3)(a) en (4), 21, 24(1), 25(2), 29, 30(2), (3) en (4) of 32(4) aan hom of haar verleen, aan die Direkteur-generaal of enige ander lid van die Agentskap of die Diens, na gelang van die geval, deleger, en enige sodanige bevoegdheid wat ingevolge so 'n delegering uitgeoefen is, word geag deur daardie Adjunkpresident of Minister uitgeoefen te gewees het. 45

(2) Die Direkteur-generaal kan 'n bevoegdheid by of kragtens hierdie Wet aan hom of haar verleen aan 'n ander lid van die Agentskap of die Diens, na gelang van die geval, deleger en 'n bevoegdheid ingevolge so 'n delegering uitgeoefen, word geag deur daardie Direkteur-generaal uitgeoefen te gewees het. 50

HOOFSTUK III

Dissipline

Voorbehoud met betrekking tot wangedrag

14. Die bepaling van hierdie Wet word nie so uitgelê dat dit 'n lid teen vervolging in en skuldigbevinding deur 'n geregshof ten opsigte van 'n misdryf vrywaar nie. 55

(2) A member who has been discharged from the Agency or the Service, as the case may be, or reduced in rank or grade in terms of subsection (1), may in the prescribed manner appeal to the Deputy President or the Minister, who may thereupon set aside or confirm his or her discharge or reduction in rank or grade,
5 as the case may be.

Transfer and discharge on account of public interest, secondment of members, and temporary employment of other persons

12. (1) If the public interest so requires, the Deputy President or the Minister may—
- 10 (a) transfer any member from the post held by him or her to any other post—
- (i) in the Agency or the Service, as the case may be; or
- (ii) if the Minister concerned has concurred therein and the Public Service Commission has so recommended, in any other department,
15 whether or not such post is of a lower grade than that of the post held by him or her, and whether or not such post is within or outside the Republic: Provided that—
- (aa) upon such a transfer a member's salary and salary scale shall not be reduced without his or her consent, except in accordance with
20 the provisions of Chapter III;
- (bb) such a transfer to another department shall take place on such conditions as may be determined on the recommendation of the Public Service Commission; and
- (cc) a member shall not without his or her consent be transferred to a
25 post outside the Agency or the Service, as the case may be, if such transfer will, save for his or her salary, result in a change in his or her conditions of service;
- (b) discharge any such member from the Agency or the Service, as the case may be, on such conditions as the Deputy President or the Minister
30 may determine.

(2) A member may, with his or her consent and upon such conditions as may be approved by the Deputy President or the Minister, be seconded by the Director-General concerned for the performance of a particular service or for a specified period, to the service of any other government or any other authority,
35 or any board, institution or body, but shall, while so seconded, remain subject to the provisions of this Act and any other law which applies to him or her.

(3) The Director-General concerned may by contract engage any person for the performance of a particular service or for any period approved by the Deputy President or the Minister.

40 **Delegation of powers**

13. (1) The Deputy President or the Minister may on such conditions as he or she may deem fit delegate any power conferred upon him or her by this Act, excluding any power conferred upon him or her by section 6(1), 8(3)(b)(i) and
45 (ii), 9, 10(2), 11(2), 12(1)(a)(ii) and (b), 15(9), 16, 17(4), 19(3)(a) and (4), 21, 24(1), 25(2), 29, 30(2), (3) and (4) or 32(4), to the Director-General or any other member of the Agency or the Service, as the case may be, and any such power exercised in terms of such a delegation shall be deemed to have been exercised by such Deputy President or Minister.

(2) The Director-General may delegate any power conferred upon him or her
50 by or under this Act to any other member of the Agency or the Service, as the case may be, and any power exercised in terms of such a delegation shall be deemed to have been exercised by that Director-General.

CHAPTER III

Discipline

55 **Savings with respect to misconduct**

14. Nothing in this Act contained shall be construed as indemnifying any member against prosecution in or conviction by any court of law in respect of any offence.

Prosedure in geval van beweerde wangedrag van lede

15. (1) Die betrokke Direkteur-generaal kan op die voorgeskrewe wyse 'n lid weens wangedrag aankla en hom of haar versoek om binne die voorgeskrewe tydperk en op die voorgeskrewe wyse 'n skriftelike erkenning of ontkenning van die aanklag, en 'n skriftelike verduideliking wat hy of sy in verband met die beweerde wangedrag wil aanbied, voor te lê. 5

(2) Na die verstryking van genoemde tydperk kan die betrokke Direkteur-generaal 'n raad van ondersoek aanstel om die betrokke aanklag te ondersoek.

(3) 'n Raad van ondersoek kan enige persoon as getuie dagvaar en van 'n aldus gedagvaarde persoon 'n eed afneem of in plaas daarvan 'n bevestiging van hom of haar aanneem. 10

(4) By die ondersoek van 'n aanklag ingevolge hierdie artikel geld, behoudens die bepalings van hierdie Wet, die reg wat met betrekking tot getuienis en getuies in verband met strafsake in 'n landdroshof van toepassing is, met die uitsondering van die voorbehoudsbepaling by artikel 217(1) van die Strafproseswet, 1977 (Wet No. 51 van 1977). 15

(5) Waar 'n lid aangekla word weens wangedrag wat 'n misdryf uitmaak ten opsigte waarvan hy of sy deur 'n geregshof skuldig bevind is, is 'n gesertifiseerde afskrif van die oorkonde van die betrokke verhoor by blote oorlegging daarvan deur enige persoon as getuienis toelaatbaar voor die raad van ondersoek wat die aanklag ondersoek, en is 'n gesertifiseerde afskrif van die betrokke aanklag en skuldigbevinding by blote oorlegging daarvan aan die raad deur enige persoon, *prima facie*-bewys dat die betrokke lid genoemde misdryf gepleeg het. 20

(6) Na oorweging van die getuienis by die ondersoek aangevoer en nadat die aangeklaagde lid of 'n ander lid soos bedoel in artikel 16 wat hom of haar bystaan of verteenwoordig, die geleentheid gebied is om die raad van ondersoek toe te spreek, vind die raad die aangeklaagde lid skuldig of onskuldig aan die wangedrag hom of haar ten laste gelê en verwittig hom of haar van sy bevinding: Met dien verstande dat indien die aangeklaagde lid, ingevolge 'n versoek kragtens subartikel (1) of teenoor die raad, erken dat hy of sy aan die betrokke wangedrag skuldig is, hy of sy skuldig bevind kan word sonder dat getuienis aangevoer is. 25

(7) 'n Lid wat aan wangedrag skuldig bevind word, kan binne die voorgeskrewe tydperk en op die voorgeskrewe wyse teen die bevinding van die raad van ondersoek na die Adjunkpresident of die Minister appelleer en skriftelike verdoë met betrekking tot strafoplegging tot die Adjunkpresident of die Minister rig. 30

(8) Die raad van ondersoek moet en die betrokke Direkteur-generaal kan by die Adjunkpresident of die Minister aanbevelings doen met betrekking tot die straf wat 'n lid wat skuldig bevind is, opgelê kan word. 35

(9) Die Adjunkpresident of die Minister kan, na oorweging van die oorkonde van die verrigtinge voor die raad van ondersoek en die aanbevelings van die raad, en die aanbevelings van die betrokke Direkteur-generaal en die appélgronde van en enige verdoë gerig deur die aangeklaagde lid, gelas dat die skuldigbevinding en vonnis tersyde gestel word, of die skuldigbevinding op enige aanklag bekragtig, en— 40

(a) gelas dat geen verdere stappe in verband met die saak gedoen word nie; 45

(b) gelas dat die betrokke lid gewaarsku of berispe word;

(c) die betrokke lid 'n boete oplê wat nie die bedrag te bowe gaan nie soos van tyd tot tyd deur die Adjunkpresident of die Minister by regulasie bepaal, en wat by wyse van aftrekkings van sy of haar salaris of toelae verhaal kan word; 50

(d) gelas dat sy of haar salaris, rang of graad of sy of haar salaris sowel as sy of haar rang of graad verlaag word in die mate wat aanbeveel word;

(e) gelas dat die lid aangesê word om uit die Agentskap of die Diens, na gelang van die geval, te bedank met ingang van 'n datum wat deur die Adjunkpresident of die Minister vermeld word; of 55

(f) die lid uit die Agentskap of die Diens, na gelang van die geval, ontslaan vanaf 'n datum wat deur die Adjunkpresident of die Minister bepaal word. 60

Verteenwoordiging by Raad van Ondersoek

16. 'n Lid kan—

Procedure in case of alleged misconduct of members

15 15. (1) The Director-General concerned may, in the manner prescribed, charge any member with misconduct and request him or her to submit, within such period and in such manner as may be prescribed, a written admission or denial of the charge and any written explanation he or she may wish to offer in connection with the alleged misconduct.

(2) After the expiration of the said period the Director-General concerned may appoint a board of enquiry to investigate the charge in question.

10 (3) A board of enquiry may subpoena any person as a witness and administer an oath to a person so subpoenaed or, in lieu thereof, accept an affirmation from him or her.

(4) At the investigation of any charge in terms of this section, the law relating to evidence and witnesses as applicable in connection with criminal proceedings in a magistrate's court, except the proviso to section 217(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall, subject to the provisions of this Act, apply.

20 (5) Where a member is charged with misconduct which constitutes an offence in respect of which he or she has been convicted by a court of law, a certified copy of the record of the trial in question shall, on its mere production by any person, be admissible in evidence before the board of enquiry investigating the charge, and a certified copy of the charge and conviction in question shall, on its mere production by any person to such board, be *prima facie* proof of the commission of such offence by the member concerned.

