

REPUBLIC OF SOUTH AFRICA

**THE SOUTH AFRICAN LIBRARY
FOR THE BLIND BILL**

(As introduced in the National Assembly)

(MINISTER OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY)

[B 105—98]

REPUBLIEK VAN SUID-AFRIKA

**WETSONTWERP OP DIE
SUID-AFRIKAANSE BIBLIOTEEK
VIR BLINDES**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN KULTUUR, WETENSKAP EN TEGNOLOGIE)

[W 105—98]

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BILL

To provide for the South African Library for the Blind; for library and information services to blind and print-handicapped readers; and for matters connected therewith.

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

INTRODUCTION

Definitions

1. In this Act, unless the context indicates otherwise—
- (i) “audio document” means the recording of information on disc, tape or any other electronic format, produced for use by blind and print-handicapped readers; (i) 5
 - (ii) “bibliographic services” means—
 - (a) the creation of bibliographic records and the compilation of catalogues, bibliographies, indexes and other bibliographic databases;
 - (b) the compilation and dissemination of relevant statistics;
 - (c) the exchange, sale, dissemination or making available of the records and compilations referred to in paragraph (a); (ii) 10
 - (iii) “blind and print-handicapped reader” means any reader who cannot use ordinary printed material because of a visual or physical limitation; (iv)
 - (iv) “Board” means the Board of the Library for the Blind, constituted in terms of section 6; (xiii) 15
 - (v) “braille document” means a document embossed or transcribed into braille for blind readers, using tactile characters represented by raised dots; (v)
 - (vi) “document” means any object which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible format through any medium, and any version or edition of a document which is significantly different from that document in respect of its information content, intelligibility or physical presentation, is considered to be a separate document: Provided that public records as defined in section 1 of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), or in provincial legislation pertaining to records and archives, are not considered to be documents for the purposes of this Act; (vi) 20 25
 - (vii) “documentary heritage” means the total of published information media emanating from South Africa or relating to South Africa; (vii)
 - (viii) “format” means the layout and rules for transcribing materials in various sound and tactile media; (viii) 30
 - (ix) “Library for the Blind” means the South African Library for the Blind, referred to in section 2; (iii)
 - (x) “medium” means any means of recording or transmitting information intended for subsequent reading, listening or viewing; (xi)
 - (xi) “Minister” means the Minister of Arts, Culture, Science and Technology; (xii) 35
 - (xii) “prescribe” means prescribe by regulation; (xv)
 - (xiii) “published” means produced to be made available in multiple copies or at various locations to—
 - (a) any member of the public, whether through purchase, hire, loan, subscription, licence or free distribution; or 40
 - (b) the members of an association or a society, whose membership is open to any qualifying member of the public; (ix)
 - (xiv) “record” means recorded information regardless of form or medium; (xiv)
 - (xv) “this Act” includes any regulation made under section 15. (x)

CHAPTER 1

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THE SOUTH AFRICAN LIBRARY FOR THE BLIND

South African Library for the Blind

2. (1) The South African Library for the Blind, declared under section 1 of the State-aided Institutions Act, 1931 (Act No. 23 of 1931), to be subject to the provisions of that Act in Government Notice No. R. 283 of 1 March 1968, and deemed to have been declared under section 3 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), to be subject to the provisions of that Act, continue to exist as a juristic person known as the South African Library for the Blind, notwithstanding the withdrawal of the notice by this Act. 50

(2) The head office of the Library for the Blind is in Grahamstown and its branches in institutions and libraries throughout South Africa, as prescribed.

Objects of Library for the Blind

3. The objects of the Library for the Blind are to provide a national library and an information service to serve blind and print-handicapped readers in South Africa. 5

Functions of Library for the Blind

4. (1) The functions of the Library for the Blind are—
- (a) to build up a balanced and appropriate collection of South African and other documents for the use of blind and print-handicapped readers;
 - (b) (i) to record its collections appropriately; 10
(ii) to provide a bibliographic service to those readers;
 - (c) to provide access to documents nationally and internationally to those readers;
 - (d) to provide library and information services on a national basis to those readers;
 - (e) to co-ordinate and preserve the national audio and braille literary heritage; 15
 - (f) to produce documents in special mediums such as braille and audio in the formats required by those readers;
 - (g) to develop standards for the production of those documents;
 - (h) to research production methods and technology in the appropriate fields; and
 - (i) to acquire, disseminate and manufacture the necessary technology required to read, replay or reproduce the media referred to in paragraph (f). 20

(2) The functions shall be performed solely in respect of documents for the use of or relating to blind and print-handicapped readers.

