

REPUBLIC OF SOUTH AFRICA

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# THE SOUTH AFRICAN LIBRARY FOR THE BLIND BILL

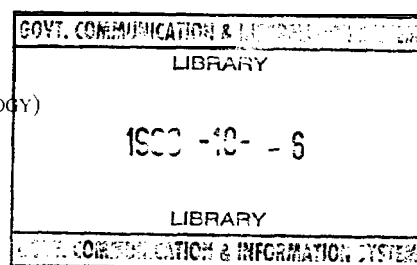
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*(As amended by the Portfolio Committee on Arts, Culture and Language, Science and  
Technology (National Assembly))*

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(MINISTER OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY)

[B 105B—98]



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REPUBLIEK VAN SUID-AFRIKA

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# WETSONTWERP OP DIE SUID-AFRIKAANSE BIBLIOTEEK VIR BLINDES

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*(Soos gewysig deur die Portfolio Komitee oor Kuns, Kultuur en Taal, Wetenskap en  
Tegnologie (Nasionale Vergadering))*

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(MINISTER VAN KUNS, KULTUUR, WETENSKAP EN TEGNOLOGIE)

[W 105B—98]

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# BILL

To provide for the South African Library for the Blind; for library and information services to blind and print-handicapped readers; and for matters connected therewith.

## INDEX

### INTRODUCTION

1. Definitions

### CHAPTER 1

#### THE SOUTH AFRICAN LIBRARY FOR THE BLIND

2. South African Library for the Blind
3. Object of Library for the Blind
4. Functions of Library for the Blind

### CHAPTER 2

#### ADMINISTRATIVE PROVISIONS

5. Powers and duties of Library for the Blind
6. Board of Library for the Blind
7. Functions and allowances of members of Board
8. Meetings of Board
9. Employees of Library for the Blind
10. Transfer of certain persons to employ of Library for the Blind
11. Transfer of certain assets to Library for the Blind
12. Minister may entrust certain property to care of Library for the Blind
13. Financing of Library for the Blind
14. Auditing and annual report

### CHAPTER 3

#### GENERAL PROVISIONS

15. Regulations
16. Transitional provisions
17. Withdrawal of notice
18. Short title and commencement

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

## INTRODUCTION

## Definitions

1. In this Act, unless the context indicates otherwise-
- (i) "audio document-" means the recording of information in a medium accessible for use by blind and print-handicapped readers: (i) 5
- (ii) "bibliographic service" means—
- (a) the creation of bibliographic records and the compilation of catalogues, bibliographies, indexes and other bibliographic databases;
- (b) the compilation and dissemination of relevant statistics;
- (c) the exchange, sale, dissemination or making available of the records and 10 compilations referred to in paragraph (a); (ii)
- (iii) "blind and print-handicapped reader" means any reader who cannot use ordinary printed material because of a visual or physical restraint; (iv)
- (iv) "Board" means the Board of the Library for the Blind, constituted in terms of section 6: (xiii) 15
- (v) "braille document" means a document transcribed into braille for blind readers: (v)
- (vi) "document" means any object which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible format through any medium, and any version or edition of a document which is significant! 20 different from that document in respect of its information content, intelligibility or physical presentation, is considered to be a separate document: Provided that public records as defined in section I of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in provincial legislation pertaining to records and archives, other than published records, are not considered to be documents 25 for the purposes of this Act: (vi)
- (vii) "documental heritage" means the total of published documents emanating from South Africa or relating to South Africa: (vii)
- (viii) "format" means the layout and rules for transcribing materials in various sound and tactile media: (iii) 30
- (ix) "Library for the Blind" means the South African Library for the Blind, referred to in section 2: (iii)
- (x) "medium" means any means of recording or transmitting information intended for subsequent reading, listening or viewing: (xi)
- (xi) "Minister" means the Minister of Arts, Culture, Science and Technology: (xii) 35
- (xii) "prescribe" means prescribe by regulation: (xv)
- (xiii) "published" means produced to be made available in multiple copies or at various locations to—
- (a) any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution; or 40
- (b) the members of an association or a society, whose membership is open to any qualifying member of the public: (ix)
- (xiv) "record" means recorded information regardless of form or medium: (xi)
- (xv) "this Act" includes any regulation made under section 15. (x)

## CHAPTER 1

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## THE SOUTH AFRICAN LIBRARY FOR THE BLIND

**South African Library for the Blind**

2.(1) The South African Library for the Blind, declared under section 1 of the State-aided Institutions Act, 1931 (Act No. 23 of 1931), to be subject to the provisions of that Act in Government Notice No. R. 283 of 1 March 1968, and deemed to have been 50 declared under section 3 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), to be subject to the provisions of that Act, continues to exist as a juristic person known as the South African Library for the Blind, notwithstanding the withdrawal of the notice by this Act.

