



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

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## THE PRESIDENCY

No. 1406

7 October 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 23 of 2003: Promotion of National Unity and Reconciliation Amendment Act, 2003.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

Act No. 23, 2003

PROMOTION OF NATIONAL UNITY AND  
RECONCILIATION AMENDMENT ACT, 2003**GENERAL EXPLANATORY NOTE:**

Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 1 October 2003.)*

**ACT**

To amend the Promotion of National Unity and Reconciliation Act, 1995, so as to allow payments from the President's Fund towards the rehabilitation of communities; to make provision regarding funds and property vesting in or accruing to the Fund subject to conditions; to provide for the appointment of committees after the dissolution of the Commission; and to confer additional powers on the Minister; and to provide for matters connected therewith.

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

**Amendment of section 40 of Act 34 of 1995**

1. Section 40 of the Promotion of National Unity and Reconciliation Act, 1995 (hereinafter referred to as the principal Act), is amended by the insertion after subparagraph (h) of subsection (1) of the following subparagraph: 5

“(hA) with regard to any matter which may be necessary for the effective allocation of the amounts as contemplated in section 42(2A).”.

**Amendment of section 42 of Act 34 of 1995**

2. Section 42 of the principal Act is amended by the insertion after subsection (2) of the following subsections: 10

“(2A) There shall be paid from the Fund all amounts payable by way of reparations towards the rehabilitation of communities as prescribed.

(2B) Any funds or property which, by a trust, donation or bequest vests or accrues in the Fund, shall be dealt with in accordance with the conditions of such trust, donation or bequest.”. 15

**Insertion of sections 47A, 47B and 47C in Act 34 of 1995**

3. The following sections are inserted in the principal Act:

**“Minister may appoint subcommittee on amnesty after dissolution of Commission** 20

47A. (1) If, after the dissolution of the Commission, it appears that any matter that was dealt with by the Committee on Amnesty or any subcommittee thereof contemplated in section 17(2A) needs to be dealt with further or anew as a result of—

(a) any order or finding of a competent court; or 25

(b) any settlement agreement reached pursuant to pending litigation emanating from such a matter, the Minister may, by notice in the *Gazette*, appoint a subcommittee as contemplated in section 17(2A) to deal with the matter in such manner as may be required.

(2) A subcommittee appointed in terms of subsection (1) must consist of a judge as referred to in section 17(3), as chairperson, and two other members, who are fit and proper persons.

(3) A subcommittee appointed in terms of subsection (1) shall have all the powers to deal with the matter for which it was appointed that a subcommittee referred to in section 17(2A) would have had prior to the dissolution of the Commission.

(4) The Minister may, after consultation with the Minister of Finance, authorize the expenditure with regard to the functioning of the subcommittee and may determine how the expenditure is to be regulated.

(5) The Director-General of the Department of Justice and Constitutional Development shall provide the necessary administrative support, including staff required by the subcommittee for the performance of its functions.

(6) If a subcommittee appointed in terms of subsection (1) grants amnesty to any person, the Minister shall by notice in the *Gazette*, make known the full names of any person to whom amnesty has been granted, together with sufficient information to identify the act, omission or offence in respect of which amnesty has been granted.

(7) If a subcommittee has refused to grant amnesty to any person, the provisions of section 21 shall apply, with the necessary changes required by the context.

#### Minister may appoint other committees

**47B.** (1) If, after the dissolution of the Commission, it appears that any other committee referred to in this Act, other than the Committee on Amnesty or any subcommittee thereof, needs to deal with a matter arising from the consideration of any matter by a subcommittee appointed in terms of section 47A(1), the Minister may, by notice in the *Gazette*, appoint a committee to deal with the matter in such manner as may be required.

(2) A committee appointed in terms of subsection (1) may consist of one or more fit and proper persons.

(3) A committee appointed in terms of subsection (1) shall have all the powers to deal with the matter for which it was appointed that the corresponding committee in terms of this Act would have had prior to the dissolution of the Commission.

(4) The provisions of section 47A(4) and (5) apply, with the necessary changes required by the context, in respect of a committee appointed in terms of subsection (1).

(5) Where a committee is appointed in terms of subsection (1) that performs the functions of a Committee on Reparation and Rehabilitation in order to consider a matter referred to it by a subcommittee appointed in terms of section 47A(1), that committee shall, if it is of the opinion that—

- (a) the person is a victim, recommend to the Minister that such person be entitled to reparation as prescribed; or
- (b) a determination needs to be made whether a person is a victim and whether an act, omission or offence constitutes a gross violation of human rights, refer the matter to a committee referred to in subsection (6).

(6) Where a committee is appointed in terms of subsection (1) that performs the functions of a Committee on Human Rights Violations in order to determine a gross violation of human rights as contemplated in subsection (5)(b), and the committee is of the opinion that—

- (a) a gross violation of human rights has been committed; and

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(b) a person is a victim of such violation,  
it shall recommend to the committee appointed to perform the functions of  
a Committee on Reparation and Rehabilitation to forward such person's  
name to the Minister, who shall deal with the recommendation in terms of  
subsection (5)(a).

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**Further powers of Minister after dissolution of Commission**

**47C.** (1) The Minister may, after the dissolution of the Commission, in  
order to correct any error contained in any notice, proclamation or any other  
publication issued in terms of this Act, excluding the final report by the  
Commission, amend by way of notice in the *Gazette* a publication so made.

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(2) Subsection (1) does not detract from the general nature of section  
46(7)(b)."

**Short title and commencement**

**4.** This Act is called the Promotion of National Unity and Reconciliation Amendment  
Act, 2003, and comes into operation on 1 October 2003 or on such earlier date as may  
be fixed by the President by proclamation in the *Gazette*.

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