25 (6) After considering the evidence adduced at the enquiry and affording the member charged or another member referred to in section 16 assisting or representing him or her an opportunity of addressing the board of enquiry, the board shall find the member charged guilty or not guilty of the misconduct with which he or she has been charged and inform him or her of its finding: Provided that if the member charged admits, pursuant to a request under subsection (1) or to the board, that he or she is guilty of the misconduct in question, he or she may be found guilty without any evidence having been adduced.

30 (7) A member found guilty of misconduct may, within such period and in such manner as may be prescribed, appeal to the Deputy President or the Minister against the finding of the board of enquiry and make representations in writing to the Deputy President or the Minister in regard to the imposition of punishment.

(8) The board of enquiry shall and the Director-General concerned may make recommendations to the Deputy President or the Minister regarding the punishment which may be imposed upon a member found guilty.

40 (9) The Deputy President or the Minister may, after considering the record of the proceedings before the board of enquiry and the recommendations of the board, and the recommendations of the Director-General concerned and the grounds of appeal of, and any representations made by, the member charged, direct that the conviction and sentence be set aside, or confirm the conviction on any charge and—

- 45 (a) direct that no further action be taken in the matter;
- (b) direct that the member concerned be cautioned or reprimanded;
- 50 (c) impose upon the member concerned a fine not exceeding the amount determined from time to time by the Deputy President or the Minister by regulation, and which may be recovered by way of deductions from his or her salary or allowances;
- (d) direct that his or her salary, rank or grade or both his or her salary and rank or grade be reduced to such extent as may be recommended;
- 55 (e) direct that the member be called upon to resign from the Agency or the Service, as the case may be, from a date specified by the Deputy President or the Minister; or
- (f) discharge the member from the Agency or the Service, as the case may be, from a date specified by the Deputy President or the Minister.

Representation at Board of Enquiry

60 16. Any member may—

- (a) met betrekking tot sy of haar verskyning voor 'n raad van ondersoek in artikel 15 bedoel;
- (b) met betrekking tot 'n ondersoek ingevolge artikels 10 en 11 gehou; en
- (c) met betrekking tot enige ander ondersoek ingevolge hierdie Wet gehou en as gevolg waarvan 'n besluit of bevinding geneem of gemaak kan word wat sy of haar regte nadelig mag raak, 5
- slegs deur 'n ander lid verteenwoordig en bygestaan word: Met dien verstande dat indien daar nie 'n lid is nie wat voldoen aan die vereistes vir 'n graad wat toelating verleen as 'n prokureur ingevolge die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), of as 'n advokaat ingevolge die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), en wat beskikbaar en bereid is om die lid te verteenwoordig en by te staan, die bedoelde lid, indien hy of sy daarop aandring, geregtig is op regsverteenvoordiging deur 'n persoon van buite die Agentskap of die Diens, na gelang van die geval: Met dien verstande voorts dat die Adjunkpresident of die Minister regulasies kan uitvaardig wat hy of sy noodsaaklik en dienstig ag om intelligensie, informasie en stukke in die besit of onder die beheer van die Agentskap of die Diens, na gelang van die geval, teen ongemagtigde openbaarmaking te beskerm en wat ook op gemelde regsverteenvoordiger van buite die Agentskap of die Diens van toepassing is. 10 15

Skorsing van lede

20

17. (1) 'n Lid kan in sy of haar amp geskors word met volle salaris en voordele in afwagting van sy of haar verhoor weens of na sy of haar skuldigbevinding aan enige misdryf, hetsy kragtens hierdie Wet of andersins, of in afwagting van 'n ondersoek waar 'n aanklag van wangedrag teen hom of haar, of sy of haar geskiktheid om in die Agentskap of die Diens te bly, na gelang van die geval, of sy of haar rang of graad te behou, ondersoek word, en moet aldus geskors word gedurende enige tydperk waartydens hy of sy in hegtenis is of aangehou word of gevangenisstraf uitdien, maar hou nie uit hoofde van die skorsing op om 'n lid te wees nie. 25
- (2) Terwyl 'n lid geskors is, is sy of haar bevoegdheede, werksaamhede en gesag as so 'n lid opgeskort, maar bly hy of sy onderworpe aan dieselfde verpligtinge en dissipline asof hy of sy nie geskors is nie. 30
- (3) Die skorsing van 'n lid kan te eniger tyd opgehef word.
- (4) Die skorsing of opheffing van die skorsing van 'n lid vind plaas in opdrag van die Adjunkpresident of die Minister of, as 'n voorlopige maatreël in afwagting van 'n beslissing van die Adjunkpresident of die Minister, in opdrag van die betrokke Direkteur-generaal. 35

Wyse waarop kennis gegee of stukke bestel kan word

18. Indien by hierdie Wet bepaal word—

- (a) dat 'n kennisgewing, verklaring of ander stuk aan iemand gegee of verstrek of bestel moet word of dat enige aangeleentheid skriftelik aan 'n persoon meegedeel moet of kan word, kan die kennisgewing, verklaring, stuk of geskrif per pos in 'n geregistreerde brief aan hom of haar gestuur word of aan hom of haar oorhandig word of gelaat word by die plek waar, sover bekend, hy of sy laas gewoon het; of 40
- (b) dat 'n persoon van 'n beslissing of bevinding verwittig moet word, kan hy of sy mondeling of per geskrif wat per pos in 'n geregistreerde brief aan hom of haar gestuur word of aan hom of haar oorhandig word of gelaat word by die plek waar, sover bekend, hy of sy laas gewoon het, daarvan verwittig word. 45

HOOFSTUK IV

50

Algemeen

Lede moet al hulle tyd ter beskikking van Staat stel

19. (1) Tensy anders in hierdie Wet bepaal word—

- (a) moet elke lid al sy of haar tyd ter beskikking van die Staat stel;
- (b) mag geen lid besoldigde werk buite sy of haar werk verrig of hom of haar verbind om dit te verrig nie; en 55

- (a) with respect to his or her appearance before a board of enquiry referred to in section 15;
- (b) with respect to an investigation held in terms of sections 10 and 11; and
- (c) with respect to any other investigation held in terms of this Act and as a consequence of which a decision or finding that may be prejudicial to his or her rights may be made,
- 5 be represented and assisted only by another member: Provided that if there is no member who satisfies the requirements for a degree entitling him or her to admission as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 10 1979), or as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), and who is available and prepared to represent and assist the member, that particular member, should he or she so insist, shall be entitled to legal representation by a person from outside the Agency or the Service, as the case may be: Provided further that the Deputy President or the Minister may 15 make regulations which he or she deems necessary and advisable to protect intelligence, information and documents in the possession or under the control of the Agency or the Service, as the case may be, from unauthorised disclosure and which shall also apply to the said legal representative from outside the Agency or the Service.

20 Suspension of members

17. (1) A member may be suspended from his or her office on full salary and benefits pending his or her trial or after his or her conviction of any offence, whether under this Act or otherwise, or pending any enquiry at which a charge 25 of misconduct against him or her or his or her fitness to remain in the Agency or the Service, as the case may be, or to retain his or her rank or grade is being investigated, and shall be so suspended during any period during which he or she is under arrest or detention or is serving a term of imprisonment, but shall not by reason of such suspension cease to be a member.
- 30 (2) During the suspension of a member his or her powers, functions and authority as such a member shall be in abeyance, but he or she shall continue to be subject to the same duties and discipline as if he or she had not been suspended.
- (3) The suspension of a member may be terminated at any time.
- 35 (4) The suspension or the termination of the suspension of a member shall take place on the instructions of the Deputy President or the Minister or, as a provisional measure pending the decision of the Deputy President or the Minister, on the instructions of the Director-General concerned.

Manner in which notice may be given or process served

- 40 18. If by this Act it is provided—
- (a) that any notice, statement or other document is to be given or supplied to or served upon any person or that any matter is to be or may be conveyed to any person in writing, the notice, statement, document or writing may be sent by post in a registered letter or be delivered to him 45 or her or left at his or her last known place of residence; or
- (b) that any person is to be informed of any decision or finding, he or she may be informed thereof verbally or by writing sent by post in a registered letter or delivered to him or her or left at his or her last known place of residence.

50 CHAPTER IV

General

Whole time of members to be at disposal of State

19. (1) Unless otherwise provided in this Act—
- 55 (a) every member shall place the whole of his or her time at the disposal of the State;
- (b) no member shall perform or engage himself or herself to perform any remunerative work outside his or her employment; and

(c) kan geen lid regtens aanspraak maak op addisionele besoldiging ten opsigte van enige amptelike diens of werk wat hy of sy deur 'n bevoegde gesag aangesê word om te verrig nie.

(2) Ondanks die bepalings van subartikel (1), kan die Adjunkpresident of die Minister toestemming aan 'n lid verleen om besoldigde werk buite sy of haar werk te verrig of om hom of haar te verbind om dit te verrig.

(3) (a) Waar 'n lid enige besoldiging, toelae of ander beloning, van watter aard ook al, in verband met die verrigting van sy of haar werk anders as ooreenkomstig die bepalings van hierdie Wet of in stryd met die bepalings van subartikel (1)(b), ontvang, moet daardie lid aan die Agentskap of die Diens, na gelang van die geval, 'n bedrag oorbetal gelykstaande met die bedrag van daardie besoldiging, toelae of beloning of, waar dit nie uit geld bestaan nie, die waarde daarvan, soos bepaal deur die betrokke Direkteur-generaal, en as hy of sy dit nie doen nie, kan sodanige Direkteur-generaal dit deur middel van geregtelike stappe of op die wyse wat daardie Direkteur-generaal goedvind, op hom of haar verhaal: Met dien verstande dat—

(i) daar 'n reg van appèl na die Adjunkpresident of die Minister teen bedoelde bepaling deur die Direkteur-generaal is; en

(ii) die Adjunkpresident of die Minister kan goedkeur dat 'n lid die geheel of 'n gedeelte van bedoelde besoldiging, toelae of beloning behou.

