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GENERAL NOTICES

NOTICE 711 OF 2008

INTELLIGENCE SERVICES AMENDMENT BILL

The Minister for Intelligence Services introducing the Intelligence Services Amendment Bill 2008, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 241 (1) (c) of the Rules of the National Assembly.

The Intelligence Services Amendment Bill:

The Bill seeks to-

- insert certain definitions into the principal Act,
- provide for the establishment of the National Communications Centre;
- remove the legislative requirements of a training Fund to be established for the Academy; and
- grant members the right to retire from the Intelligence Services or the Academy on or after the date on which they reach the age of 55 years;

Copies of the Bill can be obtained from:

- (1) Government Printings – Pretoria
- (2) Ms Kerenza Millard
Head of Legal Services
Ministry for Intelligence Services
Bogare
Cnr Atterbury & Lois Street
Menlyn
Pretoria
Tel: (012) 3670700
- (3) Ms Rachmat Rasool
Head of Parliamentary Services
Ministry for Intelligence Services
18th Floor
120 Plein Street
Cape Town
Tel: (021) 4011800

MEMORANDUM ON THE OBJECTS OF THE INTELLIGENCE SERVICES AMENDMENT BILL, 2008

1. BACKGROUND

The Intelligence Services Amendment Bill, 2008 introduces amendments to the Intelligence Services Act, 2002 (Act No. 65 of 2002), (hereinafter referred to as the principal Act). The Bill is largely technical in nature. It does not reflect any major policy shifts in relation to the structure and organisation of the civilian intelligence dispensation.

2. OBJECTS OF BILL

The Bill seeks to-

- (a) insert certain definitions into the principal Act,
- (b) provide for the establishment of the National Communications Centre;
- (c) remove the legislative requirements of a training Fund to be established for the Academy; and
- (d) grant members the right to retire from the Intelligence Services or the Academy on or after the date on which they reach the age of 55 years;

3. DEPARTMENTS CONSULTED

All government departments have been consulted.

4. FINANCIAL IMPLICATIONS FOR THE STATE

There are no financial implications for the state.

5. CONSTITUTIONAL IMPLICATIONS

None.

6. PARLIAMENTARY PROCEDURE

6.1 The State Law Advisers and the Department of Intelligence are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

REPUBLIC OF SOUTH AFRICA

INTELLIGENCE SERVICES AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. of) (The English text
is the official text of the Bill)*

(MINISTER OF INTELLIGENCE)

[B - 2008]

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GENERAL EXPLANATORY NOTE:

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

To amend the Intelligence Services Act, 2002, so as to insert certain definitions; to provide for the establishment of the National Communications Centre; to remove the requirements of a training Fund for the Academy; and to grant members the right to retire from the Intelligence Services or the Academy on or after the date on which they reach the age of 55 years; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 65 of 2002 as amended by section 8 of Act 53 of 2003

1. Section 1 of the Intelligence Services Act, (hereinafter referred to as the principal Act) is hereby amended—

- (a) by the deletion of the definition of "**Advisory Committee**";

- (b) by the substitution for the definition of "**Intelligence Services**" of the following definition:

" '**Intelligence Services**' means the Agency, **[or]** the Service or the NCC as the case may be;"; and

- (c) by the insertion after the definition of "**National Intelligence Structures**" of the following definition:

" '**NCC**' means the National Communications Centre established by section 3 (2A);"

Substitution of heading to Chapter II of Act 65 of 2002

2. The following heading is hereby substituted for the heading to Chapter II of the principal Act:

**"ESTABLISHMENT, COMPOSITION AND ORGANISATION OF AGENCY,
SERVICE, NCC AND ACADEMY"**

Amendment of section 3 of Act 65 of 2002

3. Section 3 of the principal Act is hereby amended —

- (a) by the substitution for the heading of the following heading:

**"Continued existence of Agency and Service and establishment of
NCC"; and**

- (b) by the insertion after subsection (2) of the following subsection:

"(2A) (a) The National Communications Centre is

hereby established as part of the Intelligence Services.

(b) The NCC consists of persons appointed as members in terms of section 8."

Substitution of heading to section 4 of Act 65 of 2002

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

"Composition of Agency [and], Service and NCC".