(2) The head office of the Library for the Blind is in Grahamstown and its branches in institutions and libraries throughout South Africa, as prescribed.

### **Object of Library for the Blind**

3. The object of the Library for the Blind is to provide a national library and information service to serve blind and print-handicapped readers in South Africa. 5

### **Functions of Library for the Blind**

4. (1) The functions of the Library for the Blind are—
- (a) to build up a balanced and appropriate collection of South African and other documents for the use of blind and print-handicapped readers; 10
  - (b) (i) to record its collections appropriately;
  - (ii) to provide a bibliographic service to those readers;
  - (c) to provide access to documents nationally and internationally to those readers;
  - (d) to provide library and information services on a national basis to those readers; 15
  - (e) to co-ordinate and preserve the national audio and braille literary heritage;
  - (f) to produce documents in special mediums such as braille and audio in the formats required by those readers;
  - (g) to develop standards for the production of those documents;
  - (h) to research production methods and technology in the appropriate fields; and
  - (i) to acquire, manufacture and disseminate the necessary technology required to read, replay or reproduce the media referred to in paragraph (f). 20
- (2) The functions must be performed solely in respect of documents for the use of or relating to blind and print-handicapped readers.

## CHAPTER 2

### ADMINISTRATIVE PROVISIONS 25

#### **Powers of Library for the Blind**

5. (1) The Library for the Blind is a juristic person, and may, subject to subsection (2), perform any act which in the opinion of the Board is necessary for or incidental to the performance of its functions.
- (2) The Library for the Blind may not without the prior approval of the Minister granted with the concurrence of the Minister of Finance— 30
- (a) lease or sell, exchange or otherwise alienate its movable or immovable property: Provided that the Minister may prescribe categories of movable property which may be alienated by the Library for the Blind at the sole discretion of the Board: 35
  - (b) as long as a guarantee furnished in terms of section 35 of the Exchequer Act, 1975 (Act No. 66 of 1975), is in force in respect of a loan granted to the Library for the Blind—
    - (i) mortgage or otherwise encumber its immovable property acquired through that loan; 40
    - (ii) lease or sell, exchange or otherwise alienate, or hypothecate or otherwise encumber its movable property acquired through that loan;
  - (c) borrow money.

#### **Board of Library for the Blind**

6. (1) The affairs of the Library for the Blind are controlled by a Board consisting of—
- (a) at least seven but not more than nine members appointed by the Minister in the prescribed manner: Provided that the regulations prescribing the manner of

appointment must apply the principles of transparency and representivity and that expertise in financial matters and matters affecting blind and print-handicapped readers must be represented on the Board:

(b) the chief executive officer of the Library for the Blind, who shall be *ex officio* a member of the Board: 5

(2) A member of the Board must vacate the office if—

(a) the member's estate is sequestrated or assigned for the benefit of, or if the member compounds with, the creditors of the member;

(b) a competent court finds that the member is of unsound mind;

(c) the member is convicted of an offence and sentenced to imprisonment without the option of a fine;

(d) the member is absent from three consecutive meetings of the Board without the leave of the Board: and

(e) the member is elected as a Member of the National Assembly or a provincial legislature, or appointed as a permanent delegate to the National Council of 15 Provinces by a provincial legislature in accordance with the Constitution and the National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act No, 17 of 1997).

(3) The Minister may after consultation with the Board remove a member of the Board from office if in the opinion of the Minister there are sound reasons for doing so after hearing the member on those reasons. 20

(4) If a member of the Board dies, or resigns by written notice to the Minister, or vacates that office or is removed from office, the Minister may appoint a person in the prescribed manner in that member's place for the remaining part of the term of office,

(5)(a) A member of the Board holds office for a period not exceeding three years, subject to subsections (3) and (4), and may be reappointed. 25

(b) No member may serve more than two consecutive terms save with the approval of the Minister.

#### **Functions and allowances of members of Board**

7. (1) The functions of the Board are— 30

(a) to formulate the policies of the Library for the Blind;

(b) to approve the budget of the Library for the Blind;

(c) to approve the financial statements of the Library for the Blind;

(d) to advise the Minister with regard to matters with which the Library for the Blind is concerned: and 35

(e) to furnish the Minister with such information as the Minister may require.

(2) The Board may pay to a member of that Board who is not in the full-time employ of the State or who is not in the employ of the Library for the Blind such allowances as the Minister with the concurrence of the Minister of Finance may determine.

#### **Meetings of Board**

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8. (1) The Board must meet at least twice a year at such times and places as the Board may determine,

(2)(a) The Minister must appoint a chairperson for the Board from among and after consultation with, the members of the Board.

