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Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 8380

Regulasiekoerant

Vol. 486

Pretoria, 29 December 2005

No. 28371



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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 1263

29 December 2005

NOTICE IN TERMS OF SECTION 44(1)(a) OF THE REGULATION OF INTERCEPTION OF COMMUNICATIONS AND PROVISION OF COMMUNICATION-RELATED INFORMATION ACT, 2002 (ACT 70 OF 2002)

I, Brigitte Sylvia Mabandla, Minister for Justice and Constitutional Development, acting under section 44(1)(a) of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No.70 of 2002), hereby declare the instruments, devices and equipment mentioned in Column 1 of the Schedule, under the conditions or circumstances specified in Column 2 of the Schedule, to be listed equipment.

B. S. MABANDLA

Minister for Justice and Constitutional Development

SCHEDULE

Column 1	Column 2
(1) Any instrument, device or equipment which is capable of being used to access, record, monitor or retrieve communications from a computer, without the permission of the author of the communication, including but not limited to - (a) keystroke recorders; and (b) software that can be installed on a computer and which has the ability to retrieve and/or store information so as to make it available to another person without the consent of the author of the communication.	(1) To manufacture, assemble, possess, sell, purchase or advertise any of these instruments, devices or equipment, with the intention to use it, whether by itself or in combination with any other instrument, device, equipment or apparatus for the purposes of unlawful interception of communications in contravention of section 49 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act No.70 of 2002).
(2) Any instrument, device or equipment which is capable of being used to record, monitor or listen to a communication, including but not limited to - (a) telephone wiretaps; (b) long range electronic audio amplified microphones; (c) miniature laser audio transmitters; (d) miniature radio frequency audio transmitters; (e) cellular phone intercepting devices; and (f) miniature sound recording devices.	(2) Subject to paragraph (1), above, any instrument, device or equipment or any component thereof - (a) which is furnished to a customer by a telecommunication service provider in the ordinary course of his or her business and which is used by the customer in the ordinary course of his or her business; (b) which is furnished by such customer for connection to the facilities of such telecommunication service provider and which is used in the ordinary course of his or her business; or (c) which is used by a telecommunication service provider in the ordinary course of his or her business,
(3) Any instrument, device or equipment which is capable of being used to visually record, monitor or observe a communication, including but not limited to - (a) miniature video cameras; (b) miniature cameras; and (c) night vision apparatus.	is excluded from the operation of section 44(1)(a).
(4) Any instrument, device or equipment	

which is capable of being used to determine or monitor the geographical location of a person, vehicle or object.	
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No. R. 1263

29 Desember 2005

**KENNISGEWING INGEVOLGE ARTIKEL 44(1)(a) VAN DIE WET OP DIE
REËLING VAN ONDERSKEPPING VAN KOMMUNIKASIES EN
VERSTREKKING VAN KOMMUNIKASIE-VERWANTE INLIGTING, 2002
(WET NO. 70 VAN 2002)**

Ek, Brigitte Sylvia Mabandla, Minister vir Justisie en Staatkundige Ontwikkeling, handelend kragtens artikel 44(1)(a) van die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002 (Wet No. 70 van 2002), verklaar hiermee die instrumente, toestelle en toerusting vermeld in Kolom 1 van die Bylae, onder die voorwaardes of omstandighede vermeld in Kolom 2 van die Bylae, as gelyste toerusting.

B. S. MABANDLA

Minister vir Justisie en Staatkundige Ontwikkeling

BYLAE

Kolom 1	Kolom 2
(1) Enige instrument, toestel of toerusting wat in staat is om gebruik te word vir die verkryging van toegang tot, die opname van, die meeluistering van of die herwinning van kommunikasies op 'n rekenaar, sonder die toestemming van die outeur van die kommunikasie, insluitend maar nie beperk tot – (a) sleutelbordopnemers; en (b) sagteware wat geïnstalleer kan word op 'n rekenaar en wat die vermoë het om informasie te herwin of te berg om dit sodoende beskikbaar te stel aan 'n ander persoon sonder die toestemming van die outeur van die kommunikasie.	(1) Om enige van hierdie instrumente, toestelle of toerusting te vervaardig, te monteer, te besit, te verkoop, te koop of te adverteer, met die opset om dit te gebruik, hetsy alleen of in kombinasie met enige ander instrument, toestel, toerusting of apparaat, vir die doel van wederegtelike onderskepping van kommunikasies in oortreding van artikel 49 van die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-verwante Inligting, 2002 (Wet No. 70 van 2002) (2) Behoudens paragraaf (1), hierbo, word enige van hierdie instrumente, toestelle of toerusting of enige komponent daarvan –
(2) Enige instrument, toestel of toerusting wat in staat is om gebruik te word vir die opname, meeluistering, of afluistering van 'n kommunikasie, insluitend maar nie beperk tot – (a) telefoondraad afluister apparate; (b) langafstand elektroniese oudioversterkte mikrofone; (c) miniatuur laser oudiosenders; (d) miniatuur radiofrekwensie oudiosenders; (e) sellulêre foon onderskeppingstoestelle; en (f) miniatuur klank opname toestelle.	(a) wat in die gewone loop van sy of haar besigheid deur 'n telekommunikasiediensverskaffer aan die kliënt verskaf en wat deur die kliënt in die gewone loop van sy of haar besigheid gebruik word; (b) deur so 'n kliënt verskaf vir verbinding aan die fasiliteite van 'n telekommunikasiediens en in die gewone loop van sy of haar besigheid gebruik word; of (c) in die gewone loop van sy of haar besigheid deur 'n telekommunikasiediensverskaffer gebruik word,
(3) Enige instrument, toestel of toerusting wat in staat is om gebruik te word vir die visuele opname, meeluistering of waarneming van 'n kommunikasie, insluitend maar nie beperk tot – (a) miniatuur video kameras; (b) miniatuur kameras; en (c) nagvisie apparate.	uitgesluit van die werking van artikel 44(1)(a).

(4) Enige instrument, toestel of toerusting wat in staat is om gebruik te word om die geografiese ligging van 'n persoon, voertuig of voorwerp te bepaal of te monitor.	
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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

Publications: Tel: (012) 334-4508, 334-4509, 334-4510

Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504

Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737

Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001

Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510

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