

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

GENERAL NOTICE 1990 OF 2023

**PUBLICATION OF EXPLANATORY SUMMARY OF THE REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION-RELATED INFORMATION AMENDMENT BILL, 2023**

1. Notice is hereby given in terms of Rule 276(1)(b) of the Rules of the National Assembly that the Minister of Justice and Correctional Services intends to introduce the Regulation of Interception of Communications and Provision of Communication-Related Information Amendment Bill, 2023 (the Bill), in the National Assembly shortly.
2. The explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.
- 3.1 The Bill seeks to amend the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002 (Act No. 70 of 2002) (RICA), so as to insert certain definitions; to provide for the designation of an independent designated judge; to provide for the designation of an independent review judge, to provide for the powers and functions of the review judge; to provide for the tenure of designated and review judges; to provide for adequate safeguards where the subject of surveillance is a practising lawyer or journalist; to provide for the notification of persons of their surveillance as soon as the notification may be given without jeopardising the purpose of surveillance and that notification may be withheld if it has the potential to impact negatively on national security; to provide for adequate safeguards to address the fact that interception directions are sought and obtained *ex parte*; to provide for adequate procedures to ensure that data obtained pursuant to the interception of communications is managed lawfully and not used or interfered with unlawfully; to provide for procedures to be followed for processing, examining, copying, sharing, disclosing, sorting through, using, storing or destroying of any data; and to provide for principles for the safeguarding of data when dealing with the management of data.
- 3.2 The Bill arises from the Constitutional Court judgment in *Amabhungane Centre for Investigative Journalism NPC and Another v Minister of Justice and Correctional Services and Others* 2021 (3) SA 246 (CC), which recognised the importance of the right of privacy in the context of state surveillance. The Constitutional Court ordered that the declaration of constitutional invalidity of RICA would be suspended to afford Parliament the opportunity to remedy the defects in RICA by 4 February 2024.
4. A copy of the Bill can be found, after introduction, on the websites of the Department of Justice and Constitutional Development at [www.justice.gov.za](http://www.justice.gov.za) and Parliamentary Monitoring Group at <http://www.pmg.org.za> and, may also be obtained from the Government Printers: Cape Town (Telephone number: (021) 465-7531).