(b) The chairperson or, in the chairperson's absence, a member of the Board elected by the members present, presides at meetings of the Board. 45

(3) The quorum for a meeting of the Board is a majority of its members.

(4) A decision of the Board is taken by resolution of the majority of the members present at any meeting of the Board, and, in the event of an equality of votes on any matter, the person presiding at the meeting has a casting vote in addition to a deliberative vote as a member of the Board. 50

#### **Employees of Library for the Blind**

9. (1)(a) The Board may appoint such employees as are necessary to perform the functions of the Library for the Blind.

(b)(i) The Board must appoint a chief executive officer who must be responsible for 55

the management of the affairs of the Library for the Blind and who must report on those affairs to the Board as the Board may require.

(ii) The chief executive officer is also the accounting officer charged with the responsibility of accounting for all money received and the utilisation thereof and is responsible for the property of the Library for the Blind. 5

(iii) The chief executive officer of the Library for the Blind is known as the rector.

(iv) The person who is the Director at the commencement of this Act is deemed to be appointed by the Board.

(2) The Board determines the remuneration, allowances, conditions of service, subsidies and other benefits of the employees of the Library for the Blind in consultation 10 with the Department of Public Service and Administration and with the approval of the Minister granted with the concurrence of the Minister of Finance.

(3) An employee may be discharged only in terms of a decision of the Board.

(4) (a) An employee may, with the employee's consent and on such conditions as the Board may determine, be seconded, either for the performance of a particular service or 15 for a period of time, to the service of the State, another state or some other person.

(b) While seconded an employee remains subject to the laws and conditions of service that apply to the employee while in the employ of the Library for the Blind.

### **Transfer of certain persons to employ of Library for the Blind**

10.4 person who is in the full-time employ of the State or of an institution receiving 20 financial aid from the State may, subject to the laws governing the public service and the approval of the Board, be transferred or seconded to the employ of the Library for the Blind.

### **Transfer of certain assets to Library for the Blind**

11. Subject to section 2 of the State Land Disposal Act, 1961 (Act No. 48 of 1961), the 25 Minister may, in consultation with the Board and with the concurrence of the Minister of Public Works, the Minister for Agriculture and Land Affairs and the Minister of Finance, and on such conditions as the Minister may determine, transfer to the Library for the Blind any immovable property belonging to the State in order to enable the Library for the Blind to perform its functions. 30

### **Minister may entrust certain property to care of Library for the Blind**

12. The Minister may, in consultation with the Board and in such manner and on such conditions as the Minister thinks fit, entrust any movable property or part thereof which has been donated or bequeathed to the Republic or its inhabitants or which has been donated or bequeathed for the use or benefit of the Republic or its inhabitants, to the care 35 of the Library for the Blind, unless the donor or testator has made other provisions for the care thereof.

### **Financing of Library for the Blind**

13. (1) The funds of the Library for the Blind consist of —

- (a) money appropriated by Parliament; 40
- (b) money borrowed by the Library for the Blind;
- (c) revenue obtained by virtue of subsection (3);
- (d) fees or royalties paid to the Library for the Blind;
- (e) donations or contributions received by the Library for the Blind;
- (f) money accruing to the Library for the Blind from any other source, including 45 remuneration for services rendered in terms of this Act.

(2) Subject to this section, the Library for the Blind must use its funds to defray expenditure in connection with the performance of its functions.

(3) The Board may invest any money not required for immediate use or as a reasonable operating balance with the Public Investment Commissioners or in such 50 other manner as the Minister with the concurrence of the Minister of Finance may determine.

(4) The Board may establish and operate a reserve fund and may deposit therein such amounts as become available from time to time.

(5) (a) The Library for the Blind—

(i) must in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure projected over the following three financial years for the approval of the Minister: and

(ii) may in any financial year at any time submit supplementary statements of its estimated expenditure for that financial year to the Minister for the Ministers approval.

(b) The Library for the Blind may not enter into any financial commitment beyond its 10 approved budgets and its accumulated reserves.

### Auditing and annual report

14. (1) The financial year of the Library for the Blind ends on 31 March.

(2) The Library for the Blind must keep a proper record of its assets and financial transactions. 15

(3) The accounts of the Library for the Blind must be audited annually by the Auditor-General.

(4)(a) The Library for the Blind must furnish to the Minister such information in connection with the functions and financial position of the Library for the Blind as the Minister may require, and must as soon as practicable after the end of every financial 20 year submit to the Minister an annual report, including a balance sheet and a statement of revenue and expenditure in respect of the financial year, certified by the Auditor-General, as well as such other particulars as the Minister may require.

