

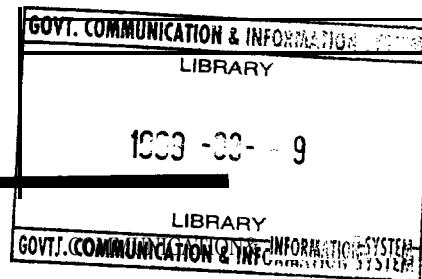
REPUBLIC OF SOUTH AFRICA

PAN SOUTH AFRICAN LANGUAGE BOARD AMENDMENT BILL

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

(MINISTER OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY)

[B 107B—98]



REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP DIE PAN-SUID-AFRIKAANSE TAALRAAD

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

(MINISTER VAN KUNS, KULTUUR, WETENSAPEN TEGNOLOGIE)

[W 107B—98]

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“‘organ of state’ means an organ of state as defined in section [233(1)] 239 of the Constitution.”;

(e) by the insertion after the definition of “organ of state” of the following definition:

“ ‘Portfolio Committee. means the Portfolio Committee in the National 5 Assembly responsible for matters concerning this Act;”;

(f) by the substitution for the definition of “this Act” of the following definition: 10
“ ‘this Act’ includes the rules made [and notices issued] under sections 7(9) [8(8) and (11) and 9(3)(d)] and 8(11) . and the regulations made under section 10(7).”; and

(g) by the insertion after the definition of “this Act” of the following definition:
“ ‘unit’ means a national lexicography unit established in terms of section 8(8)(c).”.

Amendment of section 3 of Act 59 of 1995

2. Section 3 of the principal Act is hereby amended— 15

(a) in paragraph (a)—

(i) by the substitution for the portion preceding subparagraph (i). of the following:

“To promote respect for and ensure the implementation of the following principles [referred to in section 3(9) of the Constitu- 20 tion]”;;

(ii) in subparagraph (ii). by the substitution for the words “at the commencement of the Constitution” of the expression “before 27 April 1994”;

(iii) by the substitution for subparagraph (iv) of the following subparagraph: 25

“(iv) the promotion of—

(aa) multilingualism; and

(bb) the provision of translation and interpreting facilities;”; and

(iv) in subparagraph (vi). by the substitution for the words “at the commencement of the Constitution”. of the expression “before 27 April 30 1994”; and

(b) by the substitution for paragraph (d) of the following paragraph:

“(d) to promote knowledge of and respect for the [other] provisions [of and the constitutional principles contained in] and principles of the Constitution [dealing] relating directly or indirectly [with] to 35 language matters.”.

Amendment of section 4 of Act 59 of 1995

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Board [individual] and its members [of the Board] and officials [of 40 the Board] shall serve impartially and independently and exercise, carry out and perform their powers, duties and functions in good faith and without fear, favour, bias or prejudice, subject only to the Constitution and this Act [and accountable to Parliament].”.

Amendment of section 5 of Act 59 of 1995 45

4. Section 5 of the principal Act is hereby amended—

(a) in subsection (1)(a)—

(i) by the substitution for the portion preceding subparagraph (i), of the following:

“The [Senate] Minister, after having followed the procedure [pre-50 scribed] provided for in subsection (3), shall appoint [the following members to the Board:] as members of the Board—”; and

(ii) by the substitution for subparagraph (i) of the following subparagraph:

“(i) not fewer than 11 but not more than 15 persons who, when viewed collectively, are as representative as possible of the official languages as well as language skills, including but not limited to, interpreting, translation, terminology and lexicography, language and literacy teaching and language planning.”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) A person’s appointment as member of the Board in terms of subsection (1)(a), shall be made in accordance with the following procedure:

(a) The Minister, after consultation with the Portfolio Committee, shall appoint an *ad hoc* committee consisting of not fewer than nine persons, to invite the general public to nominate persons for appointment as members of the Board.

(b) The Portfolio Committee shall in a consensus-seeking manner—

(i) from the nominations forwarded to it by the *ad hoc* committee, compile a short list of candidates with due regard to the provisions of subsections (1)(a) and (2): Provided that no short list with more than 25 candidates shall be compiled;

(ii) interview, in a public and transparent manner, each of the candidates whose names appear on the short-list; and

(iii) compile and forward to the Minister a final short list with due regard to the provisions of subsections (1)(a) and (2): Provided that no final short list of more than 20 candidates shall be compiled.

(c) The Minister, after consultation with the Portfolio Committee, shall appoint the members of the Board from the number of the persons whose names appear on the short list mentioned in paragraph (b)(iii).”;

(c) by the substitution for subsection (4) of the following subsection:

“(4) The [Senate] Minister may terminate the membership of any person appointed in terms of this section—

(a) if [it] he or she is satisfied that such a person no longer complies with any of the requirements of subsection (2);

(b) if such a person [requests] has requested the [Senate] Minister in writing to terminate his or her appointment; or

(c) when such a person has been absent from more than two consecutive meetings of the Board without [the Board’s] its leave...: and

(d) by the substitution for the word ‘. Senate’ where it occurs in subsections (6) and (7), of the word “Minister”.

