



**JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
PARLIAMENTARY QUESTION NO: 2208
DATE OF QUESTION: 02 JUNE 23
DATE OF SUBMISSION: 19 JUNE 2023**

Mr A G Whitfield (DA) to ask the Minister of Justice and Correctional Services:

- (1) Whether the exemption in terms of Section 46(3) of the Regulation of Interception of Communications and Communication-Related Act, (RICA) Act 70 of 2002, that was published in the Government Gazette on 19 May 2023 is only valid from 19 May 2023 in accordance with section 46(3)(ii); if not, from what date is the exemption valid; if so;
- (2) Whether any person found to be using listed equipment, or directs any person to use listed equipment, in terms of RICA, without an exemption, is therefore guilty of a criminal offence; if not, what is the position in this regard; if so;
- (3) Whether he will instruct the National Prosecuting Authority to investigate all incidents where surveillance equipment, known as grabbers, were purchased by the SA Police Service (SAPS); if not, why not; if so, what are the relevant details in this regard;
- (4) Whether he will start the process of having the specified listed equipment confiscated from SAPS and destroyed due to their unlawful nature; if not, why not; if so, what are the relevant details in this regard?

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REPLY:

- (1) Yes, the exemption is valid from 19 May 2023 (the date of the notice). In the preamble of the certificate of exemption, the Minister makes it clear that the exemption is for a period of five (5) years.

- (2) Yes. Any person (not exempted by the Minister) found to be using listed equipment, or directs any person to use listed equipment, in terms of RICA, without an exemption, is guilty of a criminal offence.

- (3) I do not have powers to instruct the National Prosecuting Authority (NPA) to investigate incidents where surveillance equipment, known as grabbers, were purchased by the SA Police Service (SAPS). The NPA does not have investigative powers in this regard. Any allegations of a crime having been committed in this regard must be reported to the Directorate for Priority Crime Investigation (DPCI) and Independent Police Investigative Directorate (IPID) for investigation.

- (4) I do not have powers dispose of any article or power to confer to any institution to deal with a process of confiscation from SAPS and destruction of any article, including the listed equipment due to their unlawful nature. The aforesaid processes can be dealt with in terms of the provisions of sections 30 to 35 of the Criminal Procedure Act No. 51 of 1977, which deals with the disposal of articles after seizure.