CHAPTER 2

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Powers of Library for the Blind

5. (1) The Library for the Blind is a juristic person, and may, subject to subsection (2), perform any act which in the opinion of the Board is necessary for or incidental to the performance of its functions.

(2) The Library for the Blind shall not without the prior approval of the Minister 30 granted with the concurrence of the Minister of Finance—

- (a) lease or sell, exchange or otherwise alienate its movable or immovable property: Provided that the Minister may prescribe categories of movable property which may be alienated by the Library for the Blind at the sole discretion of the Board; 35
- (b) as long as a guarantee furnished in terms of section 35 of the Exchequer Act, 1975 (Act No. 66 of 1975), is in force in respect of a loan granted to the Library for the Blind—
 - (i) mortgage or otherwise encumber its immovable property acquired through that loan; 40
 - (ii) lease or sell, exchange or otherwise alienate, or hypothecate or otherwise encumber its movable property acquired through that loan;
- (c) borrow money.

Board of Library for the Blind

6. (1) The affairs of the Library for the Blind are controlled by a Board consisting 45 of—

- (a) at least seven but not more than nine members appointed by the Minister in the prescribed manner: Provided that the regulations prescribing the manner of

appointment must apply the principles of transparency and representivity and that expertise in financial matters and matters affecting blind and print-handicapped readers must be represented on the Board;

(b) the chief executive officer of the Library for the Blind, who shall be *ex officio* a member of the Board; 5

(2) A member of the Board shall vacate the office if—

(a) the member's estate is sequestrated or assigned for the benefit of, or if the member compounds with, the creditors of the member;

(b) a competent court finds that the member is of unsound mind;

(c) the member is convicted of an offence and sentenced to imprisonment without the option of a fine; 10

(d) the member is absent from three consecutive meetings of the Board without the leave of the Board; and

(e) the member is nominated in terms of the Electoral Act, 1993 (Act No. 202 of 1993), as a candidate for election as a Member of the National Assembly or a provincial legislature, or appointed as a permanent delegate to the National Council of Provinces by a provincial legislature in accordance with the Constitution and the National Council of Provinces (Permanent Delegates Vacancies Act, 1997 (Act No. 17 of 1997)). 15

(3) The Minister may after consultation with the Board remove a member of the Board from office if in the opinion of the Minister there are sound reasons for doing so after hearing the member on those reasons. 20

(4) If a member of the Board dies, or resigns by written notice to the Minister, or vacates that office or is removed from office, the Minister may appoint a person in the prescribed manner in that member's place for the remaining part of the term of office. 25

(5) (a) A member of the Board holds office for a period not exceeding three years, subject to subsections (3) and (4), and may be reappointed.

(b) No member may serve more than two consecutive terms save with the approval of the Minister.

Functions, remuneration and allowances of members of Board 30

7. (1) The functions of the Board are—

(a) to formulate the policies of the Library for the Blind;

(b) to approve the budget of the Library for the Blind;

(c) to approve the financial statements of the Library for the Blind;

(d) to advise the Minister with regard to matters with which the Library for the Blind is concerned; and 35

(e) to furnish the Minister with such information as the Minister may require.

(2) The Board may pay to a member of that Board who is not in the full-time employ of the State or who is not in the employ of the Library for the Blind such remuneration and allowances as the Minister with the concurrence of the Minister of Finance may determine. 40

Meetings of Board

8. (1) The Board must meet at least twice a year at such times and places as the Board may determine.

(2) (a) The Minister must appoint a chairperson for the Board from among and after consultation with, the members of the Board. 45

(b) The chairperson or, in the chairperson's absence, a member of the Board elected by the members present, shall preside at meetings of the Board.

(3) The quorum for a meeting of the Board is a majority of its members.