(b) Waar 'n lid, volgens die oordeel van die betrokke Direkteur-generaal, enige besoldiging, toelae of ander beloning soos beoog in paragraaf (a) ontvang het en dit nog in sy of haar besit of onder sy of haar beheer is of ten behoeve van hom of haar in die besit of onder die beheer van iemand anders is of dit, indien dit geld is, in 'n bank, die posspaarbank of 'n bougenootskap of ander finansiële instelling gestort is op sy of haar naam of op die naam van iemand anders ten behoeve van hom of haar, kan sodanige Direkteur-generaal daardie lid of so iemand anders of daardie bank, die poskantoor of daardie bougenootskap of finansiële instelling skriftelik aansê om, hangende die uitslag van geregtelike stappe vir die verhaal van daardie besoldiging, toelae of beloning of die waarde daarvan, dit nie van die hand te sit of anders daarvoor te beskik nie, of, indien dit geld is, 'n ooreenstemmende bedrag geld te behou, na gelang van die geval.

(4) Enige salaris, toelae, geld, bonus of honorarium wat betaalbaar is ten opsigte van die dienste van 'n lid wat aan die diens van 'n ander regering of ander owerheid of 'n raad, instelling of liggaam ingevolge artikel 12(2) afgestaan is, moet aan die Agentskap of die Diens, na gelang van die geval, oorbetal word: Met dien verstande dat onder besondere omstandighede die Adjunkpresident of die Minister kan goedkeur dat 'n bedrag wat gelyk is aan genoemde salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan, aan daardie lid betaal word.

Beloning vir buitengewone ywer of toewyding

20. Die betrokke Direkteur-generaal kan, met die goedkeuring van die Adjunkpresident of die Minister, aan iemand wat 'n lid is of was, die geldelike of ander beloning vir buitengewone ywer of toewyding by die verrigting van sy of haar pligte as so 'n lid toeken wat hy of sy in die omstandighede gepas ag.

Instelling van dekorasies en medaljes vir lede

21. Die Adjunkpresident of die Minister kan dekorasies en medaljes, asook balke, gespes en linte met betrekking tot sodanige dekorasies en medaljes, instel en invoer wat, onderworpe aan die voorgeskrewe voorwaardes, deur hom of haar toegeken kan word aan iemand wat 'n lid is of was, ten opsigte van sy of haar dienste as so 'n lid, of aan iemand anders wat besondere dienste aan die Agentskap of die Diens bewys het.

Misdrywe

22. (1) Iemand wat—

(a) nie 'n lid is nie, wat—

(i) deur woord, gedrag of houding voorgee dat hy of sy sodanige lid is;

(ii) 'n lid oorreed om sy of haar plig te versaak of in stryd met sy of haar plig te handel; of

- (c) no member may claim as of right additional remuneration in respect of any official duty or work which he or she is required by a competent authority to perform.
- (2) Notwithstanding the provisions of subsection (1), the Deputy President or the Minister may grant permission to a member to perform or engage himself or herself to perform remunerative work outside his or her employment.
- (3) (a) Where a member receives any remuneration, allowance or other reward whatsoever in connection with the performance of his or her work, otherwise than in accordance with the provisions of this Act or in contravention of the provisions of subsection (1)(b), such member shall pay to the Agency or the Service, as the case may be, an amount equal to the amount of such remuneration, allowance or reward or, where it does not consist of money the value thereof, as determined by the Director-General concerned, and if he or she does not do so, such Director-General may recover it from him or her by way of legal proceedings or in such manner as such Director-General may deem fit: Provided that—
- (i) there shall be a right of appeal to the Deputy President or the Minister against that determination by the Director-General; and
- (ii) the Deputy President or the Minister may approve the retaining by a member of the whole or a portion of that remuneration, allowance or reward.
- (b) Where in the opinion of the Director-General concerned a member has received any remuneration, allowance or other reward as contemplated in paragraph (a) and it is still in his or her possession or under his or her control or in the possession or under the control of some other person on his or her behalf or, if it is money, has been deposited in any bank, the post office savings bank or any building society or other financial institution in his or her name or in the name of some other person on his or her behalf, such Director-General may in writing require such member or such other person or such bank, the post office or such building society or financial institution not to dispose thereof, or, if it is money, to retain a corresponding sum of money, as the case may be, pending the outcome of any legal proceedings for the recovery of such remuneration, allowance or reward or the value thereof.
- (4) Any salary, allowance, fee, bonus or honorarium which may be payable in respect of the service of a member seconded to any other government or any other authority or to any board, institution or body in terms of section 12(2), shall be paid to the Agency or the Service, as the case may be: Provided that in special circumstances the Deputy President or the Minister may approve the payment to such member of an amount equal to the said salary, allowance, fee, bonus or honorarium, or a portion thereof.

Reward for extraordinary diligence or devotion

20. The Director-General concerned may, with the approval of the Deputy President or the Minister, award to any person who is or was a member, for extraordinary diligence or devotion in the performance of his or her duties as such a member, such monetary or other reward as he or she considers appropriate in the circumstances.

Establishment of decorations and medals for members

21. The Deputy President or the Minister may establish and introduce decorations and medals, as well as bars, clasps and ribbons in respect of such decorations and medals, which may be awarded by him or her, subject to such conditions as may be prescribed, to any person who is or was a member, in respect of his or her services as such a member or to any other person who has rendered exceptional services to the Agency or the Service.

Offences

22. (1) Any person—
- (a) not being a member, who—
- (i) by words, conduct or demeanour pretends that he or she is such a member;

- (iii) medepligtig is aan die pleeg van 'n handeling waardeur 'n wettige bevel wat aan 'n lid gegee is of 'n regulasie ontduik mag word;
- (b) ingevolge artikel 15 gedagvaar is om as 'n getuie voor 'n raad van ondersoek te verskyn en versuim om op die tyd en plek in die dagvaarding vermeld op te daag, of nadat hy of sy aldaar opgedaag het, weier om alle vrae wat wettig aan hom of haar gestel is, te beantwoord; 5
- (c) ingevolge artikel 15 gedagvaar is om as 'n getuie voor 'n raad van ondersoek te verskyn en 'n valse verklaring onder eed aflê met die wete dat dit vals is;
- (d) wederregtelik en opsetlik 'n bepaling van die regulasies vermeld in die tweede voorbehoudsbepaling by artikel 16 oortree; 10
- (e) versuim om te voldoen aan 'n vereiste ingevolge artikel 19(3)(b) gestel;
- (f) tensy hy of sy die persoon is aan wie 'n dekorasie of medalje toegeken is, dit dra, of sonder skriftelike vergunning van die betrokke Direkteur-generaal, gebruik maak van 'n dekorasie of medalje wat kragtens hierdie Wet ingestel of ingevoer is, of van die balk, gespe of lint daarvan, of iets wat soveel na so 'n dekorasie, medalje, balk, gespe of lint lyk, dat dit bereken is om te mislei; 15
- (g) sonder die goedkeuring van die Adjunkpresident of die Minister, in verband met enige bedrywigheid wat deur hom of haar onderneem word, 'n naam, beskrywing, titel of kenteken aanneem, gebruik, of op enige wyse publiseer wat aandui of te kenne gee of heet aan te dui of te kenne te gee of wat daarop bereken is om ander persone te laat vermoed of aflei of hulle waarskynlik sal laat vermoed of aflei dat daardie bedrywigheid kragtens of uit hoofde van die bepalings van hierdie Wet of onder beskerming van die Agentskap of die Diens, na gelang van die geval, onderneem word, of op die een of ander wyse aan die Agentskap of die Diens verbonde is of daarmee in verband staan; 25
- (h) in stryd met 'n verbod of beperking kragtens artikel 24 enige perseel betree of daarop of daarin is, 30
- is aan 'n misdryf skuldig.
- (2) Iemand wat skuldig bevind is aan 'n misdryf kragtens hierdie Wet is strafbaar—
- (a) in die geval van 'n oortreding van subartikel (1)(a) of (b) met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens ses maande; 35
- (b) in die geval van 'n oortreding van subartikel (1)(c) met die strawwe wat regtens vir meened voorgeskryf is;
- (c) in die geval van 'n oortreding van subartikel (1)(d), (e) of (f) met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens een jaar;
- (d) in die geval van 'n oortreding van subartikel (1)(g) met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar; 40
- (e) in die geval van 'n oortreding van subartikel (1)(h) met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens 15 jaar.

