

# Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 (RICA)

Topic: Information Technology and Electronic Communications

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### Introduction

The Regulation of Interception of Communications and Provision of Communication-related Information Act (RICA) seeks to regulate and control the use of certain electronic devices, the right to obtain, get access to or intercept a person's electronic communication.

### Objectives of the Act

The RICA aims to regulate the interception of certain communications, regulate the provision of communication-related information under certain circumstances and control and, in some cases, prohibits the manufacturing, assembling, possessing, selling, purchasing or advertising of certain electronic communication-related equipment in South Africa.

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### Application of the Act and its implication to Tourism

THE RICA applies to all users of IT systems, especially trading entities and its employees. The RICA applies to all companies who provide their employees with electronic equipment, including laptops, computers, cellphones and access to email and the internet. It also applies to people who monitor guests, employees and other persons using CCTV and telephonic tape recording devices and to entities who sell and provide SIM-cards.

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## Summary of the provisions of the Act

### Interception

The RICA regulates the extent to which individuals and corporations may lawfully intercept and monitor a person's communications, including employee communications.

### Rights to intercept

The RICA states that no person may intentionally intercept or attempt to intercept, or authorise or procure any other person to intercept or attempt to intercept any communication in the course of its occurrence or transmission, unless the person whose communication is being intercepted has given his or her prior written consent and which interception is in accordance with the provisions of the Act.

When a person's consent has not been obtained, a person may intercept the communication if it is able to show that the interception was required to protect the business interests of its entity or it was required to safeguard the electronic communications system.

### SIM-cards and cellular devices

Any person selling or providing a person with a SIM-card must obtain the details of such person and verify that these details are correct before the SIM-card is activated.

In the event of a person's SIM-card or cellular device being stolen, such person must report the theft to the SAPS, who will then disable the SIM-card.



### WHAT HAPPENS IF YOU DO NOT COMPLY?

#### Criminal Penalties and Fines

Various criminal penalties are prescribed for different offences under the RICA, the most severe penalties being in respect of unlawful monitoring or interception of information.

Fines will range as follows:

- Natural persons (individuals): A fine of up to R2 million or imprisonment of up to 10 years.
- Juristic persons (companies and entities): A fine of up to R5 million.



## RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

In order to demonstrate compliance with the Act, ensure that businesses conform to the requirements discussed below.

Any monitoring or interception of information must comply in all respects with the provisions of the RICA.

Permission from all employees and contractors, temporary and casual employees should be obtained in respect of accessing their information, sites and electronic communications.

All employees who have been issued with cell phones or SIM-cards must be obliged under a usage policy to report to the entity and to the South African Police any lost or stolen SIM-card or cell phone.

Where any telephone or CCTV system is in place which records and displays persons' conversations and/or movements, this needs to be under the express permission of the person who is being recorded or taped. A sign indicating that CCTVs and telephone recording devices are in use should be clearly positioned around the workplace and pre-recorded and played to any person on a telephone call.

### FURTHER INFORMATION

**Regulator**

Department of Justice and Constitutional Development

**Website**

[www.justice.gov.za](http://www.justice.gov.za)