(4) A decision of the Board is taken by resolution of the majority of the members present at any meeting of the Board, and, in the event of an equality of votes on any matter, the person presiding at the meeting has a casting vote in addition to a deliberative vote as a member of the Board. 50

Employees of Library for the Blind

9. (1) (a) The Board may appoint such employees as are necessary to perform the functions of the Library for the Blind. 55

(b) (i) The Board must appoint a chief executive officer who must be responsible for

the management of the affairs of the Library for the Blind and who must report on those affairs to the Board as the Board may require.

(ii) The chief executive officer is also the accounting officer charged with the responsibility of accounting for all money received and the utilisation thereof and is responsible for the property of the Library for the Blind. 5

(c) The chief executive officer of the Library for the Blind is known as the Director.

(2) The Board determines the remuneration, allowances, conditions of service, subsidies and other benefits of the employees of the Library for the Blind in consultation with the Department of Public Service and Administration and with the approval of the Minister granted with the concurrence of the Minister of Finance. 10

(3) An employee may be discharged only in terms of a decision of the Board, and the employee concerned may in the prescribed manner and within the prescribed time appeal against the discharge to the Minister, who may confirm, vary or set aside that decision, or give such other decision as the Board in the opinion of the Minister should have given. 15

(4) (a) An employee may, with the employee's consent and on such conditions as the Board may determine, be seconded, either for the performance of a particular service or for a period of time, to the service of the State, another state or some other person.

(b) While seconded an employee remains subject to the laws and conditions of service that apply to the employee while in the employ of the Library for the Blind. 20

Transfer of certain persons to employ of Library for the Blind

10. (1) (a) A person who is in the full-time employ of the State or of an institution receiving financial aid from the State may, subject to section 15 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and the approval of the Board, be transferred to the employ of the Library for the Blind, and if that happens, that employee is regarded as having been appointed by the Board as from a date (in this section called the fixed date) fixed by the Board after consultation with the head of the department of State or the institution in question, and the salary of that person shall as from the fixed date be adjusted to the salary range applicable to the post in which the person is appointed at a notch determined by the Board, but the salary or salary range at which or in accordance with which the person was remunerated immediately prior to the fixed date and any extra earnings to which the person was entitled immediately prior to that date and in respect of which the person was required to contribute to a pension or retirement or provident fund of which the person was in terms of any law a member immediately prior to the fixed date, and the monetary value of such extra earnings, may not for the purposes of that contribution be reduced without the person's consent. 25 30 35

(b) Despite anything to the contrary in any law contained, any extra earnings contemplated in paragraph (a) are regarded as being part of the emoluments of the employee concerned for the purposes of the employee's contribution to the pension or retirement or provident fund of which the employee is a member. 40

(2) Despite anything to the contrary in any law contained—

(a) any continuous full-time employment with the State or the institution in question immediately prior to the fixed date of a person transferred in terms of subsection (1) is deemed for the purposes of leave to be employment with the Library for the Blind, and any sick or vacation leave which has on that date accrued in the person's favour is regarded, subject to such conditions as the Board may determine, as being leave which has accrued in the person's favour in terms of the person's conditions of service in the employ of the Library for the Blind; 45

(b) an employee transferred in terms of subsection (1) retains all the rights and privileges and remains subject to all the obligations acquired or incurred by the employee for pension and retirement purposes in terms of any law administered by the State which applied to the employee immediately prior to the fixed date; and 50

(c) any contribution which in terms of any law contemplated in paragraph (b) would have been payable by the State or by the institution in question in respect of such a person to the pension or retirement or provident fund in 55

question if the person had not become an employee of the Library for the Blind, shall be paid by the Library for the Blind to the pension or retirement or provident fund in question.

(3) A person transferred in terms of subsection (1) may, on such conditions as the Director-General: Finance may determine, elect to be released from and to renounce all obligations, rights and privileges in respect of the pension or retirement or provident fund contemplated in that subsection and to become a member of the pension fund established in terms of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), or any other pension or retirement or provident fund, and from a date fixed by such Director-General the provisions of that Act shall apply to the person.

(4) If a guarantee given under section 25 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977), relates to a person who in terms of subsection (1) of this Act becomes an employee of the Library for the Blind and the employee—

(a) continues to be a contributor to the pension fund contemplated in section 2 of the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996); or

(b) becomes a contributor to the pension fund contemplated in section 2(1)(b) of the Associated Institutions Pension Fund Act, 1963, or any other pension or retirement or provident fund,

that guarantee is regarded as having been given by the Library for the Blind and, despite anything to the contrary in that guarantee, continues *mutatis mutandis* to be in force.