Ekstraterritoriale toepassing van Wet, en regsbevoegdheid

23. (1) 'n Handeling wat 'n misdryf of wangedrag ingevolge hierdie Wet uitmaak en wat deur 'n Suid-Afrikaanse burger of iemand wat in die Republiek gedomisilieer is buite die Republiek verrig word, word geag ook in die Republiek verrig te gewees het. 45

(2) 'n Misdryf of wangedrag ingevolge hierdie Wet word, vir die doeleindes van die bepaling van die regsbevoegdheid van 'n hof of raad van ondersoek om die misdryf of wangedrag te verhoor, geag gepleeg te gewees het by die plek waar dit in werklikheid gepleeg is en ook by die plek waar die beskuldigde of die betrokke persoon hom of haar bevind. 50

Verbod op toegang tot persele

24. (1) Die Adjunkpresident of die Minister kan by kennisgewing in die *Staatskoerant* of op die ander wyse wat hy of sy onder die omstandighede voldoende ag, toegang tot enige perseel wat onder die beheer van die Agentskap of die Diens is, verbied of beperk. 55

- (ii) persuades any member to omit to carry out his or her duty or to do any act in conflict with his or her duty; or
- (iii) is an accomplice to the commission of any act whereby any lawful order given to a member or any regulation may be evaded;
- 5 (b) subpoenaed in terms of section 15 to appear as a witness at an enquiry who fails to attend at the time and place mentioned in the subpoena, or, having attended, refuses to answer all questions lawfully put to him or her;
- 10 (c) subpoenaed in terms of section 15 to appear as a witness at an enquiry and at any such enquiry makes any false statement on oath knowing it to be false;
- (d) who unlawfully and intentionally violates a provision of the regulations mentioned in the second proviso to section 16;
- (e) who fails to comply with a requirement in terms of section 19(3)(b);
- 15 (f) who, not being the person to whom a decoration or medal was awarded, wears it or, without the written permission of the Director-General concerned, makes use of any decoration or medal established or introduced under this Act, or of its bar, clasp or ribbon, or anything so closely resembling any such decoration, medal, bar, clasp or ribbon as to be calculated to deceive;
- 20 (g) who, without the approval of the Deputy President or the Minister, in connection with any activity carried on by him or her takes, assumes, uses or in any manner publishes any name, description, title or symbol indicating or conveying or purporting to indicate or convey or is calculated or is likely to lead other persons to believe or infer that such activity is carried on under or by virtue of the provisions of this Act or under the patronage of the Agency or the Service, as the case may be, or is in any manner associated or connected with the Agency or the Service;
- 25 (h) who enters upon or is on or in any premises in contravention of any prohibition or restriction under section 24, shall be guilty of an offence.
- (2) Any person convicted of an offence under this Act shall be liable—
- 35 (a) in the case of a contravention of subsection (1)(a) or (b) to a fine, or to imprisonment for a period not exceeding six months;
- (b) in the case of a contravention of subsection (1)(c) to the penalties prescribed by law for perjury;
- (c) in the case of a contravention of subsection (1)(d), (e) or (f) to a fine, or to imprisonment for a period not exceeding one year;
- 40 (d) in the case of a contravention of subsection (1)(g) to a fine, or to imprisonment for a period not exceeding two years;
- (e) in the case of a contravention of subsection (1)(h) to a fine, or to imprisonment for a period not exceeding 15 years.

Extra-territorial application of Act, and jurisdiction

45 23. (1) Any act constituting an offence or misconduct under this Act and which is committed outside the Republic by any South African citizen or any person domiciled in the Republic shall be deemed to have been committed also in the Republic.

50 (2) Any offence or misconduct under this Act shall, for the purposes of determining the jurisdiction of a court or board of enquiry to try the offence or misconduct, be deemed to have been committed at a place where it actually was committed and also at any place where the accused or person concerned happens to be.

Prohibition of access to premises

55 24. (1) The Deputy President or the Minister may by notice in the *Gazette* or in any other manner which he or she deems sufficient in the circumstances, prohibit or restrict access to any premises under the control of the Agency or the Service.

(2) Die Adjunkpresident of die Minister kan die maatreëls tref of laat tref wat hy of sy nodig ag vir die beveiliging van of die toepassing van 'n verbod op of 'n beperking van toegang tot sodanige perseel, en kan in verband met enige maatreël aldus getref die kennisgewings laat publiseer of die waarskuwingstekens laat oprig wat hy of sy in elke bepaalde geval nodig ag. 5

Winkels

25. (1) Ondanks andersluidende bepalings van enige ander wet, kan die Adjunkpresident of die Minister winkels vir die Agentskap of die Diens en vir die organisasiekomponente daarvan instel.

(2) Die oorlegging van 'n amptelike stuk onderteken deur die Adjunkpresident of die Minister en waarin aangedui word dat hy of sy 'n winkel vir die doeleindes van hierdie artikel ingestel het, is afdoende bewys dat dit 'n winkel is wat onder hierdie artikel ressorteer. 10

(3) By die toepassing van hierdie artikel beteken "winkel" ook 'n menasie, kroeg of instelling van die Agentskap of die Diens of 'n perseel wat tydelik of permanent gebruik word om ontspanning, verversings of benodigdhede te verskaf hoofsaaklik vir lede of afgetrede lede of vir die gesinne van sodanige lede of afgetrede lede of vir persone wat in enige werk in, of in verband met, so 'n menasie, kroeg, instelling of perseel werksaam is. 15

Verjaring van aksies, kennisgewing van geding en eisoorzaak, en bestelling van sekere prosesstukke 20

26. (1) 'n Siviele geding teen die Staat of iemand ten opsigte van iets wat ingevolge hierdie Wet gedoen is, moet ingestel word binne twee jaar nadat die eiser daarvan bewus geword het dat die eisoorzaak ontstaan het, en skriftelike kennis van so 'n geding en van die oorsaak daarvan moet aan die verweerder gegee word minstens een maand voordat dit ingestel word. 25

(2) Indien kennis beoog in subartikel (1) aan die betrokke Direkteur-generaal gegee word, word dit geag kennisgewing aan die betrokke verweerder te wees.

(3) 'n Prosesstuk waarby 'n geding beoog in subartikel (1) ingestel word en waarin die Adjunkpresident of die Minister die verweerder of respondent is, kan aan die betrokke Direkteur-generaal bestel word. 30

Vermiste lede

27. (1) Indien 'n lid vermis word en die betrokke Direkteur-generaal oortuig is dat sy of haar afwesigheid ontstaan het uit die verrigting van sy of haar werksaamhede ingevolge hierdie Wet, word daardie lid vir alle doeleindes geag steeds in diens van die Agentskap of die Diens, na gelang van die geval, te wees vanaf die eerste dag na die dag waarop daardie afwesigheid begin het tot op die dag waarop hy of sy weer vir diens aanmeld of, volgens die oordeel van die betrokke Direkteur-generaal aldus moes aangemeld het, of 'n bevoegde hof 'n bevel uitreik waarby die dood van daardie lid vermoed word. 40

(2) Die salaris of loon en toelaes wat 'n lid toeval tydens sy of haar afwesigheid beoog in subartikel (1) word, behoudens die bepalings van subartikel (4), uitbetaal aan sy of haar gade of, indien hy of sy nie 'n gade het nie, aan sy of haar ander afhanklikes of aan iemand wat, volgens die oordeel van die betrokke Direkteur-generaal, bevoeg is om daardie salaris of loon en toelaes ten behoeve van sy of haar gade of daardie ander afhanklikes te ontvang en te administreer. 45

(3) Betaling van salaris of loon en toelaes ingevolge subartikel (2) word vir alle doeleindes geag betaling daarvan aan die betrokke lid te wees, en 'n bedrag aldus betaal, is nie deur die Staat op iemand verhaalbaar nie.

(4) Ondanks die bepalings van subartikel (2) kan die betrokke Direkteur-generaal na goeë dunske gelas dat slegs 'n gedeelte van 'n lid se salaris of loon en toelaes ingevolge genoemde subartikel uitbetaal word of dat geen gedeelte daarvan aldus uitbetaal word nie. 50

Vrystelling van opleiding en diensplig in Nasionale Weermag en Suid-Afrikaanse Polisiediens 55

28. (1) Die bepalings van die Verdedigingswet, 1957 (Wet No. 44 van 1957), op

(2) The Deputy President or the Minister may take or cause to be taken such measures as he or she deems necessary for the security of, or the application of a prohibition of or a restriction on access to, such premises, and may in connection with any measures so taken cause such notices to be published or such warning notices to be erected as he or she may in each particular case deem necessary.

Canteens

25. (1) Notwithstanding anything to the contrary contained in any other law, the Deputy President or the Minister may establish canteens for the Agency or the Service and for the organisational components thereof.

10 (2) The production of an official document signed by the Deputy President or the Minister and indicating that he or she has established a canteen for the purposes of this section, shall be conclusive proof that it is a canteen falling under this section.

15 (3) For the purposes of this section "canteen" includes any mess, pub or institution of the Agency or the Service or any premises temporarily or permanently used for providing recreation, refreshments or necessaries mainly for members or retired members or for the families of such members or retired members or for persons employed in any work in or in connection with any such mess, pub, institution or premises.

20 Limitation of actions, notification of proceedings and cause of action, and service of certain process

26. (1) Any civil proceedings against the State or any person in respect of anything done in pursuance of this Act, shall be instituted within two years after becoming aware that the cause of action arose, and notice in writing of any such proceedings and of the cause thereof shall be given to the defendant not less than one month before it is instituted.

(2) If any notice contemplated in subsection (1) is given to the Director-General concerned, it shall be deemed to be notification to the defendant concerned.

30 (3) Any process by which any proceedings contemplated in subsection (1) is instituted and in which the Deputy President or the Minister is the defendant or respondent, may be served on the Director-General concerned.

Missing members

27. (1) If a member is missing and the Director-General concerned is satisfied that his or her absence arose from the performance of his or her functions in terms of this Act, such member shall for all purposes be deemed to be still employed by the Agency or the Service, as the case may be, from the first day after the day on which such absence commenced until the day on which he or she again reports for duty or, in the opinion of the Director-General concerned, should have so reported, or a competent court issued an order whereby the death of such member is presumed.

45 (2) The salary or wages and allowances accruing to a member during his or her absence contemplated in subsection (1) shall, subject to the provisions of subsection (4), be paid to his or her spouse or, if he or she has no spouse, to his or her other dependants, or to any person who, in the opinion of the Director-General concerned, is competent to receive and administer such salary or wages and allowances on behalf of his or her spouse or such other dependants.

