

REPUBLIC OF SOUTH AFRICA

**PROMOTION OF NATIONAL
UNITY AND RECONCILIATION
SECOND AMENDMENT BILL**

(As introduced in the National Assembly)

(MINISTER OF JUSTICE)

[B 109—97]

REPUBLIEK VAN SUID-AFRIKA

**TWEEDE
WYSIGINGSWETSONTWERP OP
DIE BEVORDERING VAN
NASIONALE EENHEID EN
VERSOENING**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN JUSTISIE)

[w 109—97]

ISBN 0 621274577

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

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

BILL

To amend the Promotion of National Unity and Reconciliation Act, 1995, so as to further regulate the composition of the Committee on Amnesty; to extend the period within which the Commission shall complete its work; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 17 of Act 34 of 1995, as amended by section 1 of Act 18 of 1997

1. Section 17 of the Promotion of National Unity and Reconciliation Act, 1995 5 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Committee shall consist of a Chairperson. a Vice-Chairperson and not more than **[eleven] 17** other members who are fit and proper persons, appropriately qualified, South African citizens and broadly representative of the South African 10 community.”.

Amendment of section 43 of Act 34 of 1995

2. Section 43 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of subsection (2) and section 3 of the Promotion 15 of National Unity and Reconciliation Second Amendment Act, 1997, the Commission shall **[within a period of 18 months from its constitution or the further period, not exceeding six months, as the president may determine]** complete its work on 30 April 1998.”.

Transitional arrangements

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3.(1) Notwithstanding section 43(1) of the principal Act, **the Committee** on Amnesty, as contemplated in Chapter 4 of the principal Act, shall complete its work on 30 June 1998.

(2) Notwithstanding section 43(1) of the principal Act, but subject to subsections (3) and (4), the Committee on Human Rights Violations and the Committee on Reparation and Rehabilitation, as contemplated in Chapters 3 and 5 of the principal Act, respectively, shall complete their work on 14 December 1997.

(3) The Committees referred to in subsection (2) shall, from 15 December 1997 until 5 30 June 1998, have the powers, duties and functions conferred or imposed on or assigned to them by the principal Act only in respect of—

(a) matters, other than matters contemplated in paragraph (b), commenced by the said Committees not later than 14 December 1997, but not yet finalised on that date; and 10

(b) matters emanating from the consideration of applications for amnesty by the Committee on Amnesty.

(4) For the purposes of the work contemplated in subsection (3), the Truth and Reconciliation Commission established by section 2 of the principal Act may, notwithstanding sections 13(1) and 24(1) of the principal Act, from time to time reduce 15 the number of members of the Committee on Human Rights Violations and the Committee on Reparation and Rehabilitation.

Short title

4. This Act shall be called the Promotion of National Unity and Reconciliation Second Amendment Act, 1997. 20

MEMORANDUM ON THE OBJECTS OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION SECOND AMEND- MENT BILL, 1997

1. During the first session of Parliament the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995 — the Act), was amended so as to provide for the increase of the number of members of the Committee on Amnesty. This amendment was initiated by the Truth and Reconciliation Commission (the Commission) since it indicated that the Committee on Amnesty would be unable to fulfil its mandate without an immediate increase in its number of members.

2. The Constitution was also amended during the second session by extending the cut-off date for offences which may qualify for amnesty in terms of the Act from 5 December 1993 to 10 May 1994. At the same time the regulations issued under section 40 of the Act were amended so as to extend the period, within which persons may apply for amnesty, to 30 September 1997.

3. During the period just before 10 May 1997 (namely the due date for applications for amnesty) and after the announcement that the cut-off date, within which applications for amnesty may be introduced, was to be extended, thousands of applications for amnesty were filed with the Commission. The Commission has at present 1600 outstanding applications for amnesty in respect of which hearings must be held and ± 4000 which must be finalised in chambers. This situation resulted in the Commission requesting the Government to propose the amendment of section 43 of the Act so as to provide that the period within which the Commission shall complete its work should be extended and to increase the number of members of the Committee on Amnesty.

4. The Bill envisages giving effect to the above-mentioned request and the following amendments and transitional arrangements are proposed:

4.1 Clause 1 amends section 17(1) of the Act by increasing the number of members of the Committee on Amnesty from 11 other members to 17 other members. Together with the Chairperson and Vice-Chairperson, the Committee will then consist of 19 members and this will enable the Committee to appoint two additional panels for the hearing of applications for amnesty.

4.2 Clause 2 amends section 43(1) of the Act by providing that the Commission shall complete its work on 30 April 1998. In effect this amendment will entail that the Commission has an additional period from 15 December 1997 to 30 April 1998 to complete its work, and in terms of section 43(2) of the Act the Commission must complete its final report on or before 31 July 1998.

4.3 Clause 3 contains the following transitional arrangements:

(a) In terms of clause 3(1) the Committee on Amnesty shall, notwithstanding clause 2, complete its work on 30 June 1998.

(b) In terms of clause 3(2) the Committee on Human Rights Violations and the Committee on Reparation and Rehabilitation shall, notwithstanding the extended period provided for by clause 2, complete their ordinary work not later than 14 December 1997. However, clause 3(2) provides that the said Committees shall from 15 December 1997 to 30 June 1998 continue and complete their incomplete work as on 14 December 1997, as well as work emanating from the functions of the Committee on Amnesty. This provision is unavoidable as a result of the interaction between the different Committees as prescribed by the Act.

(c) In terms of clause 3(4) the Commission is, notwithstanding the specific composition laid down in sections 13 and 24 of the Act, competent to scale down the number of members of the Committee on Human Rights Violations and the Committee on Reparation and Rehabilitation. This provision is necessary because it is foreseen that the work of the said Committees will decrease drastically after 14 December 1997 and all the members will not be needed to complete the remaining work. After that date, it is also envisaged to reduce, in consultation with the Minister of Justice, the administrative staff of those Committees,

5. In the opinion of the Department and the State Law Advisers the Bill should be dealt with in accordance with the procedure prescribed by section 75 of the Constitution of the Republic of South Africa, 1996.

6. Other Departments/institutions/bodies consulted

* The Truth and Reconciliation Commission was consulted.