
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

STATE SECURITY AGENCY

NO. 4095

16 November 2023

KHUMBUDZO NTSHAVHENI, MP

NOTICE OF INTENTION TO INTRODUCE A BILL, NAMELY THE GENERAL INTELLIGENCE LAWS AMENDMENT BILL, 2023:

Ms Khumbudzo Ntshavheni, MP acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the General Intelligence Laws Amendment Bill, 2023, in Parliament. The Bill was published on 14 November 2023 in Government Gazette, No. 49717, Notice Number 4067. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly (9th Edition).

The General Intelligence Laws Amendment Bill, 2023 ("the Bill") seeks to amend the National Strategic Intelligence Act No 39 of 1994, the Intelligence Services Act No 65 of 2002, the Intelligence Services Oversight Act No 40 of 1994 and other relevant intelligence laws so as to—

- establish the Foreign Intelligence Service which shall be responsible for foreign Intelligence gathering so as to identify opportunities and threats to National Security;
- establish the Domestic Intelligence Agency which shall be responsible for counter-intelligence as well as gathering of domestic intelligence in order to identify threats to national Security;
- provide for the legislative functions of the Signals Intelligence capacity which shall gather intelligence through foreign signals, communications and non-communications platforms; and
- re-establish the South African National Academy of Intelligence (SANAI) as Intelligence Training Institute for both domestic and foreign intelligence capacities. The Head of SANAI is appointed by the Minister, in consultation with the President, at a level of DDG. SANAI reports to the Director-General (DG) of the Domestic Intelligence Service.

The proposed architecture referred to above is based on the recommendations of the Presidential High Level Review Panel on State Security Agency, White Paper on Intelligence and the International benchmark studies conducted on the architectures of some of the key intelligence services in the United Kingdom, United States of America, Germany, Israel, Algeria, Zimbabwe and Egypt.

The Bill will provide legislative functions for the signals intelligence (SIGINT) capacity as per the order of the High Court and the Constitutional Court, dealing with two aspects of interception namely bulk and targeted interception.

- To comply with the order of the Constitutional Court, the Bill is providing for the mandate of bulk interception activities within the Intelligence Agency.
- Specifically, the Bill empowers the President to appoint a retired Judge supported by two Bulk interception experts to approve applications for monitoring and interception of foreign signals by the Intelligence Services as part of the intelligence collections activities.
- The Bill also proposes certain functions for the Signals Intelligence Capacity, including to gather, correlate, evaluate and analyze relevant intelligence in order to identify any threat and/or potential threat to national security, and supplying its intelligence information to the Agency or the Service and to NICOC.

The role of the intelligence structures in combatting terror financing, illicit economy activities and money laundering in line with the FATF process is also clarified in the Bill. The State Security Agency is part of the FATF team coordinated by the National Treasury which includes other departments such as the Department of Justice, Social Development and Financial Intelligence Centre. As a contribution of intelligence in combatting this illegal activity, the team agreed that the Minister responsible for Intelligence should be empowered by law to regulate security assessment and investigations.

The Bill will also empower the Minister to prescribe regulations on key security matters, including Cybersecurity and identification of critical electronic communications and Infrastructure as well as coordination of the private security industry. Regulations related to the Code of Conduct of current and former members of the service, current and former ministers, and former and current members of parliament with access to intelligence information is also provided for in the Bill.

The Bill lastly provides for consequential amendments to other pieces of legislation.

Copies of the Bill can be obtained from:

1. Government Printings - Pretoria
2. Mr Mxolisi Dlamini : MDlamini@ssa.gov.za