

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.

EXTRAORDINARY



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DEPARTMENT OF THE PRIME MINISTER.

No. 534.]

[3rd April, 1968.

It is hereby notified that the Acting State President has assented to the following Acts which are hereby published for general information:—

PAGE

No. 31 of 1968: South African Indian Council Act,
1968 59

No. 31, 1968.]

ACT

To enable the Government better to promote the interests of the Indian population of the Republic and for that purpose to establish a South African Indian Council, to determine its powers, functions and duties, and to provide for matters incidental thereto.

*(English text signed by the Acting State President.)
(Assented to 26th March, 1968.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. With effect from a date determined by the State President by proclamation in the *Gazette*, there shall be a council to be known as the South African Indian Council, which shall consist of so many members, but not exceeding twenty-five, as the Minister may determine. Establishment of South African Indian Council.

2. (1) The members of the Council shall be appointed by the Minister and shall represent the province of the Cape of Good Hope, the province of Natal and the province of the Transvaal in such proportion as the Minister may deem equitable. Appointment of members of Council.

(2) When the Minister appoints a member of the Council the Minister shall indicate which of the said provinces such member is to represent.

3. No person shall be appointed as a member of the Council— Qualifications of members of Council.
(a) if he is not an Indian;
(b) if he is not permanently resident in the Republic;
(c) if he holds a post in the public service.

4. Every member of the Council shall before assuming his duties as such make and subscribe an oath before a magistrate in the following form: Oath by member of Council.

I, A.B., do hereby swear to be faithful to the Republic of South Africa and solemnly undertake to perform my duties as a member of the South African Indian Council to the best of my ability.
So help me God.

5. (1) A member of the Council shall, subject to the provisions of section 6, hold office for a period of three years as from the date on which he is appointed. Period of office of members of Council.

(2) If a vacancy occurs on the Council such vacancy may be filled by the appointment by the Minister, in accordance with the provisions of this Act, of a person to fill such vacancy, and any person so appointed shall hold office for the unexpired portion of the period of office of his predecessor.

6. A member of the Council shall vacate his office— Vacation of office by members of Council.
(a) if he ceases to be qualified for appointment as a member of the Council; or
(b) if he has been absent without the leave of the Council from three consecutive ordinary meetings of the Council; or

- (c) if called upon to do so by the Minister because of a criminal conviction, mental disorder, insolvency or misconduct which, in the opinion of the Minister, renders him unfit for further service on the Council.

7. (1) The Council shall elect a chairman from among its members, and whenever the chairman is for any reason unable to perform his duties as such, the Council shall elect another member to serve as acting chairman. Chairman
of Council.

(2) At any election of a chairman or acting chairman the Secretary for Indian Affairs or his nominee shall act as chairman of the Council.

(3) The person presiding at a meeting of the Council shall have a casting vote in addition to his deliberative vote: Provided that in the case of an equality of votes in the election of a chairman or an acting chairman of the Council the contesting candidates shall draw lots for such election, and the winner of such draw shall be deemed to have been elected chairman or acting chairman, as the case may be.

8. The seat of the Council shall be determined by the Minister. Seat of
Council.

9. (1) The Council may from time to time adopt standing rules and orders not inconsistent with this Act or any regulation made thereunder, for regulating the conduct of its proceedings and the despatch of business. Procedure and
freedom of
speech in
Council.

(2) Subject to the provisions of this Act and any regulation and standing rules and orders made thereunder, there shall be freedom of speech and debate in the Council.

(3) No member of the Council shall be liable to any legal proceedings by virtue of any matter or subject which he may have in any manner brought, or by virtue of anything he may have said in or before the Council or the executive committee or by reason of his vote in the Council: Provided that the provisions of this subsection shall not relieve a member of the Council of liability in respect of anything said or done by him in regard to the Senate, the House of Assembly, a provincial council, a court of law or a statutory body or a member thereof or an officer of the public service, in respect of which he would, but for the said provisions, be liable.

10. (1) (a) There shall be an executive committee of the Council consisting of five members of the Council of whom one shall be appointed by the Minister and designated by him as chairman of the committee, and four shall be elected by the Council. Executive
Committee.

(b) The chairman so designated shall not be also the chairman of the Council.

(2) Subject to the provisions of this Act the members of the executive committee shall hold office for the duration of their period of office as members of the Council: Provided that the Council may at any time by resolution of a majority consisting of two-thirds of all its members remove any elected member of the committee from office.