Amendment of section 5 of Act 65 of 2002

5. Section 5 of the principal Act is hereby amended by the deletion of subsections (3), (4), (5) and (6).

Amendment of section 6 of Act 65 of 2002

6. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Minister [**must**] may appoint a deputy head of the Academy who is responsible for the curriculum and research function of the Academy: Provided that if the post level of the deputy head is at the level of a deputy director-general, the Minister must make the appointment with the concurrence of the President."

Repeal of section 9 of Act 65 of 2002

7. Section 9 of the principal Act is hereby repealed.

Amendment of section 10 of Act 39 of 1994 as amended by section 9 of Act 52 of 2003

8. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Director General concerned or the Chief Executive Officer, as the case may be, may, in a prescribed manner and subject to the **[approval of the Minister and]** the provisions of this Act, issue functional directives applicable to—"; and

- (b) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

"The Director-General concerned may, in a prescribed manner **[,] and** subject to **[the approval of the Minister and]** the provisions of this Act, issue functional directives applicable to—".

Amendment of section 12 of Act 65 of 2002 as amended by section 11 of Act 52 of 2003

9. Section 12 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) acquire any immovable property, with or without any buildings thereon which is necessary for the efficient functioning of the Intelligence Services or the Academy, and erect or maintain any buildings on the property so acquired and, **[subject to section 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)]** with the concurrence of the Minister of Finance, supply guarantees, indemnities and securities for those purposes;"

Amendment of section 13 of Act 65 of 2002

10. Section 13 of the principal Act is hereby amended by the addition of the following subsection:

"(4) Despite subsection (1) a member may retire from the Intelligence Services or the Academy, as the case may be, on the date on which he or she attains the age of 55 years, or on any date after that date."

Amendment of section 20 of Act 65 of 2002 as substituted by section 13 of Act 52 of 2003

11. Section 20 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may, in writing and on such conditions as he or she may deem fit, delegate any power conferred upon or duty assigned to him or her by this Act, excluding any power conferred upon or duty assigned to him or her by sections 4(1)(a) and (b), 5(1), (2)(a) and (4)(c), 6(2), 9(3), (4), (5), (8) and (9), 10(1), (2) and (3), 12(1) **[and (2)(a) and (b)]**, 13(3), 14(6), (7), (8), (9) and (11), 15(b) and (c), 16(2), 17(2), 18(3), 19(4), 21(2), 22(1), (5) and (7), 23(3)(a)(i) and (ii), 28(2), 30 and 37, to the Director-General concerned, the Chief Executive Officer or any other member of the Intelligence Services or the Academy, as the case may be."

Substitution of Long title

12. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To regulate the establishment, administration, organisation and control of the National Intelligence Agency, the South African Secret Service; the National Communications Centre and the South African National Academy of Intelligence; to establish and regulate the Intelligence Services Council on Conditions of Service; to repeal an Act; and to provide for matters connected therewith."

Amendment of laws

13. The laws mentioned in the first column of the Schedule are hereby amended to the extent set out in the third column of that schedule.

Short title

14. This Act is called Intelligence Services Amendment Act, 2008 and comes into operation on a date determined by the President by Proclamation in the *Gazette*.

SCHEDULE
PART A
LAWS AMENDED
(Section 13)

No. and year of Act	Short title	Extent of amendment
Act 81 of 1969	Security Services Special Account Act, 1969	<p>1. The substitution for section 3 of the following section:</p> <p style="text-align: center;">"Control of expenditure</p> <p>3. Subject to the provisions of section 2, the account shall be under the control of the Director-General: National Intelligence Agency [and], the Director-General: South African Secret Service <u>and the Director-General: National Communications Centre</u>, who shall cause proper records to be kept of all moneys received or expended."</p> <p>2. The substitution for section 5 of the following section:</p> <p style="text-align: center;">"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 or Minister responsible for the National Intelligence Agency, the South African Secret Service, <u>National Communications Centre</u>, the South African National Academy of Intelligence, Comsec or the Office with the</p>