(3) Payment of any salary or wages and allowances in terms of subsection (2) shall for all purposes be deemed to be payment thereof to the member concerned, and an amount so paid shall not be recoverable by the State from any person.

50 (4) Notwithstanding the provisions of subsection (2) the Director-General concerned may in his or her discretion direct that only a portion of the salary or wages and allowances of a member be paid in terms of the said subsection or that no portion thereof be so paid.

55 Exemption from training and compulsory service in National Defence Force and South African Police Service

28. (1) The provisions of the Defence Act, 1957 (Act No. 44 of 1957), relating

diens of die verpligting om opleiding te ondergaan, is nie op 'n lid van die Agentskap of die Diens van toepassing nie.

(2) Die bepalings van die Polisiewet, 1958 (Wet No. 7 van 1958), op die instelling of funksionering van, of diens of opleiding in, die Polisereserwe, is nie op 'n lid van die Agentskap of die Diens van toepassing nie. 5

(3) (a) Ondanks die bepalings van subartikels (1) en (2) kan die Adjunkpresident of die Minister, in geval van oorlog of wanneer, na sy of haar oordeel, daar 'n noodtoestand bestaan, en met inagneming van die behoeftes van die Agentskap of die Diens, 'n lid afstaan vir diens of opleiding in die Nasionale Weermag of die Suid-Afrikaanse Polisie diens. 10

(b) 'n Lid is, terwyl hy of sy aldus vir diens of opleiding afgestaan is, onderworpe aan die dissipline, bevel en beheer wat vir die Nasionale Weermag of die Suid-Afrikaanse Polisie diens, na gelang van die geval, geld, maar word nie daardeur van die toepassing van die bepalings van hierdie Wet onthef nie.

Regulasies 15

29. (1) Die Adjunkpresident of die Minister kan regulasies uitvaardig betreffende—

- (a) die indiensneming, opleiding, bevordering, standplaas, oorplasing, verlof, bedanking, afdanking, ontslag, skorsing of verlaging in rang of graad van lede en die personeelbestuur van daardie lede in die algemeen; 20
- (b) die standarde van liggaamlike en geestelike geskiktheid en die geneeskundige ondersoek van lede en die geneeskundige, tandheelkundige en hospitaalbehandeling van sodanige lede en hul gesinne;
- (c) die voorsiening van geneeskundige, tandheelkundige en hospitaalbehandeling van lede wat met pensioen afgetree het of aftree, en hul gesinne en van die gesinne van lede wat te sterwe gekom het of sterf; 25
- (d) die getalsterkte van die Agentskap of die Diens, die diensvoorwaardes van die lede daarvan, die salarisse, salarisskale, lone en toelaes van lede en die stelsels wat betrekking het op die administrasie en vasstelling daarvan, en die verskillende afdelings, takke, grade, range en benamings in die Agentskap en die Diens; 30
- (e) die oprigting en instandhouding van opleidingsinrigtings of -sentrums vir lede, en die onderrig, opleiding, dissipline en beheer van sodanige lede by sodanige inrigtings of sentrums;
- (f) die omskrywing van diens- en dissiplinêre oortredings en, in die algemeen, die beheer oor en dissipline van die Agentskap en die Diens; 35
- (g) die aftrekkings wat van die salarisse, lone of toelaes van lede gemaak moet word;
- (h) die byeenkoms van rade van ondersoek ingevolge hierdie Wet aangestel, die prosedure by die verrigtinge van sulke rade en die verskyning van getuies daarby; 40
- (i) die aankla van lede weens wangedrag;
- (j) appèlle ingevolge hierdie Wet;
- (k) die voorsiening van voorrade, toebehore, ander uitrustingsartikels en vervoermiddels wat vir die Agentskap en die Diens nodig is, en die versorging, veilige bewaring en instandhouding daarvan; 45
- (l) die uitoefening van hul bevoegdhede en die verrigting van hul werksaamhede deur lede;
- (m) die ontwerp, toekenning, gebruik, versorging, verlies, verbeuring en teruggawe van enige dekorasie of medalje ingevolge hierdie Wet ingestel of ingevoer, en die balk, gespe of lint daarvan; 50
- (n) opgawes, registers, aantekeninge, boeke, vorms, ander stukke en briefwisseling met betrekking tot die Agentskap en die Diens;
- (o) die verhaal op 'n lid van enige tekort, verlies, skade of uitgawe wat hy of sy die Staat onregmatig berokken het; 55
- (p) die stigting en die bestuur, en die beheer van die geld, van winkels in artikel 25 beoog;
- (q) die beheer van fondse ingesamel of ontvang deur lede vir die voordeel van lede of oudlede, of hulle afhanklikes;

to service or the liability to undergo training shall not apply to any member of the Agency or the Service.

(2) The provisions of the Police Act, 1958 (Act No. 7 of 1958), relating to the establishment or functioning of, or service or training in, the Police Reserve, shall not apply to any member of the Agency or the Service.

(3) (a) Notwithstanding the provisions of subsections (1) and (2), the Deputy President or the Minister may, in the event of war or when, in his or her opinion, a state of emergency exists, and having regard to the requirements of the Agency and the Service, second any member for service or training in the National Defence Force or the South African Police Service.

(b) A member shall, while so seconded for service or training, be subject to the discipline, command and control applicable to the National Defence Force or the South African Police Service, as the case may be, but shall not thereby be exempted from the application of the provisions of this Act.

15 Regulations

29. (1) The Deputy President or the Minister may make regulations as to—

- (a) the employment, training, promotion, posting, transfer, leave of absence, resignation, discharge, dismissal, suspension or reduction in rank or grade of members and the personnel management of those members in general;
- (b) the standards of physical and mental fitness and the medical examination of members, and the medical, dental and hospital treatment of such members and their families;
- (c) the provision of medical, dental and hospital treatment of members who have retired on pension, and their families and of the families of members who have died or die;
- (d) the numerical establishment of the Agency or the Service, the conditions of service of the members thereof, the salaries, salary scales, wages and allowances of members and the systems relating to the administration and determination thereof and the various divisions, branches, grades, ranks and designations in the Agency and the Service;
- (e) the establishment and maintenance of training institutions or centres for members, and the instruction, training, discipline and control of such members at such institutions or centres;
- (f) the definition of offences against duty and discipline and, generally, the control and discipline of the Agency and the Service;
- (g) the deductions to be made from the salaries, wages or allowances of members;
- (h) the assembly of boards of enquiry appointed under this Act, the procedure at the proceedings of such boards and the attendance of witnesses thereat;
- (i) the charging of members with misconduct;
- (j) appeals in terms of this Act;
- (k) the provision of stores, accessories, other equipment and means of transport required for the Agency and the Service, and the care, safe custody and maintenance thereof;
- (l) the exercise of their powers and the performance of their functions by members;
- (m) the design, award, use, care, loss, forfeiture and restoration of any decoration or medal established or introduced in terms of this Act, and its bar, clasp or ribbon;
- (n) returns, registers, records, books, forms, other documents and correspondence relating to the Agency and the Service;
- (o) the recovery from a member of any deficiency, loss, damage or expense which he or she has unlawfully caused to the State;
- (p) the establishment and conduct, and the control of the funds, of canteens contemplated in section 25;
- (q) the control of funds collected or received by members for the benefit of members or ex-members, or their dependants;

- (r) die algemene bestuur en instandhouding van die Agentskap en die Diens;
- (s) die behoud van rang by aftrede of bedanking uit die Agentskap of die Diens, en die toekenning van ere-range;
- (t) die beheer oor en administrasie van fondse bewillig vir die Agentskap of die Diens ten einde sistematiese en ordelike bestuur daarvan teweeg te bring en om effektiewe en ekonomiese aanwending daarvan te bevorder; 5
- (u) die regulering van arbeidsverhoudinge en die skep van verwante strukture; 10
- (v) die voorwaardes vir en prosedures aangaande die toestemming tot toegang tot enige perseel onder die beheer van die Agentskap of die Diens en aangeleenthede wat daarop betrekking het;
- (w) 'n gedragskode waaraan alle lede moet voldoen;
- (x) die instelling van prosedures rakende die aanbidding, oorweging en beregting van griewe van lede; 15
- (y) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf moet of kan word;
- (z) in die algemeen, alle aangeleenthede wat nodig of dienstig is om voor te skryf ten einde die doelstellings van hierdie Wet te verwesenlik. 20
- (2) Verskillende regulasies kan met betrekking tot verskillende kategorieë lede uitgevaardig word.
- (3) 'n Regulasie betreffende diensvoorwaardes van lede kan ook van toepassing gemaak word op persone wat lede was maar wat nie meer as twee jaar vantevore, bereken vanaf die datum waarop die betrokke regulasie aldus van toepassing gemaak word, opgehou het om lede te wees nie: Met dien verstande dat so 'n regulasie nie ten opsigte van 'n bepaalde persoon geld nie, indien dit tot sy of haar nadeel sou strek. 25
- (4) Regulasies kragtens subartikel (1)(c) kan voorsiening maak vir voordele ten opsigte van geneeskundige, tandheelkundige en hospitaalbehandeling van lede wat met pensioen afgetree het en hul gesinne, en van die gesinne van lede wat te sterwe gekom het, op dieselfde grondslag waarop voorsiening daarvoor vir lede en hul gesinne gemaak word. 30
- (5) 'n Regulasie wat ingevolge hierdie artikel met betrekking tot lede uitgevaardig word, hoef nie in die *Staatskoerant* gepubliseer te word nie, maar word op die wyse wat die Adjunkpresident of die Minister bepaal, bekend gemaak aan die lede op wie dit van toepassing is. 35