(b) The Minister must table the report in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary session, 25 within 14 days after the commencement of its next ordinary session,

## CHAPTER 3

### GENERAL PROVISIONS

#### Regulations

15. (1) The Minister may make regulations regarding— 30

(a) matters which are required or permitted to be prescribed in terms of this Act:

(b)(i) the investigation of a charge of misconduct or inefficiency against a person in the employ of the Library for the Blind, or of any alleged irregularity in connection with the affairs of the Library for the Blind, conduct constituting misconduct, the procedure to be followed at such an 35 investigation, the summoning and attendance of witnesses, and the sanction that may be imposed upon or other steps that may be taken against such a person:

(ii) the procedure for the investigation of an alleged grievance of an employee: 40

(c) the keeping of records:

(d) the times when, the form in which and the persons to whom financial statements and reports in respect of the Library for the Blind must be submitted:

(e) research at the Library for the Blind: 45

(f) the establishment of professional advisory committees: and

(g) generally, any matter in respect of which regulations are regarded necessary or expedient in order to achieve the objects of this Act.

(2) Regulations made under this section may prescribe a fine or a period of imprisonment not exceeding one year for a contravention thereof or a failure to comply 50 therewith.

(3) The Minister must publish any regulations made under this section in the *Gazette*.

### Transitional provisions

16. (1) The council of the South African Library for the Blind, as contemplated in section 6 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), must dissolve at the constitution of the Board for the Library for the Blind in terms of section 6 of this Act.

(2) (a) A person who immediately before the commencement of this Act was in the employ of the South African Library for the Blind in terms of the Cultural Institutions Act, 1969, is transferred to the employ of the Library for the Blind with the retention of the salary, allowances and other benefits which then applied in respect of the person.

(b) Such a person is regarded as having been appointed under section 9.

(c) The salary, allowances, conditions of service and other benefits of such person is regarded as having been determined under that section, and any leave, pension or other benefits which have accrued in the person's favour by virtue of the person's service with the said library is regarded as having accrued in the person's favour by virtue of service with the Library for the Blind.

(3) Any movable property which was in the possession or under the control of the said library immediately before the commencement of this Act, vests in the Library for the Blind, including—

(a) money standing to the credit of the said library in the accounts of that library or held by the State for the purposes of that library:

(b) claims of the State in connection with that library 20

(c) rights and privileges of the State in connection with that library in terms of an agreement entered into by or on behalf of the State or that library.

(4) The liabilities and obligations of the State in connection with the said library are transferred to the Library for the Blind.

(5) Any reference in any law or document to the said library must be construed as a reference to the Library for the Blind.

(6) The regulations made under section 15 of the Cultural Institutions Act, 1969, published in the *Government Gazette* No. 6133 of 18 August 1978, as notice No. R. 1671 of 18 August 1978, and as amended from time to time, continue to be in force until they are amended or repealed by this Act. 30

### Withdrawal of notice

17. Government Notice No. R. 283 of 1 March 1968, published in *Government Gazette Extraordinary* No. 1996 of 1 March 1968, is regarded as having been withdrawn.

### Short title and commencement

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18. This Act is called the South African Library for the Blind Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.



MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN  
LIBRARY FOR THE BLIND BILL. 1998

1, The need of blind and print-handicapped readers for access to information is acknowledged by upgrading the status of the South African Library for the Blind. The Library is at present administered as a cultural institution under the Cultural Institutions Act, 1969 (Act No. 29 of 1969), but should be brought into an information environment.

2. The objects of the South African Library for the Blind will be to provide a national library and information service to blind and print-handicapped readers in South Africa.

3. The functions as proposed in the Bill include—

- \* The building-up of a balanced and appropriate collection of South African and other documents:
- \* The recording of its collections:
- \* Providing access to documents nationally and internationally:
- \* Co-ordinating and preserving the national audio and braille literary heritage:
- \* Producing documents in braille and audio mediums:
- \* Developing standards for the production of these documents: and
- \* Acquiring and manufacturing the necessary technology required to read, replay or reproduce documents.

4. It will provide a national library service for blind and print-handicapped readers and has its own board.

**Persons and institutions consulted**

The boards of the State Library, South African Library and the South African Library for the Blind

Nine provincial library services

Sixteen representatives from provincial education departments

Ten metropolitan substructures

Three research councils

The National Archives of South Africa

Five publishers

The National Book Development Council

Three library and information networks and consortia

The Committee of University Librarians and the Committee of Technikon Libraries

The National Information Technology Forum

Seven representatives from professional organisations of library and information workers

The South African National Civics Organisation

Five representatives from other library and information services.

**Parliamentary procedure**

The Department of Arts, Culture, Science and Technology and the State Law Advisers are of the opinion that the Bill should be dealt with in accordance with section 75 of the Constitution since it contains no provisions to which the procedure set out in section 74 or 76 of the constitution applies.