No. and year of Act	Short title	Extent of amendment
		concurrence of the Minister of Finance."
Proclamation 103 of 1994	Public Service Act	<p>1. Amendment of section 1 by the substitution for the definition of "member of the Intelligence Services" of the following definition:</p> <p>"member of the Intelligence Services' means a member of-</p> <p>(a) the National Intelligence Agency appointed, or deemed to have been appointed, in terms of the Intelligence Services Act, 2002 (Act No. 65 of 2002);</p> <p>(b) the South African National Academy of Intelligence appointed, or deemed to have been appointed, in terms of that Act; [or]</p> <p>(c) the South African Secret Service appointed, or deemed to have been appointed, in terms of that Act; <u>or</u></p> <p>(d) <u>the National Communications Centre appointed, or deemed to have been appointed, in terms of that Act."</u></p>
Act 66 of 1995	Labour Relations Act, 1995	<p>1. Amendment of section 2 by the insertion after paragraph (e) of the following paragraph:</p> <p><u>"(f) the National Communications Centre."</u></p> <p>2. Amendment of section 213 by the insertion in the definition of "public service" of the following paragraph:</p> <p><u>"(d) the National Communications Centre."</u></p> <p>2.</p>
Act 75 of 1997	Basic Conditions of Employment Act, 1997	<p>1. Amendment of section 1 by the insertion in the definition of "public service of the following paragraph:</p> <p><u>"(f) the National Communications Centre."</u></p> <p>2. Amendment of section 3 by the substitution in subsection (1)</p>

No. and year of Act	Short title	Extent of amendment
		for paragraph (a) of the following paragraph: “(a) members of the National Intelligence Agency, the South African Secret Service, <u>the National Communications Centre</u> and the South African National Academy of Intelligence;”
Act 112 of 1998	Witness Protection Act, 1998	1. Amendment of section 6 by the insertion in subsection (1) of the following paragraph: “(f) <u>the Director-General: the National Communications Centre.</u> ”
Act No. 131 of 1998	Medical Schemes Act, 1998	1. Amendment of section 1 by the deletion of the definitions of “Academy”, “Agency” and “Service”. 2. Amendment of section 2 by the deletion of subsection (3).
Act 38 of 2001	Financial Intelligence Centre Act, 2001	1. Amendment of section 19 by the insertion in subsection (1) of the following paragraph: “(fA) <u>the Director-General of the National Communications Centre.</u> ”
Act 56 of 2001	Private Security Industry Regulation Act, 2001	1. Amendment of section 23 by the substitution for subsection (5) of the following subsection: “(5) Despite any provision to the contrary, a person in the permanent employ of the Service, the Directorate of Special Operations, the National Intelligence Agency, the South African Secret Service, <u>the National Communications Centre</u> , the South African National Defence Force or the Department of Correctional Services may not be registered as a security service provider whilst so employed.
Act 40 of 2002	Institution of legal proceedings against certain organs of state,	1. Amendment of section 5(b) by the substitution for

No. and year of Act	Short title	Extent of amendment
	2002	subparagraph (i) of the following subparagraph: “(i) Minister for Intelligence is the defendant or respondent, may be served on the Director-General: National Intelligence Agency [or] the Director-General: South African Secret Service or Director-General: National Communications Centre, as the case may be.”

PART B**AMENDMENT OF SCHEDULE 1 TO PUBLIC SERVICE ACT, 1994**

Schedule 1 to the Public Service Act, 1994 (Proclamation No 103 of 1994), is hereby amended by the insertion of the following row after 'National Intelligence Agency':

"National Communications Centre	Director-General: National Communications Centre".
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NOTICE 712 OF 2008**NATIONAL STRATEGIC INTELLIGENCE AMENDMENT BILL**

The Minister for Intelligence Services introducing the National Strategic Intelligence Amendment Bill 2008, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 241 (1) (c) of the Rules of the National Assembly.

The National Strategic Intelligence Amendment Bill:

The Bill seeks to amend the National Strategic Intelligence Act, 1994 (Act No 39 of 1994), (hereinafter referred to as the principal Act) in order to-

- insert new definitions;
- provide for clarity on the security screening functions of the National Intelligence Agency ;
- regulate the functions of the NCC; and
- allow the Director General of National Intelligence Agency to delegate responsibility for issuing, downgrading, withdrawing or refusal of security clearances.

Copies of the Bill can be obtained from:

1. Government Printings – Pretoria
2. Ms Kerenza Millard
Head of Legal Services
Ministry for Intelligence Services
Bogare
Cnr Atterbury & Lois Street
Menlyn
Pretoria
Tel: (012) 3670700
3. Ms Rachmat Rasool
Head of Parliamentary Services
Ministry for Intelligence Services
18th Floor
120 Plein Street
Cape Town
Tel: (021) 4011800

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MEMORANDUM ON THE OBJECTS OF THE NATIONAL STRATEGIC INTELLIGENCE AMENDMENT BILL**1. OBJECTS OF BILL**

The Bill seeks to amend the National Strategic Intelligence Act, 1994 (Act No 39 of 1994), (hereinafter referred to as the principal Act) in order to-

- (a) insert new definitions;
- (b) provide for clarity on the security screening functions of the National Intelligence Agency ;
- (c) regulate the functions of the NCC; and
- (d) allow the Director General of National Intelligence Agency to delegate responsibility for issuing, downgrading, withdrawing or refusal of security clearances.

