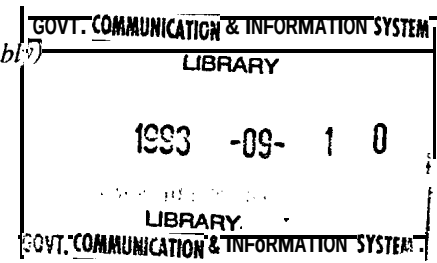


REPUBLIC OF SOUTH AFRICA

RECONSTRUCTION AND DEVELOPMENT PROGRAMME FUND AMENDMENT BILL

(As introduced in the National Assembly)

(MINISTER OF FINANCE)



[B 111—98]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP DIE HEROPBOU- EN ONTWIKKELINGSPROGRAMFONDS

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN FINANSIES)

[W 111—98]

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GENERAL EXPLANATORY NOTE:

[1 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 Reconstruction and Development Programme Fund Act, 1994, so as to ~~define certain expressions~~; to provide for speedier disbursement of foreign and domestic donor funds; to transfer the control and administration of the fund to the Department of State Expenses; and to empower the Minister to make regulations; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 7 of 1994

1. Section 1 of the Reconstruction and Development Programme Fund Act, 1994 (hereinafter referred to as the principal Act), is hereby amended by the addition of the following definitions:

“**‘spending agency’** means—

(a) any department of state or administration in the national or provincial sphere of government; or

(b) any other institution, excluding a municipality—

(i) “exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation;

‘technical assistance agreement’ means an international agreement contemplated in section 231(3) of the Constitution in terms of which a foreign state or international organisation grants development aid to the Republic.”.

Amendment of section 2 of Act 7 of 1994

2. Section 2 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“There is hereby established a fund to be known as the Reconstruction and Development Programme Fund, which [shall] may be credited with-”.

Amendment of section 3 of Act 9 of 1994

3. Section 3 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
“(a) to finance reconstruction and development projects **and** programmed **[identified by the Minister responsible for the co-ordinated implementation thereof; and]** authorised by the Cabinet;”; and
 - (b) by the insertion of the following paragraph after paragraph (a):
“(aA) in accordance with a technical assistance agreement; and”.

Amendment of section 4 of Act 9 of 1994

4. Section 4 of the principal Act is hereby amended— 10
- (a) by the deletion of the word “and” at the end of paragraph (a) and the substitution for paragraph (b) of the following paragraph:
“(b) from which transfers shall be made **[to the National Revenue Fund]** for the financing of the reconstruction and development projects and programmed referred to in section 3(a); and”; and 15
 - (b) by the addition of the following paragraph:
“(c) from which transfers shall be made to a spending agency in accordance with the relevant technical assistance agreement.”,

Substitution of section 5 of Act 7 of 1994, as substituted by section 16 of Act 6 of 1997 20

5. The following section is hereby substituted for section 5 of the principal Act:

“Unspent money

5. Money allocated from the fund and not spent by the end of each financial year shall, in the absence of any provision to the contrary in a technical assistance agreement, be paid into the fund.” 25

Amendment of section 6 of Act 9 of 1994

6. Section 6 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
“The **[Director-General: Finance]** Accountant-General in the Department of State Expenditure shall be the accounting officer **[of]** responsible for the administration of the fund and shall, subject to the directions of the Minister—”; and 30
 - (b) by the substitution for subsection (2) of the following subsection:
“(2) The accounting officer of a spending agency shall be accountable for the money allocated to that spending agency in terms of section 4(c).” 35

Substitution of section 7 of Act 7 of 1994

7. The following section is hereby substituted for section 7 of the principal Act:

“Audit 40

7. The accounts and balance sheet referred to in section 6(1) and the financial records kept by the accounting officer contemplated in section 6(2) shall be audited by the Auditor-General.”

Amendment of section 8 of Act 7 of 1994.

8. Section 8 of the principal Act is hereby amended by the substitution for subsection 45
- (1) of the following subsection:
“(1) **[Any]** Subject to any technical assistance agreement, any money of the fund which is not required for immediate use may be invested with the Public

Investment Commissioners or with a financial institution approved by the Minister and may be withdrawn when required.”.

Insertion of section 8A in Act 7 of 1994

9. The following section is hereby inserted in the principal Act after section 8:

“ R e g u l a t i o n s

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8A. The Minister may make regulations regarding any matter which is necessary or expedient to regulate in order to achieve the objects of this Act.”.

Short title

10. This Act is called the Reconstruction and Development Programme Fund 10 Amendment Act, 1998.

**MEMORANDUM ON THE OBJECTS OF THE
RECONSTRUCTION AND DEVELOPMENT PROGRAMME FUND
AMENDMENT BILL, 1998**

1. The Reconstruction and Development Programme Fund Act, 1994 (Act No. 7 of 1994) ("the Act"), does not allow for speedy disbursement of foreign and domestic donor funds and the implementation of projects. Donors also require that their contributions be used solely for the projects they have agreed to fund.

2. It is therefore proposed that the Act be amended to provide that donor money in the fund, shall only be used in accordance with the agreement in terms whereof the money was granted. It is also proposed that funds should flow directly from the fund to spending agencies in accordance with the relevant agreements and not via the National Revenue Fund.

3. It was felt that it would be more appropriate for the Department of State Expenditure to control and administer the fund. The Bill also seeks to empower the Minister to make regulations and seeks to effect certain technical amendments.

4. Consultation:

- Department of State Expenditure
- Representatives of donor states
- SARS
- Tender Board
- Department of Justice
- Department of Foreign Affairs
- The Office of the President

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Finance are of the opinion that this Bill must be dealt within accordance with section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.