

REPUBLIC OF SOUTH AFRICA

REGULATION OF GATHERINGS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No 41719
of 20 June 2018)
(The English text is the official text of the Bill)*

(Adv A de W Alberts, MP)

[B 47—2018]

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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 Regulation of Gatherings Act, 1993, to prohibit protests outside schools, outside places that provide an early childhood development programme and outside child and youth care centres, except for certain prescribed causes; to empower the Minister to make regulations in respect of those causes for which permission may be granted; and to provide for matters connected therewith.

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

Insertion of section 7A in Act 205 of 1993

1. The following section is hereby inserted in the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), after section 7:

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“Demonstrations and gatherings in vicinity of schools, places that provide an early childhood development programme and child and youth care centres

7A. (1) For the purposes of this section—

- (a) **“child and youth care centre”** means a child and youth care centre as defined in section 1 of the Children’s Act, 2005 (Act No. 38 of 2005);
- (b) **“early childhood development programme”** means an early childhood development programme as defined in section 1 of the Children’s Act, 2005 (Act No. 38 of 2005); and
- (c) **“school”** means a school as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996).

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(2) Subject to the provisions of subsection (3) all demonstrations and gatherings—

- (a) in any building in which one of the following is situated:
 - (i) A school is situated;
 - (ii) a place that provides an early childhood development programme is situated; or
 - (iii) a child and youth care centre is situated; or
 - (b) at any place in the open air within a radius of 500 metres from a building contemplated in paragraph (a)(i), (ii) or (iii),
- on every day of the week, including Saturdays, Sundays and public holidays, are hereby prohibited.

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- (3) The provisions of subsection (2) shall not apply to any demonstration or gathering referred to in—
- (a) subsection (2)(a)(i) for which permission, on application to the Member of the Executive Council responsible for education of the province concerned, has been granted by him or her in writing; or
 - (b) subsection (2)(a)(ii) or (iii) for which permission, on application to the Member of the Executive Council responsible for social development of the province concerned, has been granted by him or her in writing.
- (4) Any application for permission contemplated in subsection (3) shall be—
- (a) for a cause prescribed by the Minister after consultation with the Minister responsible for education and the Minister responsible for social development; and
 - (b) made in writing to the person contemplated in subsection (3)(a) or (b) respectively, within a reasonable time before such demonstration or gathering is to take place.
- (5) When credible information on oath is brought to the attention of a person who has already granted permission in terms of subsection (2) that there is a threat as contemplated in section 5(1), he or she may, subject to the application of the provisions of section 5, revoke such permission, and thereupon the provisions of section 6(6) shall, *mutatis mutandis*, apply to the demonstration or gathering in question.”

Short title

2. This Act is called the Regulation of Gatherings Amendment Act, 2018.

MEMORANDUM ON THE OBJECTS OF THE GATHERINGS AMENDMENT BILL, 2018

1. INTRODUCTION

The Regulation of Gathering Act, 1993 (Act No. 205 of 1993) (“Act”), amongst other things, regulates the holding of public gatherings and demonstrations at certain places. In line with the provisions of section 17 of the Constitution of the Republic of South Africa, 1996, its preamble reads:

“Whereas every person has a right to assemble with other persons and to express his views on any matter freely in public and to enjoy the protection of the state while doing so;

And whereas the exercise of such right shall take place peacefully and with due regard to the rights of others.”

The Regulation of Gatherings Amendment Bill (“Bill”), seeks to amend the Act to prohibit gatherings and demonstrations outside schools as well as other institutions of learning and care, such as children’s homes and houses of safety, where there are minor children. The proposed amendment is to protect minor children from protests that sometimes turn violent.

2. OBJECTS OF THE BILL

The objects of the Bill are to prohibit demonstrations and gatherings outside schools, places that provide an early childhood development programme, and outside child and youth care centres.

3. CONTENTS OF THE BILL

Clause 1 prohibits a gathering or a demonstration in a building in which a school, a place that provides an early childhood development programme, or a child and youth care centre is situated. The Bill also seeks to prohibit protest at any place in the open air within a radius of 500 metres from a building of the above-mentioned places. In terms of this clause one needs to ask for permission from a Member of the Executive Council responsible for education or social development before a gathering or a demonstration could be held. This clause further empowers the Minister of Police to make regulations to prescribe certain causes where permission could be granted for a gathering or demonstration to be held outside the prohibited areas.

4. FINANCIAL IMPLICATIONS FOR THE STATE

The Bill does not hold any financial implications for the State.

5. DEPARTMENTS, BODIES OR PERSONS CONSULTED

None.

6. PARLIAMENTARY PROCEDURE

6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution, as it affect provinces.

6.2 The Member is of the opinion that it is not necessary to refer the Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.