(5) Any power or duty conferred or imposed upon the Minister of Finance by section 25 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977), must, in so far as it relates to a guarantee regarded as having been given by the Library for the Blind, be exercised or performed by the Library for the Blind, and any loss which may be incurred by the Library for the Blind in consequence of the exercise or performance of that power or duty shall be defrayed from the funds of the Library for the Blind.

(6) Despite anything to the contrary in any law contained, any amount which is payable to the Library for the Blind by any person transferred in terms of subsection (1) on the date of the person's retirement or discharge or which the Library for the Blind is then liable to pay in respect of the person, may be deducted from any benefit which is payable to the person out of the pension or retirement or provident fund in question in a lump sum or in such instalments as the Director-General: Finance may determine, for payment to the Library for the Blind.

Transfer of certain assets to Library for the Blind

11. Subject to section 2 of the State Land Disposal Act, 1961 (Act No. 48 of 1961), the Minister may, with the concurrence of the Minister of Public Works, the Minister for Agriculture and Land Affairs and the Minister of Finance, and on such conditions as the Minister may determine, transfer to the Library for the Blind any immovable property belonging to the State in order to enable the Library for the Blind to perform its functions.

Minister may entrust certain property to care of Library for the Blind

12. The Minister may in such manner and on such conditions as the Minister thinks fit entrust any movable property or part thereof which has been donated or bequeathed to the Republic or its inhabitants or which has been donated or bequeathed for the use or benefit of the Republic or its inhabitants, to the care of the Library for the Blind, unless the donor or testator has made other provisions for the care thereof.

Financing of Library for the Blind

13. (1) The funds of the Library for the Blind consist of—

- (a) money appropriated by Parliament;
- (b) money borrowed by the Library for the Blind;
- (c) revenue obtained by virtue of subsection (3);
- (d) fees or royalties paid to the Library for the Blind;
- (e) donations or contributions received by the Library for the Blind;
- (f) money accruing to the Library for the Blind from any other source, including remuneration for services rendered in terms of this Act.

- (2) Subject to this section, the Library for the Blind must use its funds to defray expenditure in connection with the performance of its functions.
- (3) The Board may invest any money not required for immediate use or as a reasonable operating balance with the Public Investment Commissioners or in such other manner as the Minister with the concurrence of the Minister of Finance may determine. 5
- (4) The Board may establish and operate a reserve fund and may deposit therein such amounts as become available from time to time.
- (5) (a) The Library for the Blind—
- (i) must in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure projected over the following three financial years for the approval of the Minister; and 10
- (ii) may in any financial year at any time submit supplementary statements of its estimated expenditure for that financial year to the Minister for the Minister's approval. 15
- (b) The Library for the Blind may not enter into any financial commitment beyond its approved budgets and its accumulated reserves.

Auditing and annual report

- 14.** (1) The financial year of the Library for the Blind ends on 31 March.
- (2) The Library for the Blind must keep a proper record of its assets and financial transactions. 20
- (3) The accounts of the Library for the Blind must be audited annually by the Auditor-General.
- (4) (a) The Library for the Blind must furnish to the Minister such information in connection with the functions and financial position of the Library for the Blind as the Minister may require, and must as soon as practicable after the end of every calendar year submit to the Minister an annual report, including a balance sheet and a statement of revenue and expenditure in respect of the financial year ending in the calendar year in question, certified by the Auditor-General, as well as such other particulars as the Minister may require. 25 30
- (b) The Minister must table the report in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.