Ontdekkings, uitvindings en verbeterings deur lede

30. (1) Die regte ten opsigte van alle ontdekkings en uitvindings en alle verbeterings ten opsigte van prosesse, apparate en masjinerie gemaak deur 'n lid as gevolg van navorsing gedoen deur die lid in die loop van sy of haar diens as 'n lid, vestig in die Agentskap of die Diens, na gelang van die geval. 40
- (2) Die Adjunkpresident of die Minister kan ontdekkings, uitvindings en verbeterings waarna in subartikel (1) verwys word, beskikbaar stel vir gebruik in die openbare belang onderworpe aan die voorwaardes en die betaling van die fooie of tantieme wat die Adjunkpresident of die Minister bepaal. 45
- (3) Indien die regte op enige ontdekking, uitvinding of verbetering ingevolge subartikel (1) in die Agentskap of die Diens vestig, kan die Adjunkpresident of die Minister aan die persoon verantwoordelik vir sodanige ontdekking, uitvinding of verbetering die bonus toeken wat hy of sy goeddink, of voorsiening maak vir finansiële deelneming deur sodanige persoon in die wins wat uit die ontdekking, uitvinding of verbetering gemaak word, in die mate wat die Adjunkpresident of die Minister met die instemming van die Minister van Finansies bepaal. 50
- (4) Die Adjunkpresident of die Minister kan aansoek doen om 'n patent in die naam van die Agentskap of die Diens, na gelang van die geval, ten opsigte van enige ontdekking, uitvinding of verbetering waarna in subartikel (1) verwys word, en die Agentskap of die Diens, na gelang van die geval, word vir die doeleindes van die Wet op Patente, 1978 (Wet No. 57 van 1978), geag die regsverkryger van die betrokke ontdekker of uitvinder te wees. 55

- (r) the general management and maintenance of the Agency and the Service;
- (s) the retention of rank on retirement or resignation from the Agency or the Service and the award of honorary ranks;
- 5 (t) the control over and administration of funds appropriated for the Agency or the Service in order to bring about the systematic and orderly management thereof and to promote efficiency and economy in the utilisation thereof;
- 10 (u) the regulation of labour relations and the creation of accompanying structures;
- (v) the conditions for and procedures regarding the permission of access to any premises under the control of the Agency or the Service and matters relating thereto;
- (w) a code of conduct to be adhered to by members;
- 15 (x) the establishment of procedures regarding the presentation, consideration and adjudication of grievances of members;
- (y) any matter which in terms of this Act shall or may be prescribed;
- (z) generally, all matters which are necessary or expedient to prescribe in order that the purposes of this Act may be achieved.
- 20 (2) Different regulations may be made with reference to different categories of members.
- (3) A regulation relating to conditions of service of members may be applied also to persons who were members but who had ceased to be members not more than two years previously, calculated from the date on which the regulation concerned is so applied: Provided that such a regulation shall not apply in respect of a particular person if it would be to his or her detriment.
- 25 (4) Regulations under subsection (1)(c) may provide for benefits in respect of medical, dental and hospital treatment of members who have retired on pension and their families and of the families of members who have died on the same basis on which provision therefor is made for members and their families.
- 30 (5) A regulation made in terms of this section with reference to members need not be published in the *Gazette* but shall be notified to members to whom it applies in such manner as the Deputy President or the Minister may determine.

Discoveries, inventions and improvements by members

- 35 30. (1) The rights in respect of all discoveries and inventions and all improvements in respect of processes, apparatus and machinery made by a member resulting from research undertaken by such member in the course of his or her employment as a member, shall vest in the Agency or the Service, as the case may be.
- 40 (2) The Deputy President or the Minister may make the discoveries, inventions and improvements referred to in subsection (1) available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Deputy President or the Minister may determine.
- (3) If the rights in any discovery, invention or improvement vest in the Agency or the Service in terms of subsection (1), the Deputy President or the Minister may award to the person responsible for the discovery, invention or improvement such bonus as he or she deems fit, or make provision for financial participation by such person in the profits derived from the discovery, invention or improvement to such extent as the Deputy President or the Minister may determine with the concurrence of the Minister of Finance.
- 45 (4) The Deputy President or the Minister may apply for a patent in the name of the Agency or the Service, as the case may be, in respect of any discovery, invention or improvement referred to in subsection (1), and the Agency or the Service, as the case may be, shall for the purposes of the Patents Act, 1978 (Act
- 50 No. 57 of 1978), be regarded as the assignee of the discoverer or inventor concerned.

Adviesraad

31. Die President stel vir die tydperk wat hy bepaal die hoofde van die organisasiekomponente in artikel 3 beoog, aan om 'n adviesraad uit te maak, op die voorwaardes en teen die besoldiging (as daar is) wat hy of sy voorskryf, om hom of haar te adviseer aangaande die uitoefening van sy of haar bevoegdhede kragtens artikel 3 en aangeleenthede wat daarop betrekking het, en om die betrokke Direkteur-generaal te adviseer aangaande die uitoefening van sy of haar bevoegdhede kragtens artikel 4 en aangeleenthede wat daarop betrekking het. 5

Herroeping van wette, en voorbehoude

32. (1) Behoudens die bepalings van subartikel (2) word die wette in die Bylae genoem hierby herroep of gewysig in die mate in die derde kolom daarvan aangedui. 10

(2) Behoudens artikel 3(2)(f) word enigiets gedoen kragtens 'n bepaling van 'n wet wat ingevolge subartikel (1) herroep is en wat kragtens 'n bepaling van hierdie Wet gedoen sou kon word, geag kragtens laasgenoemde bepaling gedoen te gewees het. 15

(3) Alle bates, laste, regte en verpligtinge met inbegrip van fondse, hulpbronne en administratiewe rekords van 'n Diens, Departement of regeringsinstelling wat uit hoofde van subartikel (1) opgehou het om te bestaan, vestig in die Agentskap of die Diens, na gelang van die geval, en word geag deur die Agentskap of die Diens, na gelang van die geval, kragtens die bepalings van hierdie Wet verkry of aangegaan te gewees het. 20

(4) 'n Registrateur van aktes moet by die oorlegging aan hom of haar van 'n sertifikaat deur die Adjunkpresident of die Minister dat onroerende eiendom wat in die sertifikaat beskryf word kragtens subartikel (3) in die Agentskap of die Diens vestig, die inskrywings en endossemente wat hy of sy nodig ag in enige tersaaklike register, titelakte of ander stuk in sy of haar kantoor aanbring ten einde aan subartikel (3) uitvoering te gee. 25

(5) Geen heffing, kantoorgeld of ander gelde is betaalbaar nie ten opsigte van 'n inskrywing of endossement ingevolge subartikel (4). 30

(6) Indien 'n ondersoek na beweerde wangedrag ingestel kragtens 'n wet wat deur subartikel (1) herroep word, nog nie by die inwerkingtreding van hierdie Wet afgehandel is nie, word sodanige verrigtinge voortgesit en afgehandel ooreenkomstig die bepalings van die betrokke wet waarkragtens die ondersoek ingestel is, asof daardie wet nie herroep is nie. 35

(7) Ondanks die bepalings van subartikel (1) kan dissiplinêre verrigtinge ingevolge hierdie Wet ingestel en afgehandel word teen enige persoon wat te eniger tyd voor die inwerkingtreding van hierdie Wet beweer word 'n handeling te verrig het wat wangedrag kon uitgemaak het ingevolge 'n wet wat deur subartikel (1) herroep is of enige regulasie of reël daarkragtens uitgevaardig: Met dien verstande dat geen verrigtinge aldus ingestel word nie tensy die betrokke handeling wesenlik ooreenstem met 'n handeling wat wangedrag ingevolge hierdie Wet uitmaak. 40

Kort titel en inwerkingtreding

33. Hierdie Wet heet die Wet op Intelligensiedienste, 1994, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal. 45

Advisory Board

31. The President shall for such period as he may determine appoint the heads of the organisational components contemplated in section 3 to form an advisory board, on such conditions and remuneration (if any) prescribed by him or her, to advise him or her on the exercise of his or her powers under section 3 and matters relating thereto, and to advise the Director-General concerned on the exercise of his or her powers under section 4 and matters relating thereto.

Repeal of laws, and savings

32. (1) Subject to the provisions of subsection (2) the laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

(2) Subject to section 3(2)(f) anything done under any provision of a law repealed in terms of subsection (1) and which could have been done under a provision of this Act, shall be deemed to have been done under the latter provision.

(3) All assets, liabilities, rights and duties including funds, resources and administrative records of a Service, Department or government establishment which ceases to exist by virtue of subsection (1) shall vest in the Agency or the Service, as the case may be, and shall be deemed to have been acquired or incurred by the Agency or the Service, as the case may be, under the provisions of this Act.

(4) A registrar of deeds shall, upon the production to him or her of a certificate by the Deputy President or the Minister that immovable property described in the certificate vests in the Agency or the Service in terms of subsection (3), make such entries and endorsements as he and she may deem necessary in or on any relevant register, title deed or other document in his or her office, so as to give effect to subsection (3).

(5) No duty, office fee or other charge shall be payable in respect of any entry or endorsement in terms of subsection (4).

(6) If an enquiry into alleged improper conduct instituted in terms of a law repealed by subsection (1), has not been concluded at the commencement of this Act, such proceedings shall be continued and concluded in accordance with the provisions of the relevant law in terms of which the enquiry has been instituted, as if such law had not been repealed.

(7) Notwithstanding the provisions of subsection (1) disciplinary proceedings may be instituted and concluded in terms of this Act against any person who at any time prior to the commencement of this Act is alleged to have committed an act which may have constituted improper conduct in terms of a law repealed by subsection (1) or any regulation or rule made thereunder: Provided that no proceedings shall be so instituted unless the act concerned is substantially the same as an act constituting improper conduct in terms of this Act.