2. Clause by clause analysis

2.1 Clause 1 amends and inserts certain definitions.

2.2 Clause 2 regulates the activities of the NCC as the national signals intelligence capacity for the Republic with the authority to collect and analyse foreign signals intelligence. The NCC will be authorised to engage in interception of foreign signals. The NCC will be prohibited from intercepting domestic communications.

This clause provides for the Minister for Intelligence to regulate and authorise the activities of the NCC and make it an offence for NCC to engage its activities without or contrary to such an authorisation. This clause also provides for the Inspector General for Intelligence to report to Parliament annually on the activities of the NCC.

The NCC will be required to conduct its activities in the interests of national security; in the interests of the economic well-being of the Republic of South Africa; and in support of the prevention or detection of serious crime directed and committed against the Republic and its citizens.

2.3 Clause 3 amends section 2A of the principal Act to so as to provide -

- (a) for the South African Secret Service ("the Service") to provide security screening services on request by the Agency;
- (b) for the Director General of the Agency to delegate his or her functions under this subsection to a delegated official.
- (c) for the establishment of vetting field work units by organs of state to assist the National Intelligence Structures in conducting security screening investigations.

2.4 Clause 4 amends section 4 of the Principal Act by extending the membership of NICOC to include, not only representatives of the National Intelligence Structures, but the following individuals:

- a. Director General of the NCC;
- b. Director General of the Presidency;
- c. Director General of the Department of Foreign Affairs.

This clause also inserts new subsection which provides that the alternates to members of NICOC must be at the level of Deputy Head of the organisation they represent on NICOC.

3. DEPARTMENTS CONSULTED

All government departments in the JCPS cluster were consulted. In addition the Department of Public Service and Administration has been consulted in connection with the establishment of the National Communications as a Schedule 1 Department in terms of the Public Service Act, 1994 (Proclamation 103 of 1994).

4. FINANCIAL IMPLICATIONS FOR THE STATE

None.

5. PARLIAMENTARY PROCEDURE

5.1 The State Law Advisers and the Department of Intelligence are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

REPUBLIC OF SOUTH AFRICA

NATIONAL STRATEGIC INTELLIGENCE AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. of) (The English text
is the official text of the Bill)*

(MINISTER OF INTELLIGENCE)

[B - 2008]

080806SE

GENERAL EXPLANATORY NOTE:

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

To amend the National Strategic Intelligence Act, 1994, so as to insert new definitions; and to provide for the functions of the National Communications Centre; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 39 of 1994, as amended by section 1 of Act 37 of 1998, section 1 of Act 66 of 2000, section 1 of Act 67 of 2002 and section 1 of Act 52 of 2003

1. Section 1 of National Strategic Intelligence Act, 1994 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion after the definition of “Cabinet” of the following definition:

“**communication**” means communication as defined in the Regulation of Interception of Communications and Provision of Communication-

related Information Act, 2002 (Act No.70 of 2002);”;

- (b) by the insertion after the definition of “foreign military intelligence” of the following definition:

‘foreign signals intelligence’ means intelligence derived from the interception of electromagnetic, acoustic and other signals including the equipment that produces such signals, and includes any communication that emanates from outside the borders of the Republic, or pass through or ends in the Republic;”;

- (c) by the insertion after the definition of “Minister” of the following definition:

‘NCC’ means the National Communications Centre established by section 3(2A) of the Intelligence Services Act, 2002 (Act No. 65 of 2002), as amended;”;

- (d) by the substitution for the definition of “**National Intelligence Structures**” of the following definition:

“ ‘National Intelligence Structures’ means—

- (a) Nicoc;
- (b) the intelligence division of the National Defence Force, established under the Defence Act, 2002 (Act No. 42 of 2002);
- (c) the intelligence division of the South African Police Service;
- (d) the Agency; **[and]**
- (e) the Service; and
- (f) the NCC;” and

- (e) by the addition of the following definition after the definition of “this Act”:

“ ‘vetting field work units’ means the vetting field work units referred to in section 2A(5A).”