Amendment of section 7 of Act 59 of 1995

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) A simple majority of the Board appointed in terms of section 5(1)(a) shall constitute a quorum for any meeting of the Board.”.

Amendment of section 8 of Act 59 of 1995

6. Section 8 of the principal Act is hereby amended—

(a) in subsection (1) —

(i) by the substitution for paragraph (f) of the following paragraph:

“(f) shall actively promote an awareness [of the principle] of multilingualism as a national resource [by developing, administering and monitoring access, information and implementation programmed] .”;

(ii) by the substitution for paragraph (g) of the following paragraph:

“(g) shall actively promote the development of the previously marginalised languages [by—

(i) developing, administering and monitoring access, information and implementation programmed; and

- (ii) undertaking **such duties for report on or relating to language development as it considers advisable in the exercise of its powers and the performance of its functions];**”;
- (iii) in paragraph (j)—
- (a) by the substitution for the portion preceding subparagraph (i), of the following:
- “may, having due regard to the [constitutional] provisions and principles of the Constitution [dealing] relating directly or indirectly [with] to language matters in general [and to section 3(9) of the Constitution **in particular**]—”; and
- (b) by the substitution for subparagraph (iii) of the following paragraph:
- “(iii) assist with and monitor the formulation of programmed and policies aimed at fostering the equal use of and respect for the official languages, while taking steps to ensure that communities using [the] those languages [referred to in section 3(10)(c) of the Constitution] have the opportunity to use their respective languages in appropriate circumstances.”;
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) The Board shall—
- (a) initiate studies and research aimed at promoting and creating conditions for the development and use of—
- (i) all the official languages of the Republic;
- (ii) the Khoe and San languages; and
- (iii) sign language;
- (b) promote and ensure respect for—
- (i) all other languages commonly used by communities in South Africa, including German, Greek, Gujarati, Hindi, Portuguese, Tamil, Telegu and Urdu;
- (ii) Arabic, Hebrew, Sanskrit and other languages used for religious purposes in South Africa; and
- (iii) the promotion of multilingualism in South Africa;
- (c) initiate studies and research aimed at—
- (i) the development of the previously marginalised languages of South Africa;
- (ii) the non-diminution of rights relating to language and the status of languages existing as at 27 April 1994;
- (iii) the promotion of multilingualism in South Africa;
- (iv) the promotion of the utilisation of South Africa’s language resources; and
- (v) the prevention of the use of any language for the purposes of exploitation, domination or division;
- (d) advise on the co-ordination of language planning in South Africa;
- (e) facilitate co-operation with language planning agencies outside South Africa; and
- (f) make funds available for the purposes of this subsection for such period and subject to such conditions as the Board may from time to time determine.”;
- (c) by the substitution for subsection (5) of the following subsection:
- “(5) The Board [**shall**] may initiate or investigate legislation, policy and practice dealing directly or indirectly with language in general and the provisions of the Constitution dealing directly or indirectly with language [**at any level**] in any sphere of government, or cause it to be investigated, and [**may**] submit recommendations thereon to any legislature or organ of state.”; and
- (d) in subsection (8)—
- (i) by the substitution for paragraph (b) of the following paragraph:

- “(b) a national language body to advise it on any particular language, sign language or augmentative and alternative communication, [if] in the case where no such language body exists or [if] where an existing language body does not serve its purpose: Provided that if such a body exists, it shall be deemed to have been established in terms of this subsection: and”: and 5
- (ii) by the addition after paragraph (b) of the following paragraph:
- “(c) units to operate-as companies limited by guarantee under section 21 of the Companies Act, 1973 (Act No. 61 of 1973), and shall allocate funds to the units for the fulfillment of their functions: Provided that the memorandum and articles of association of such units shall include the following principles:
- (i) The unit is accountable to the Board for the moneys allocated to it. 10
- (ii) The unit shall abide by the policies of the Board. 15
- (iii) The unit shall adhere to the principles of promoting language development.”.

