

REPUBLIC OF SOUTH AFRICA

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

*(As introduced in the National Assembly as a section 75 Bill;
explanatory summary of Bill published in Government Gazette No 25150 of 30 June 2003)
(The English text is the official text of the Bill)*

(MINISTER FOR JUSTICE AND CONSTITUTIONAL DEVELOPMENT)

[B 34—2003]

REPUBLIEK VAN SUID-AFRIKA

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

*(Soos ingedien in die Nasionale Vergadering as 'n artikel 75-wetsontwerp;
verduidelikende opsomming van Wetsontwerp in Staatskoerant No 25150 van 30 Junie 2003
gepubliseer) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(MINISTER VIR JUSTISIE EN STAATKUNDIGE ONTWIKKELING)

[W 34—2003]

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GENERAL EXPLANATORY NOTE:

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 allow payments from the President's Fund towards the rehabilitation of communities; and to make provision regarding funds and property vesting in or accruing to the Fund subject to conditions; and to provide for matters connected therewith.

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

Amendment of section 42 of Act 34 of 1995

1. Section 42 of the Promotion of National Unity and Reconciliation Act, 1995, is hereby amended by the insertion after subsection (2) of the following subsections: 5

“(2A) There shall be paid from the Fund all amounts payable towards the rehabilitation of communities in terms of regulations made by the President.

(2B) The regulations referred to in subsection (2A) may prescribe any matter which it is necessary to prescribe for the effective allocation of those amounts. 10

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

Short title

2. This Act is called the Promotion of National Unity and Reconciliation Amendment Act, 2003. 15

**MEMORANDUM ON THE OBJECTS OF THE PROMOTION OF
NATIONAL UNITY AND RECONCILIATION AMENDMENT BILL,
2003**

1. BACKGROUND TO AND OBJECTS OF BILL

1.1 One of the declarations in the preamble to the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995) (“the TRC Act”), states that “the (1993) Constitution states that the pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society”.

1.2 In the process of reparation and rehabilitation emanating from the Truth and Reconciliation Commission’s Report, special emphasis will be placed on the rehabilitation of communities. It will mainly be effected by funds generated by Government and donations by the private sector. In order to provide for effective control, payment for purposes of particular projects will have to be channelled through the President’s Fund established in terms of section 42(1) of the TRC Act.

1.3 The current wording of section 42(2) of the TRC Act only requires payments from that fund to be made “to victims by way of reparation in terms of regulations made by the President”. The definition of “victims” is not broad enough to include the community at large. It is therefore recommended that section 42 of the TRC Act be amended to enable payments to be made from the President’s Fund also “towards the rehabilitation of communities”.

1.4 Although provision is made in section 47(3) of the TRC Act that “Any funds or property which, by trust, donation or bequest were vested in, or would have accrued to, the President’s Fund, and which vest in the Disaster Relief Fund in terms of subsection (1), shall be dealt with by the board of the Disaster Relief Fund in accordance with the conditions of such trust, donation or bequest”, no similar provision exists in regard to the President’s Fund during the President’s Fund’s existence (emphasis inserted). It is therefore also recommended that such provision be made in section 42 of the TRC Act.

1.5 The Bill seeks to achieve the objects stated in subparagraphs 1.3 and 1.4.

2. CONSULTATION

The proposed amendment is of a technical nature and does not require consultation. However, an explanatory summary of the Bill has been published in the *Gazette* in the ordinary course of public notification.

3. IMPLICATIONS FOR PROVINCES

None.

4. FINANCIAL IMPLICATIONS FOR STATE

Since use is made of existing structures such as those provided for in the TRC Act, no additional financial implications for the State are foreseen.

5. PARLIAMENTARY PROCEDURE

The Department of Justice and Constitutional Development and the State Law Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provisions to which the procedures set out in section 74 or 76 of the Constitution apply.