Amendment of section 2 of Act 39 of 1994, as amended by section 2 of Act 37 of 1998 and section 2 of Act 67 of 2002

2. Section 2 of the principal Act, is hereby amended by the insertion after subsection (2) of the following subsection:

"(2A) (a) The functions of the NCC shall, subject to section 3, be –

- (i) to collect and analyse foreign signals intelligence in accordance with the intelligence priorities of the Republic;
- (ii) to control and advise on the provision and application of cryptographic solutions in the Republic, in consultation with the relevant stakeholders;
- (iii) to promote the co-ordination and optimal usage of all national signals intelligence resources and platforms in the Republic; and
- (iv) to undertake and co-ordinate research, design and development of all cryptographic solutions and information communications technology security systems and products for all organs of state, in consultation with the relevant stakeholders.

(b) The NCC may perform the functions contemplated in paragraph (a) only for the following objectives:

- (i) To identify any threat or potential threat to the security of the Republic or its people;
- (ii) to protect and advance international relations and the economic

well-being of the Republic;

(iii) to support the prevention or detection of serious crime directed and committed against the Republic and its citizens; and

(iv) to support the prevention and detection of regional and global hazards or disasters that threaten life, property and the environment.

(c) The NCC shall perform the functions contemplated in paragraph (a) with due regard for the rights set out in Chapter 2 of the Constitution and subject to paragraph (d).

(d) The Minister shall regulate and authorise in writing the activities of the NCC under this section, in particular the Minister shall authorise each target or communication which is to be monitored or intercepted, if the Minister is satisfied that such activities are necessary to achieve the objectives set out in paragraph (b).

(e) The NCC is prohibited from intercepting any communications that do not fall within the definition of "foreign signals intelligence".

(f) The Director-General of the NCC may, in writing and at the expense of the NCC, request a telecommunication service provider or signals distributor to render such assistance as may be necessary to enable the NCC to execute its functions in terms of this Act.

(g) The Director-General of the NCC shall exonerate the telecommunication service provider or signals distributor

contemplated in paragraph (f) from any liability which may arise as a result of rendering such assistance.

(h) The Director General of the NCC shall, for the purposes of preventing or detecting serious crime in the Republic, retain the information pertaining to such crime, which comes into the possession of the NCC in the performance of its functions in terms of this section, and refer such information to the relevant law enforcement agency.

(i) The Inspector-General of Intelligence contemplated in section 7 of the Intelligence Services Oversight Act, 1994 (Act No. 40 of 1994), shall report annually to Parliament on the activities of the NCC and in such report, indicate any contraventions by the NCC of the provisions of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No.70 of 2002).

(j) Any official of the NCC who monitors or intercept any communication without the authorisation of the Minister as contemplated in paragraph (d), or who acts contrary to such authorisation, shall guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding three years.”.

Amendment of section 2A of Act 39 of 1994, as amended by section 2 of Act 52 of 2003

3. Section 2A is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) (a) The Agency shall be responsible for security screening of persons contemplated in subsection (1) **[and, on request of]**.

(b) **[the]** The South African Police Service, the Service [or] and the National Defence Force, shall be responsible for security screening of persons employed by, applicants to or persons rendering a service to the South African Police Service, the Service [or] and the Department of Defence.”.

(b) by the substitution for subsection (3) of the following subsection:

“(3) Notwithstanding the provisions of subsection (2), the Agency may request the assistance of the South African Police Service **[or]**, the National Defence Force, the Service or the vetting field work units in the performance of the function contemplated in subsection (2)(a).”;

(c) by the insertion of the following subsection after subsection (5):

“(5A) (a) The organs of state may, on request by and with the permission of the Agency, establish units to be known as vetting field work units.

(b) The vetting field work units may, on request by the relevant members of the National Intelligence Structures, assist such members in gathering the information contemplated in subsection (5).”; and

(d) by the substitution for subsection (6) of the following subsection:

“(6) The head of the relevant National Intelligence Structure or any official delegated by him or her in writing may, after evaluating the information gathered during the security screening investigation, issue, degrade, withdraw or refuse to grant a security clearance.”.