Amendment of section 9 of Act 59 of 1995

7. Section 9 of the principal Act is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 20
- “(1) The Board shall strive to promote close co-operation between itself and **[organs]** any organ of state **[or any]**, person, **[or]** body of persons or **[any]** institution involved in the development **[of language]** and **[the]** promotion of language **[rights]**.”: and
- (b) by the substitution for subsection (2) of the following subsection: 25
- “(2) The Board may consult and work closely with any person or body of persons who has special knowledge of and experience in the language problems of South Africa, or who is in any way involved in the development and promotion of **[the principles referred to in section 3 of the Constitution]** language.” 30

Amendment of section 10 of Act 59 of 1995, as amended by section 35 of Act 47 of 1997

8. Section 10 of the principal Act is hereby amended—
- (a) in subsection (1)—
- (i) by the substitution for paragraph (a) of the following paragraph: 35
- “(a) shall, in consultation with the Minister **[of Finance]**, appoint such staff as may reasonably be necessary to assist him or her with the work **[incidental to]** arising from or otherwise connected with the performance of the functions of the Board:” and 40
- (ii) by the substitution for paragraph (c) of the following paragraph:
- “(c) shall **[subject to the Exchequer Act, 1975 (Act No. 66 of 1975),]** be charged with the responsibility—
- (i) **[be charged with the responsibility]** of an accounting **[for State money received or disbursed for or on behalf of]** officer for the funds received by or accrued to the Board in terms of section 10A(1) and all payments made therefrom: and 45
- (ii) **[cause]** of keeping the necessary accounting and **[other]** related records **[to be kept]** in compliance with section 10B:”; 50
- (b) by the substitution for subsection (6) of the following subsection:
- “(6) The Board **[may]**, in consultation with the Minister **[of Finance]** may, in the exercise of its powers **[or]** and the performance of its functions in terms of this Act, the Constitution or any other law, in the 55

case of specific projects enter into contracts for the purpose of obtaining the services of persons having technical or specialised knowledge of any matter relating to the functions of the Board and. with the concurrence of the Minister of Finance. determine the remuneration, including reimbursement for traveling. subsistence and other expenses. of such 5 persons...; and

(c) in subsection (7), by the substitution for the portion preceding paragraph (a), of the following:

“The [President] Minister may [, after the Board has made a recommendation] make regulations [regarding] with regard to the 10 following matters [in relation to] concerning the staff of the Board:’..

Insertion of sections 10A and 10B in Act 59 of 1995

9. The following sections are hereby inserted in the principal Act after section 10:

“Finances of Board

10A. (1) The Board shall be financed from— 15

- (a) moneys appropriated by Parliament for that purpose;
- (b) moneys paid to the Board for products or services sold or rendered by it;
- (c) donations and contributions received from any sources;
- (d) interest earned on moneys invested in terms of subsection (5); and 20
- (e) income derived from any other source in terms of this Act.

(2)(a) The Board shall utilise its funds to defray expenditure arising from or connected with the performance of its functions in terms of this Act.

(b) The Board may utilise its funds only in accordance with a statement of its estimated income and expenditure mentioned in subsection (3), which has been approved by the Minister: Provided that the Board. subject to paragraph (a), may utilise any amount or part thereof that is required to be utilised for a particular purpose in connection with a specified matter. for any other purpose in connection with the same matter. 25

(c) The Board shall utilise a donation and a contribution contemplated in subsection (1)(c) in accordance with the conditions. if any, imposed by the donor or contributor concerned. 30

(d) The unspent moneys standing to the credit of the Board at the end of a financial year, shall be carried forward as a credit balance to the next financial year. 35

(3)(a) The Board shall in each financial year, at such time as the Minister may determine, submit to the Minister for approval a statement of the Board’s estimated income and expenditure for the next financial year. However. the Board may at any time during the course of a financial year concerned, submit a supplementary statement of estimated income and expenditure for that financial year to the Minister for approval. 40

(b) The Minister may grant such approval with the agreement of the Minister of Finance.

(c) The Board shall not incur any expenditure in excess of the total amount approved under paragraph (b). 45

(4) The Board may, in respect of any work completed or service rendered by it under this Act. charge such fees as it considers fit.

(5) The moneys of the Board that are not required for immediate use or as a reasonable working balance. may be invested with the Corporation for Public Deposits, established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984). 50

(6) The Board may establish a reserve fund for any purpose connected with its functions under this Act which the Minister may approve, and allocate to the reserve fund such moneys as may be made available for that purpose in the statement of estimated income and expenditure (including any supplementary statement) approved under subsection (3)(b). 55

Accounting and auditing

10B. (1) For each financial year the Board shall—

(a) have accounting records kept, in accordance with generally accepted accounting practice and procedures, of all money received by or accruing to it in terms of section 10A(1), and of all payments made from those moneys, during the financial year; and

(b) have a current record kept of its assets and liabilities.

(2) Annually, as soon as may be reasonably possible after the end of each financial year, the Board shall have financial statements prepared, consisting of—

(a) an income and expenditure statement, showing all moneys that were received by and had accrued to the Board in terms of section 10A(1) during the past financial year, and all the expenditure incurred and payments made by it, during that past year; and

(b) a balance sheet, showing the Board's financial position and the state of its assets and liabilities as at the end of the past financial year; and

(c) a cash-flow statement for that past year,

(3) The Board's accounting records and financial statements shall be submitted to the Auditor-General for auditing within three months after the end of each financial year.