Short title and commencement

33. This Act shall be called the Intelligence Services Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

BYLAE

Wette herroep of gewysig (Artikel 32)

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 81 van 1969 (Republiek van Suid-Afrika)	Wet op die Spesiale Rekening vir Veiligheidsdienste, 1969	<p>1. Die vervanging van artikel 2 deur die volgende artikel:</p> <p>“Betalings uit rekening</p> <p>2. Die gelde in die rekening word aangewend ter bestryding van uitgawes wat in verband staan met—</p> <p>(a) die verrigting van die funksie en die plig van die Nasionale [Intelligensiediens] Intelligensie-agentskap en die Suid-Afrikaanse Geheimeiens soos bedoel in [artikel 2 van] die Wet op [Veiligheidsinligting en die Staatsveiligheidsraad, 1972 (Wet No. 64 van 1972)] Nasionale Strategiese Intelligensie, 1994; en</p> <p>(b) die organisasie van, die uitoefening van die bevoegdheide en die verrigting van die pligte en werksaamhede van 'n lid van, die uitoefening van die bevoegdheide van die <u>President of die verantwoordelike Uitvoerende Adjunkpresident of Minister</u> met betrekking tot die toesig en beheer oor, en die optrede en funksionering van, die [Nasionale Intelligensiediens soos bedoel in die Wet op die Buro vir Staatsveiligheid, 1978 (Wet No. 104 van 1978)] Agentskap en die Diens soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994,</p> <p>en aangeleenthede wat daarmee in verband staan wat genoemde <u>President, Uitvoerende Adjunkpresident of Minister, na gelang van die geval</u>, van tyd tot tyd in die nasionale belang goedkeur, en word onderworpe aan die voorskrifte van genoemde <u>President, Uitvoerende Adjunkpresident of Minister, na gelang van die geval, uitbetaal.</u>”.</p> <p>2. Die wysiging van artikel 3 deur die vervanging van die woord “Intelligensiediens” deur die woorde “Intelligensie-agentskap en die Direkteur-generaal: Suid-Afrikaanse Geheimeiens”.</p> <p>3. Die vervanging van artikel 5 deur die volgende artikel:</p> <p>“Belegging van saldo’s</p> <p>5. Gelde waarmee die rekening gekrediteer is en wat nie vir onmiddellike gebruik of as 'n redelike bedryfsaldo benodig word nie, kan op die wyse wat die <u>President, Uitvoerende Adjunkpresident of Minister</u> verantwoordelik vir die Nasionale [Intelligensiediens] Intelligensie-agentskap of die Suid-Afrikaanse Geheimeiens [in oorleg] met die instemming van die Minister van [Staatsbesteding] Finansies bepaal, belê word.”.</p>

SCHEDULE

Laws repealed or amended (Section 32)

No. and year of law	Short title	Extent of repeal or amendment
Act No. 81 of 1969 (Republic of South Africa)	Security Services Special Account Act, 1969	<p>1. The substitution for section 2 of the following section:</p> <p>“Payments from account</p> <p>2. The moneys in the account shall be utilised for the defraying of expenses in connection with—</p> <p>(a) the performance of the function and the duty of the National Intelligence [Service] Agency and the South African Secret Service as referred to in [section 2 of] the [Security Intelligence and State Security Council Act, 1972 (Act No. 64 of 1972)] National Strategic Intelligence Act, 1994; and</p> <p>(b) the organisation of, the exercising of the powers and the performance of the duties and functions of any member of, the exercising of the powers of the President or the responsible Executive Deputy President or Minister in relation to the superintendence and control of, and the action by and functioning of, the [National Intelligence Service as referred to in the Bureau for State Security Act, 1978 (Act No. 104 of 1978)] Agency and the Service as defined in section 1 of the Intelligence Services Act, 1994, and matters in connection therewith which the said President, Executive Deputy President or Minister, as the case may be, may from time to time approve as being in the national interest, and shall be paid out subject to the directions of the said President, Executive Deputy President or Minister, as the case may be.”.</p> <p>2. The amendment of section 3 by the insertion after the word “Intelligence” of the words “Agency and the Director-General: South African Secret”.</p> <p>3. The substitution for section 5 of the following section:</p> <p>“Investment of balances</p> <p>5. Moneys standing to the credit of the account which are not required for immediate use or as a reasonable working balance, may be invested in such manner as may be determined by the President, Executive Deputy President or Minister responsible for the National Intelligence Agency or the South African Secret Service [in consultation] with the concurrence of the Minister [for State Expenditure] of Finance.”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 57 van 1973 (Republiek van Suid-Afrika)	Regeringsdienspensioenwet, 1973	<p>1. Die wysiging van artikel 1—</p> <p>(a) deur na die omskrywing van “afhanklike” die volgende omskrywing in te voeg: <u>“‘Agentskap’ die Agentskap soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994;”</u>.</p> <p>(b) deur die omskrywing van “Buro” te skrap;</p> <p>(c) deur na die omskrywing van “die Kommissie” die volgende omskrywing in te voeg: <u>“‘Diens’ die Diens soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994;”</u>; en</p> <p>(d) deur die omskrywing van “polisiemag” deur die volgende omskrywing te vervang: <u>“‘polisiemag’ die Mag in artikel 2 van die Polisiewet, 1958 (Wet No. 7 van 1958), bedoel (maar uitgesonderd die lede van die Polisiereserwe van Offisiere of die Reserwepolisiemag en spesiale konstabels), en ook persone in diens by die [Buro] Agentskap of die Diens;”</u>.</p> <p>2. Die wysiging van artikel 6 deur in subartikel (6) in die woorde wat paragraaf (a) voorafgaan en in paragraaf (a) die woord “Buro” deur die woorde “Agentskap of die Diens” te vervang.</p> <p>3. Die wysiging van artikel 17 deur subartikel (6) deur die volgende subartikel te vervang: <u>“(6) Die regulasies beoog in hierdie artikel word deur die Minister met die instemming van die Minister van Finansies uitgevaardig na oorleg met die [Administrateurs] Premiers en die President, Uitvoerende Adjunkpresident of Minister verantwoordelik vir die [Buro] Agentskap of die Diens, die [Kommissie vir Administrasie, die staande mag, die polisiemag] Staatsdienskommissie, die Nasionale Weermag, die Suid-Afrikaanse Polisiediens die gevangensidiens, Nasionale Opvoeding en Pos- en Telekommunikasiewese.”</u>.</p>
Wet No. 56 van 1978 (Republiek van Suid-Afrika)	Wet op Geheime Dienste, 1978	<p>1. Die wysiging van artikel 1—</p> <p>(a) deur in die omskrywing van “geheime diens” die woorde “verantwoordelike Minister” deur die woorde “President of die verantwoordelike Uitvoerende Adjunkpresident of Minister” te vervang; en</p> <p>(b) deur die omskrywing van “verantwoordelike Minister” deur die volgende omskrywing te vervang: <u>“‘verantwoordelike Uitvoerende Adjunkpresident of Minister’, met betrekking tot ’n aangeleentheid in hierdie Wet bedoel, die Uitvoerende Adjunkpresident of Minister verantwoordelik vir die Staatsdepartement waaronder daardie aangeleentheid ressorteer;”</u>.</p>

