

REPUBLIC OF SOUTH AFRICA

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

(As amended by the Portfolio Committee on Justice (National Assembly))

(MINISTER OF JUSTICE)

[B 37B—97]

REPUBLIEK VAN SUID-AFRIKA

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

(Soos gewysig deur die Portefeuljekomitee oor Justisie (Nasionale Vergadering))

(MINISTER VAN JUSTISIE)

[W 37B—97]

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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.
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BILL

To amend the Promotion of National Unity and Reconciliation Act, 1995, so as to further regulate the composition of the Committee on Amnesty; 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

1. Section 17 of the Promotion of National Unity and Reconciliation Act, 1995, is hereby amended— 5

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

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

(2) The President shall appoint the Chairperson, the Vice-Chairperson **[one other person]** and, after consultation with the Commission, **[two commissioners as members of the Committee]** the other members of the Committee; Provided that at least three of such other members of the Committee shall be commissioners.”; and 15

(b) by the insertion after subsection (2) of the following subsection:

“(2A) (a) The Chairperson of the Committee may from among the members of the Committee establish a subcommittee, the chairperson of which shall be a judge as referred to in subsection (3), designated by the Chairperson of the Committee. 20

(b) Any subcommittee established in terms of paragraph (a) shall have the same powers, functions and duties as the Committee in relation to any application for amnesty submitted in terms of section 18, and to the person who submitted such application.” 25

Short title

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

**MEMORANDUM ON THE OBJECTS OF THE PROMOTION OF
NATIONAL UNITY AND RECONCILIATION AMENDMENT
BILL, 1997**

1. The President, on 13 December 1996, announced that he will approach Parliament to change the cut-off date for offences which may qualify for amnesty in terms of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995)(the Act), from 5 December 1993 to 10 May 1994.

2. In view of the envisaged change of the cut-off date as well as the due date for applications in respect of amnesty, which will result in an increase in the number of applications to be considered, the Truth and Reconciliation Commission (the Commission) recommended that—

- (a) the number of members of the Committee on Amnesty (the Committee), apart from the Chairperson and Vice-Chairperson, be increased to a maximum of eleven; and
- (b) at least three of such other members shall be commissioners of the Commission.

The Commission indicated that the Committee will be unable to fulfil its mandate without an immediate increase in its number of members.

3.1 Clause 1(a) of the Bill seeks to give effect to the Commission's recommendations by providing for an increase in the number of members of the Committee and in the number of commissioners who must be members of the Committee. Clause 1(a) further proposes that the President has to appoint the Chairperson, Vice-Chairperson and, after consultation with the Commission, the other eleven members of the Committee. The proposed procedure of appointing differs from the present procedure in terms of which the President has to consult the Commission only in respect of the appointment of the two commissioners as members of the Committee. The input of the Commission is regarded as important to ensure that the appointees have such skills and experience that they can be integrated into the work of the Committee without delay.

3.2 Clause 1(b) provides that the Chairperson of the Committee may establish subcommittees which will have the same powers, functions and duties as the Committee in relation to applications for amnesty and the persons submitting such applications. By making provision for the establishment of subcommittees, it will be possible to increase the disposal of amnesty applications three-fold as it will be possible for three decision-making entities (the subcommittees) to operate simultaneously.

3.3 In the opinion of the Department and the State Law Adviser the Bill should be dealt with in terms of section 75 of the Constitution.

4. OTHER DEPARTMENTS/INSTITUTIONS/BODIES CONSULTED

The Truth and Reconciliation Commission has been consulted.