(4) The Board shall, within 30 days after receipt of the auditor's report, submit its audited financial statements and the auditors report to the Minister, who shall lay it on the table in the National Assembly within 14 days after receipt, if the National Assembly is then sitting or, if it is not sitting then, within 14 days after the beginning of its next sitting.

(5) The Board's financial year shall run from 1 April in any year to 31 March in the following year, both days included.

Amendment of section 11 of Act 59 of 1995

10. Section 11 is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The Board—

(a) may on its own initiative and shall on receipt of a written complaint investigate the alleged violation of any language right, language policy or language practice; and

(b) may subpoena any person, body or state organ to appear before it to give evidence and produce any relevant records or documents.”.

Amendment of section 12 of Act 59 of 1995

11. Section 12(1) of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) Without detracting from section 10B and subsection (3) of this section, the

Board [may, at any time, submit a report to Parliament or a provincial legislature if it deems it necessary] shall—

(i) furnish to the Minister such information as he or she may at any time require in connection with any of the Board's activities or its finances; and

(ii) submit a report on a quarterly basis to Parliament or a provincial legislature, as the case may be.”.

Substitution of section 13 of Act 59 of 1995

12. The following section is hereby substituted for section 13 of the principal Act:

“Remuneration and allowances of members of Board

13. A member of the Board or of any committee thereof may, from 50 moneys appropriated by Parliament for [such] that purpose, be paid such remuneration and allowances [in respect of] for services performed by him or her [with regard to the functions of the Board] as such a member, as may be determined by the [President] Minister in consultation with [the Cabinet and] the Minister of Finance.”.

Insertion of sections 14A, 14B and 14C in Act 59 of 1995

13. The following sections are hereby inserted in the principal Act after section 14:

“Copyright in Board’s products

14A. Copyright in the products of the Board shall vest in the State.

Proceeds derived from sale of products and services of Board

14B. The proceeds derived from the sale of the Board’s products and services, shall accrue to the Board.

State bound by Act

14C. This Act binds the State.”.

Short title and commencement

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14. This Act is called the Pan South African Language Board Amendment Act. 1999, and will come into operation on a date to be determined by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE PAN SOUTH
AFRICAN LANGUAGE BOARD AMENDMENT BILL**

1. With a view to preserving and documenting the rich and varied linguistic heritage of the nation, it has become necessary that adequate and equitable provision be made officially for national general dictionaries for the Republics official languages. The amendments to sections 5 and 8 of the Pan South African Language Board Act, 1995 (Act No. 59 of 1995 — “the Act”), contemplated in clauses 3 and 6 of the Pan South African Language Board Amendment Bill (“the Bill”), are aimed at achieving that result inasmuch as they provide that—

* both a lexicographer and a terminologist are to be included in the membership of that Board (“the Board”); and

* the Board will be under a duty to establish national lexicography units for each of the official languages of the Republic.

2. Other amendments to the Act proposed by the Bill—

* provide for the Minister of Arts, Culture, Science and Technology to appoint the members of the Board from a short list in the compilation of which the relevant Portfolio Committee (i.e. that on Arts, Culture and Language, Science and Technology) will be involved:

* are designed to introduce new provisions relating to the financing of the Board, the application of its funds, accounting and auditing and the duty to account to Parliament on the Boards finances;

* effect consequential and technical amendments necessitated by the repeal of the (“interim.”) Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and its supersedence by the (“final”) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996— “the Constitution”).

3. Amongst others, the following bodies and persons were consulted:

(a) The Language Task Group (“LANGTAG”).

(b) The LANGTAG Subcommittee for the Development of the South African Languages.

(c) The Board.

(d) The African Association for Lexicography (“A AFRILEX”).

(e) The Board of Control of the “Woordeboek van die Afrikaans Taal”.

(f) The Portfolio Committee on Arts, Culture and Language, Science and Technology.

(g) The Select Committee on Education.

(h) The Task Group appointed to revise the “Woordeboek van die Afrikaans Taal” Act, 1973 (Act No. 50 of 1973).

(i) 98 Stakeholders in the field of lexicography.

Various needs assessment studies were also undertaken.

4. The view is held by the State Law Advisers and the Department of Arts, Culture, Science and Technology that the Bill should be dealt with in accordance with the procedure provided for in section 75 of the Constitution, inasmuch as the Bill—

* is designed to regulate matters relating to the Pan South African language Board, whose objects, functions and activities do not fall within any of the functional areas mentioned in Schedule 4 or 5 to the Constitution and, indeed, fall exclusively within the national sphere of government;

* does not contemplate any amendment to the Constitution nor propose the imposition of any tax, levy or duty; and

* does not provide for legislation of the nature envisaged in section 76(3)(a) to (e), (4) or (5) of the Constitution.