No. and year of law	Short title	Extent of repeal or amendment
Act No. 57 of 1973 (Republic of South Africa)	Government Service Pension Act, 1973	<p>1. The amendment of section 1—</p> <p>(a) by the insertion after the definition of “Administrator” of the following definition:</p> <p>“ ‘Agency’ means the Agency as defined in section 1 of the Intelligence Services Act, 1994;”;</p> <p>(b) by the deletion of the definition of “Bureau”;</p> <p>(c) by the substitution for the definition of “police force” of the following definition:</p> <p>“ ‘police force’ means the Force referred to in section 2 of the Police Act, 1958 (Act No. 7 of 1958), with the exception of members of the Police Reserve of Officers or the Reserve Police Force and special constables, and includes persons employed in the [Bureau] Agency or the Service;”;</p> <p>(d) by the insertion after the definition of “revenue” of the following definition:</p> <p>“ ‘Service’ means the Service as defined in section 1 of the Intelligence Services Act, 1994;”.</p> <p>2. The amendment of section 6 by the substitution in subsection (6) in the words preceding paragraph (a) and in paragraph (a), for the word “Bureau” of the words “Agency or the Service”.</p> <p>3. The amendment of section 17 by the substitution for subsection (6) of the following subsection:</p> <p>“(6) The regulations contemplated in this section shall be made by the Minister with the concurrence of the Minister of Finance and after consultation with the [Administrators] Premiers and the President, Executive Deputy President or Minister, responsible for the [Bureau] Agency or the Service, the Public Service Commission [for Administration], the [permanent force, the police force] National Defence Force, the South African Police Service, the prisons service, National Education and Posts and Telecommunications.”.</p>
Act No. 56 of 1978 (Republic of South Africa)	Secret Services Act, 1978	<p>1. The amendment of section 1—</p> <p>(a) by the substitution for the definition of “responsible Minister” of the following definition:</p> <p>“ ‘responsible Executive Deputy President or Minister’, in relation to any matter referred to in this Act, means the Executive Deputy President or Minister responsible for the department of State under which that matter falls;”;</p> <p>(b) by the substitution in the definition of “secret service” for the words “responsible Minister” of the words “President or the responsible Executive Deputy President or Minister”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 104 van 1978 (Republiek van Suid-Afrika) Wet No. 84 van 1982 (Republiek van Suid-Afrika)	Wet op die Buro vir Staatsveiligheid, 1978 Wet op die Beveiliging van Inligting, 1982	<p>2. Die wysiging van artikel 2 deur in subartikel (2)(a) die woorde "verantwoordelike Minister" deur die woorde "President of verantwoordelike Uitvoerende Adjunkpresident of Minister" te vervang.</p> <p>3. Die wysiging van artikel 3A deur in subartikel (8)(a) die woorde " 'n verantwoordelike Minister" deur die woorde "die President of die verantwoordelike Adjunkpresident of Minister" te vervang.</p> <p>4. Die wysiging van artikel 3B deur in subartikel (1) die woorde "verantwoordelike Minister" deur die woorde "President of die verantwoordelike Adjunkpresident of Minister" te vervang.</p> <p>Die herroeping van die geheel.</p>
Wet No. 127 van 1992 (Republiek van Suid-Afrika)	Wet op die Verbod op Onderskepping en Mee-luistering, 1992	<p>1. Die wysiging van artikel 1 deur die omskrywing van "veiligheidsaangeleentheid" deur die volgende omskrywing te vervang: " 'veiligheidsaangeleentheid' ook 'n aangeleentheid waarmee die [Nasionale Intelligensiediens] Agentskap of die Diens soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994, handel of wat in verband staan met die werksaamhede van daardie Agentskap of Diens of met die verhouding wat tussen iemand en daardie Agentskap of Diens bestaan;"</p> <p>1. Die wysiging van artikel 1 deur na die omskrywing van "afdeling" die volgende omskrywings in te voeg: " 'Agentskap' die Agentskap soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994; 'Diens' die Diens soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994;"</p> <p>2. Die wysiging van artikel 3 deur paragraaf (c) van subartikel (2) deur die volgende paragraaf te vervang: "(c) vir die doeleindes van subartikel (1)(b)(ii) of subartikel (4) gedoen deur 'n lid soos omskryf in artikel 1 van die Wet op [die Buro vir Staatsveiligheid, 1978 (Wet No. 104 van 1978)] Intelligensiedienste, 1994, mits die betrokke lid vooraf die goedkeuring verkry van 'n ander lid van die [Nasionale Intelligensiediens] Agentskap of die Diens, na gelang van die geval, wat minstens 'n pos van hoofdirekteur beklee."</p> <p>3. Die wysiging van artikel 4— (a) deur in subartikel (1) die woorde "Nasionale Intelligensiediens" deur die woorde "Agentskap of die Diens" te vervang; en</p>

No. and year of law	Short title	Extent of repeal or amendment
Act No. 104 of 1978 (Republic of South Africa)	Bureau for State Security Act, 1982	<p>2. The amendment of section 2 by the substitution in subsection (2)(a) for the words "responsible Minister" of the words "President or the responsible Executive Deputy President or Minister".</p> <p>3. The amendment of section 3A by the substitution in subsection (8)(a) for the words "a responsible Minister" of the words "the President or the responsible Executive Deputy President or Minister".</p> <p>4. The amendment of section 3B by the substitution in subsection (1) for the words "responsible Minister" of the words "President or the responsible Executive Deputy President or Minister".</p> <p>The repeal of the whole.</p>
Act No. 84 of 1982 (Republic of South Africa)	Protection of Information Act, 1982	<p>The amendment of section 1 by the substitution for the definition of "security matter" of the following definition:</p> <p>"'security matter' includes any matter which is dealt with by the [National Intelligence Service] Agency or the Service as defined in section 1 of the Intelligence Services Act, 1994, or which relates to the functions of that Agency or Service or to the relationship existing between any person and that Agency or Service."</p>
Act No. 127 of 1992 (Republic of South Africa)	Intercepting and Monitoring Prohibition Act, 1992	<p>1. The amendment of section 1—</p> <p>(a) by the insertion before the definition of "division" of the following definition:</p> <p>"'Agency' means the Agency as defined in section 1 of the Intelligence Services Act, 1994;" and</p> <p>(b) by the insertion after the definition of "serious offence" of the following definition:</p> <p>"'Service' means the Service as defined in section 1 of the Intelligence Services Act, 1994;"</p> <p>2. The amendment of section 3 by the substitution for paragraph (c) of subsection (2) of the following paragraph:</p> <p>"(c) for the purposes of subsection (1)(b)(ii) or subsection (4), be made by a member as defined in section 1 of the [Bureau for State Security Act, 1978 (Act No. 104 of 1978)] Intelligence Services Act, 1994, provided the member concerned obtained in advance the approval of another member of the [National Intelligence Service] Agency or the Service, as the case may be, holding a post of at least chief director."</p> <p>3. The amendment of section 4—</p> <p>(a) by the substitution in subsection (1) for the words "National Intelligence" of the words "Agency or the"; and</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Proklamasie No. 103 van 1994	Staatsdienswet, 1994	<p>(b) deur in subartikel (2)(b)(ii) die woorde "Nasionale Intelligensiediens" deur die woorde "Agentskap of die Diens" te vervang.</p> <p>4. Die wysiging van artikel 5 deur in subartikel (2) die woorde "Hoof van die Nasionale Intelligensiediens" deur die woorde "Direkteur-generaal van die Agentskap of die Diens" te vervang.</p> <p>1. Die wysiging van artikel 1—</p> <p>(a) deur in subartikel (1) voor die omskrywing van "beampte" die volgende omskrywing in te voeg:</p> <p style="padding-left: 20px;">" 'Agentskap' die Agentskap soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994;</p> <p>(b) deur in subartikel (1) na die omskrywing van "die dienste" die volgende omskrywing in te voeg:</p> <p style="padding-left: 20px;">" 'Diens' die Diens soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 1994; en</p> <p>(c) deur in subartikel (1) die omskrywing van "die Nasionale Intelligensiedienste" te skrap.</p> <p>2. Die wysiging van die Wet deur die woorde "Nasionale Intelligensiedienste", waar hulle ook al voorkom, deur die woorde "Agentskap of die Diens" te vervang.</p> <p>3. Die wysiging van Bylae I—</p> <p>(a) deur in kolomme I en II die woorde "Departement van Nasionale Intelligensiedienste/Direkteur-generaal: Nasionale Intelligensiedienste" te skrap; en</p> <p>(b) deur in kolomme I en II die woorde "Nasionale Weermag/Hoof van die Nasionale Weermag" te vervang deur die woorde:</p> <p style="padding-left: 20px;">"Nasionale Intelligensie-agentskap/Direkteur-generaal: Nasionale Intelligensie-agentskap";</p> <p style="padding-left: 20px;">"Nasionale Weermag/Hoof van die Nasionale Weermag" en "Suid-Afrikaanse Geheimeidiens/Direkteur-generaal: Suid-Afrikaanse Geheimeidiens".</p>
Wet No. 27 van 1981 (Republiek van Bophuthatswana)	Wet op die Nasionale Veiligheidsraad, 1981	Die herroeping van die geheel.
Wet No. 25 van 1982 (Republiek van Bophuthatswana)	Wet op die Bophuthatswana Binnelandse Inligtingsdiens, 1982	Die herroeping van die geheel.
Wet No. 67 van 1987 (Republiek van Transkei)	"Intelligence Service and State Security Council Act, 1987"	Die herroeping van die geheel.
Wet No. 31 van 1988 (Republiek van Venda)	"National Intelligence Service Act, 1988"	Die herroeping van die geheel.
Wet No. 1 van 1991 (Republiek van Ciskei)	"Ciskei Intelligence Service Decree, 1991"	Die herroeping van die geheel.

No. and year of law	Short title	Extent of repeal or amendment
Proclamation No. 103 of 1994	Public Service Act, 1994	<p>(b) by the substitution in subsection (2)(b)(ii) for the words "National Intelligence" of the words "Agency or the".</p> <p>4. The amendment of section 5 by the substitution in subsection (2) for the words "Chief of the National Intelligence" of the words "Director-General of the Agency or the".</p> <p>1. The amendment of section 1—</p> <p>(a) by the insertion in subsection (1) before the definition of "agreement" of the following definition:</p> <p style="padding-left: 2em;">" 'Agency' means the Agency as defined in section 1 of the Intelligence Services Act, 1994;"</p> <p>(b) by the insertion in subsection (1) after the definition of "scale" of the following definition:</p> <p style="padding-left: 2em;">" 'Service' means the Service as defined in section 1 of the Intelligence Services Act, 1994;" and</p> <p>(c) by the deletion in subsection (1) of the definition of "the National Intelligence Services".</p> <p>2. The amendment of the Act by the substitution for the words "National Intelligence Services", wherever they occur, of the words "Agency or the Service".</p> <p>3. The amendment of Schedule I—</p> <p>(a) by the deletion in Columns I and II of the words "Department of National Intelligence Services/Director-General: National Intelligence Services"; and</p> <p>(b) by the insertion in Columns I and II after the words "National Defence Force/Chief of the National Defence Force" of the words "National Intelligence Agency/ Director-General: National Intelligence Agency" and "South African Secret Service/Director-General: South African Secret Service".</p>
Act No. 27 of 1981 (Republic of Bophuthatswana)	National Security Council Act, 1981	The repeal of the whole.
Act No. 25 of 1982 (Republic of Bophuthatswana)	Bophuthatswana Internal Intelligence Service Act, 1982	The repeal of the whole.
Act No. 67 of 1987 (Republic of Transkei)	Intelligence Service and State Security Council Act, 1987	The repeal of the whole.
Act No. 31 of 1988 (Republic of Venda)	National Intelligence Service Act, 1988	The repeal of the whole.
Act No. 1 of 1991 (Republic of Ciskei)	Ciskei Intelligence Service Decree, 1991	The repeal of the whole.