Amendment of section 4 of Act 39 of 1994, as amended by section 4 of Act 37 of 1998, section 25 of Act 66 of 2000 and section 4 of Act 67 of 2002

4. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) There is hereby established a National Intelligence Co-ordinating Committee, which shall consist of—

(a) the Co-ordinator for Intelligence appointed under section 5(1), who shall be the chairperson;

[(b)]

[(c)](b) the Director-General of the Agency;

[(d)](c) the Director-General of the Service;

[(e)](d) the **[chief of the intelligence division]** Chief of Defence Intelligence of the National Defence Force; **[and]**

[(f)](e) the **[head of the intelligence division]** Divisional Commissioner for Crime Intelligence of the South African Police Service[.];

(f) the Director-General of the NCC,
(g) the Director-General of the Presidency; and
(h) the Director-General of the department of Foreign Affairs,
or the alternates of the persons mentioned in paragraphs (b) to ~~[(f)](h)~~,
and such members of departments of State who are co-opted by Nicoc
on a permanent or an ad hoc basis."; and

(b) by the insertion after subsection (1) of the following subsection:

"(1A) The alternates contemplated in subsection (1)
must be of the rank of deputy head of the services in question."

Amendment of section 6 of Act 39 of 1994

5. Section 6 of the principal Act is hereby amended by the insertion in subsection (1) of the following paragraph after paragraph (c):

"(cA) the manner in which an authorisation contemplated in section 2 (2A)
(d) may be executed;".

Amendment of laws

6. The laws mentioned in the first column of the Schedule are hereby amended to the extent specified in the third column of that Schedule.

Short title and commencement

7. This Act is called the National Strategic Intelligence Amendment Act, 2008 and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Schedule 1
PART A
LAWS AMENDED
(Section 6)

No. and year of Act	Short title	Extent of amendment
Act 40 of 1994	Intelligence Service Oversight Act, 1994	<p>1. Amendment of section 1 by—</p> <p>(a) the substitution for the definition of "Head of a Service" of the following definition: "Head of a Service" means the Director-General of the Agency [or] of the South African Secret Service or of the <u>National Communications Centre</u>, the head of the Intelligence Division of the National Defence Force or the head of the Intelligence Division of the South African Police Service, but for the purposes of financial and administrative accounting, the head of the Intelligence Division of the South African National Defence Force means the Secretary for Defence and of the South African Police Service means the National Commissioner;"</p> <p>(b) the insertion after the definition of the "National Defence Force" of the following definition: "NCC" means the <u>National Communications Centre established in terms of section 3(2A) of the Intelligence Services Act, 2002;</u>"</p> <p>(c) the substitution for the definition of "Services" of the following definition: "Services" means the Agency, the South African Secret Service, the NCC, the Intelligence Division of the National Defence Force and the Intelligence Division of the South African Police Service;"</p> <p>(d) the substitution for the definition of "intelligence services" of the following definition: "intelligence services" means the National Intelligence Agency [and] the South African Secret Services and the <u>National Communications Centre</u>, as [referred to] defined in section 1 of the Intelligence Services Act, 2002;"</p> <p>2. Amendment of section 7 by the substitution in subsection (7) for paragraph (cA) of the following paragraph: "(cA) to receive and investigate complaints from members of the public and members of the Services on alleged mal-administration, abuse of power, transgressions of the Constitution, laws and policies relating to intelligence and counter-intelligence referred to in paragraph (a), the commission of an offences referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and improper enrichment of any person through an act or omission of any member;"</p>

No. and year of Act	Short title	Extent of amendment
Act 70 of 2002	Regulation of Interception of Communications and Provision of and Information Act, 2002	<p>1. Amendment of section 1 by—</p> <p>(a) the substitution for paragraph (c) of the definition of "law enforcement agency" of the following paragraph: "(c) the Agency, <u>[or] the Service or the NCC;</u>" and</p> <p>(b) the substitution for paragraph (c) of the definition of "law enforcement officer" of the following paragraph: "(c) the Agency, <u>[or] the Service or the NCC;</u>"</p> <p>2. Amendment of section 34 by the substitution in subsection (4) for paragraph (a) of the following paragraph: "(a) members of the law enforcement agencies, seconded or designated to the Office for that purpose by the—</p> <p>(i) National Commissioner; (ii) Secretary for Defence; (iii) Director-General: National Intelligence Agency; (iv) Director-General: South African Secret Service; [and] (v) National Director; and (vi) <u>Director-General: National Communications Centre, and</u>".</p>