(3) Any vacancy on the executive committee shall be filled by the appointment and designation or election of another member of the Council as a member of such committee in the same manner as in the case of the member whose seat has become vacant.

(4) (a) When the chairman of the executive committee is for any reason unable to perform the duties of his office, the members of the executive committee shall elect from among themselves an acting chairman.

(b) At any election of an acting chairman the Secretary for Indian Affairs or his nominee shall act as chairman, and in the case of an equality of votes at any such election the contesting candidates shall draw lots for such election, and the winner of such draw shall be deemed to have been elected acting chairman.

- (5) (a) Three members of the executive committee shall form a quorum, and a decision of the majority of the members present at a meeting of the committee shall be a decision of the committee and shall be deemed to be a joint decision of all the members, and in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.
- (b) Any voting in the executive committee shall be confidential, and a member who discloses any information in connection with any such voting may be removed from his office by the Minister, and shall not thereafter until such time as the Council is constituted afresh, be capable of being appointed or elected a member of that committee.
- (c) When there are so many vacancies in the executive committee that a quorum cannot be obtained, the chairman shall perform the duties of the committee until the vacancies have been filled.
- (6) The executive committee shall carry out such functions of the Council as may be determined by the Council or prescribed by regulation under this Act.

11. Every member of the executive committee shall before assuming his official duties make and subscribe before a magistrate an oath in the following form: Oath by members of executive committee.

I, A.B., do hereby swear to be faithful to the Republic of South Africa, and undertake to abide by this allegiance; to hold my office as a member of the executive committee of the South African Indian Council with honour and dignity; to respect and uphold the Constitution and the law of the Republic; to be a true and faithful adviser; not to divulge directly or indirectly any matters brought before the executive committee and entrusted to me to keep secret; and to perform the duties of my office conscientiously and to the best of my ability.
So help me God.

12. (1) The members of the Council shall receive such allowances as the Minister in consultation with the Minister of Finance may determine. Allowances of members of Council and executive committee

(2) The Minister may in the case of members of the Council who are also members of the executive committee determine allowances which differ from the allowances determined for other members of the Council, or determine that members of the Council who are also members of the executive committee be paid additional allowances apart from their allowances as members of the Council, and may in like manner differentiate between the chairman of the Council and other members of the Council and between the chairman of the executive committee and other members of the committee.

13. (1) The Council shall have power—

- (a) to advise the Government at its request on all matters affecting the economic, social, cultural, educational and political interests of the Indian population of the Republic; General functions of Council and liaison with Government.
- (b) to receive and consider recommendations and resolutions of the Education Advisory Council established under section 31 (1) of the Indians Education Act, 1965 (Act No. 61 of 1965);
- (c) to make recommendations to the Government in regard to all matters affecting the economic, social, cultural, educational and political interests of the Indian population of the Republic, or to make recommendations to the Government in regard to any planning calculated, in the opinion of the Council, to promote the interests of the said population;
- (d) generally to serve as a link and means of contact and consultation between the Government and the said population.

(2) For the purposes of subsection (1) the Government shall be represented by the Secretary for Indian Affairs.

(3) The Minister and the Secretary for Indian Affairs and any officer of the Department of Indian Affairs designated by the said Secretary for the purpose, may attend any meeting of the Council or the executive committee and take part in the proceedings thereat, but shall not have the right to vote at any such meeting.

(4) The Minister may subject to the laws governing the public service make available officers in the public service to assist the Council in the performance of its functions.

14. The Minister may make regulations as to— Regulations.

- (a) any matter which by this Act is required or permitted to be prescribed; and
- (b) all matters, generally, in regard to which he considers it necessary or expedient to make regulations in order that the objects of this Act may be achieved.

15. Any person who is in terms of this Act required to make and subscribe an oath of office may, in lieu of such oath, make and subscribe a solemn affirmation in corresponding form. Affirmation in lieu of oath.

16. In this Act, unless the context otherwise indicates— Definitions.

- (i) "Council" means the council referred to in section 1; (iii)
- (ii) "Executive committee" means the committee referred to in section 10; (v)
- (iii) "Indian" means a person classified in terms of the Population Registration Act, 1950 (Act No. 30 of 1950), as a member of the Indian group; (i)
- (iv) "Minister" means the Minister of Indian Affairs; (ii)
- (v) "Public Service" means the public service as described in section 3 of the Public Service Act, 1957 (Act No. 54 of 1957). (iv)

17. This Act shall be called the South African Indian Council Act, 1968, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.