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GENERAL PROVISIONS 35

Regulations

- 15.** (1) The Minister may make regulations regarding—
- (a) matters which are required or permitted to be prescribed in terms of this Act;
- (b) (i) the investigation of a charge of misconduct or inefficiency against a person in the employ of the Library for the Blind, or of any alleged irregularity in connection with the affairs of the Library for the Blind, conduct constituting misconduct, the procedure to be followed at such an investigation, the summoning and attendance of witnesses, and the sanction that may be imposed upon or other steps that may be taken against such a person; 40 45
- (ii) the procedure for the investigation of an alleged grievance of an employee;
- (c) the keeping of records and the times when, the form in which and the persons to whom financial statements and reports in respect of the Library for the Blind must be submitted; 50
- (d) research at the Library for the Blind;
- (e) the establishment of professional advisory committees; and
- (f) generally, any matter in respect of which regulations are regarded necessary or expedient in order to achieve the objects of this Act.
- (2) Regulations made under this section may prescribe a fine or a period of imprisonment not exceeding one year for a contravention thereof or a failure to comply therewith. 55

(3) The Minister must publish any regulations made under this section in the *Gazette*.

Transitional provisions

16. (1) The council of the South African Library for the Blind, as contemplated in section 6 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969), must dissolve at the constitution of the Board for the Library for the Blind in terms of section 6 of this Act. 5

(2) (a) A person who immediately before the commencement of this Act was in the employ of the South African Library for the Blind in terms of the Cultural Institutions Act, 1969, is transferred to the employ of the Library for the Blind with the retention of the salary, allowances and other benefits which then applied in respect of the person. 10

(b) Such a person is regarded as having been appointed under section 9.

(c) The salary, allowances, conditions of service and other benefits of such person is regarded as having been determined under that section, and any leave, pension or other benefits which have accrued in the person's favour by virtue of the person's service with the said library is regarded as having accrued in the person's favour by virtue of service with the Library for the Blind. 15

(3) Any movable property which was in the possession or under the control of the said library immediately before the commencement of this Act, vests in the Library for the Blind, including—

(a) money standing to the credit of the said library in the accounts of that library or held by the State for the purposes of that library; 20

(b) claims of the State in connection with that library;

(c) rights and privileges of the State in connection with that library in terms of an agreement entered into by or on behalf of the State or that library.

(4) The liabilities and obligations of the State in connection with the said library are transferred to the Library for the Blind. 25

(5) Any reference in any law or document to the said library must be construed as a reference to the Library for the Blind.

(6) The regulations made under section 15 of the Cultural Institutions Act, 1969, published in the *Government Gazette* No. 6133 of 18 August 1978, as notice No. R. 1671 of 18 August 1978, and as amended from time to time, continue to be in force until they are amended or repealed by this Act. 30

Withdrawal of notice

17. Government Notice No. R. 283 of 1 March 1968, published in *Government Gazette Extraordinary* No. 1996 of 1 March 1968, is regarded as having been withdrawn. 35

Short title and commencement

18. This Act is called the South African Library for the Blind Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN LIBRARY FOR THE BLIND BILL, 1998

1. The need of blind and print-handicapped readers for access to information is acknowledged by upgrading the status of the South African Library for the Blind. The Library is at present administered as a cultural institution under the Cultural Institutions Act, 1969 (Act No. 29 of 1969), but should be brought into an information environment.

2. The objects of the South African Library for the Blind will be to provide a national library and information service to blind and print-handicapped readers in South Africa.

3. The functions as proposed in the Bill include—

- * The building-up of a balanced and appropriate collection of South African and other documents;
- * The recording of its collections;
- * Providing access to documents nationally and internationally;
- * Co-ordinating and preserving the national audio and braille literary heritage;
- * Producing documents in braille and audio mediums;
- * Developing standards for the production of these documents; and
- * Acquiring and manufacturing the necessary technology required to read, replay or reproduce documents.

4. It will provide a national library service for blind and print-handicapped readers and has its own board.

Persons and institutions consulted

The boards of the State Library, South African Library and the South African Library for the Blind
 Nine provincial library services
 Sixteen representatives from provincial education departments
 Ten metropolitan substructures
 Three research councils
 The National Archives of South Africa
 Five publishers
 The National Book Development Council
 Three library and information networks and consortia
 The Committee of University Librarians and the Committee of Technikon Libraries
 The National Information Technology Forum
 Seven representatives from professional organisations of library and information workers
 The South African National Civics Organisation
 Five representatives from other library and information services.

Parliamentary procedure

The Department of Arts, Culture, Science and Technology and the State Law Advisers are of the opinion that the Bill should be dealt with in accordance with section 75 of the Constitution since it contains no provisions to which the procedure set out in section 74 or 76 of the Constitution applies.