

OFFICE OF THE PRESIDENT

No. 1522.

4 October 1995

NO. 59 OF 1995: PAN SOUTH AFRICAN LANGUAGE BOARD ACT, 1995.

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

ACT

To provide for the recognition, implementation and furtherance of multilingualism in the Republic of South Africa; and the development of previously marginalised languages; to establish a Pan South African Language Board; and to provide for matters connected therewith.

PREAMBLE

SINCE the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provides for the recognition of the principle of multilingualism;

AND SINCE provision is to be made for measures designed to achieve respect, adequate protection and furtherance of the official South African languages and for the advancement of those official languages which in the past did not enjoy full recognition, in order to promote the full and equal enjoyment of the official South African languages and respect for the other South African languages used for communication and religious purposes:

(Afrikaans text signed by the President.)
(Assented to 28 September 1995.)

NOW THEREFORE BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-

- (i) "acknowledged, practising language worker" means a person with extensive experience and training in interpreting or translation or terminology or lexicography or literacy teaching or language teaching; (ii)
- (ii) "Board" means the Pan South African Language Board established by section 2; (vii)
- (iii) "chief executive officer" means the chief executive officer of the Board appointed in terms of section 10(1); (v)
- (iv) "Constitution" means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); (iii)
- (v) "existing" means also existing prior to the commencement of the Constitution or this Act, or at any other stage; (i)
- (vi) "language planner" means a person with training in the management of language policy matters at status and corpus planning level and extensive experience as language planner, and includes a language sociologist; (ix)
- (vii) "language sociologist" means a person trained in the linguistic and social, political and educational aspects of the relationship between language and society; (x)

- (viii) "organ of state" means an organ of state as defined in section 233(1) of the Constitution; (viii)
- (ix) "prescribed" means prescribed by or under this Act; (xi)
- (x) "Provincial Gazette", in relation to a province, means the official gazette of the province; (vi)
- (xi) "this Act" includes the rules made and notices issued under sections 7(9), 8(8) and (11) and 9(3)(d). (iv)

Establishment of Board

2. (1) There is hereby established a board to be known as the Pan South African Language Board.

(2) The Board shall be a juristic person and shall be represented by the chairperson or deputy chairperson or any of its members designated by the Board in general or for a specific purpose.

Objects of Board

3. The Board shall have the following objects:

- (a) To promote respect for and ensure the implementation of the following principles referred to in section 3(9) of the Constitution:
 - (i) The creation of conditions for the development and for the promotion of the equal use and enjoyment of all the official South African languages;
 - (ii) the extension of those rights relating to language and the status of languages which at the commencement of the Constitution were restricted to certain regions;
 - (iii) the prevention of the use of any language for the purposes of exploitation, domination or division;
 - (iv) the promotion of multilingualism and the provision of translation facilities;
 - (v) the fostering of respect for languages spoken in the Republic other than the official languages, and the encouragement of their use in appropriate circumstances; and
 - (vi) the non-diminution of rights relating to language and the status of languages existing at the commencement of the Constitution;
- (b) to further the development of the official South African languages;
- (c) to promote respect for and the development of other languages used by communities in South Africa, and languages used for religious purposes;
- (d) to promote knowledge of and respect for the other provisions of and the constitutional principles contained in the Constitution dealing directly or indirectly with language matters;
- (e) to promote respect for multilingualism in general; and
- (f) to promote the utilisation of South Africa's language resources.

Independence and impartiality of Board

4. (1) The Board, individual members of the Board and officials of the Board shall serve impartially and independently and exercise, carry out and perform their powers, duties and functions in good faith and without fear, favour, bias or prejudice, subject only to the Constitution and this Act and accountable to Parliament.

(2) No organ of state and no member or employee of an organ of state or any other person shall interfere with the Board, any member thereof or a person appointed under section 10 in the exercise, carrying out or performance of its, his or her powers, duties and functions.

(3) All organs of state shall afford the Board such assistance as may reasonably be required for the protection of the Board's independence, impartiality, dignity and effectiveness in the exercise, carrying out and performance of the Board's powers, duties and functions.

(4) No member of the Board or member of staff of the Board shall conduct an investigation in terms of this Act or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or other interest which might preclude him or her from exercising, carrying out or performing his or her powers, duties and functions in a fair, unbiased and proper manner.

(5) If any member of the Board or any member of the staff of the Board fails to disclose an interest contemplated in subsection (4), the Board may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

Composition of Board

5. (1) (a) The Senate, after having followed the procedure prescribed in subsection (3), shall appoint the following members to the Board:

(i) Four persons who shall be acknowledged, practising language workers of whom-

(aa) one shall be an interpreter;

(bb) one shall be a translator;

(cc) one shall be either a terminologist or a lexicographer; and

(dd) one shall be either a language teacher or a literacy teacher;

(ii) three persons who shall be language planners;

(iii) five persons who shall have special knowledge of language matters in South Africa; and

(iv) one person who shall be a legal expert with special knowledge of language legislation.

(b) The chief executive officer shall be a member of the Board by virtue of his or her office and may take part in the deliberations of the Board and shall have the same rights and duties as the other members of the Board, but shall have no right to vote.

(2) The members of the Board shall-

(a) be fit and proper persons for the offices held by them;

(b) be South African citizens;

(c) be broadly representative of the diversity of the South African community; and

(d) be supportive of the principle of multilingualism.

(3) The Senate shall appoint a member in terms of subsection (1) (a) to the Board in accordance with the following procedure:

(a) (i) The Senate shall appoint an ad hoc committee, consisting of not less than nine senators, to invite nominations from the general public of persons for appointment as members to the Board.

(ii) Each province and each political party represented in the Senate shall be represented in such committee.

(iii) Each political party represented in the National Assembly may nominate one member of the National Assembly for appointment as a member to such committee.

(b) The said committee shall in a consensus-seeking manner-

(i) compile a short list of candidates with due regard to the provisions of subsections (1) (a) and (2): Provided that a short list of not more than 52 candidates shall be compiled when the Board is composed for the first time;

(ii) interview the candidates on the short list in a public and transparent manner; and

(iii) submit a final short list to the Senate with due regard to the provisions of subsections (1) (a) and (2): Provided that a final short list of not more than 26 candidates shall be compiled when the Board is composed for the first time.

(c) The Senate shall appoint in terms of subsection (1) (a), as a member of the Board from the short list referred to in subsection (3) (b) (iii), a person approved by the Senate by a resolution adopted by a majority of not less than 75 per cent of the members present and voting.

(4) The Senate may terminate the membership of any person appointed in terms of this section-

(a) if it is satisfied that such person no longer complies with any of the requirements of subsection (2);

(b) if such person requests the Senate in writing to terminate his or her appointment; or

(c) when such person has been absent from more than two consecutive meetings of the Board without the Board's leave.

(5) A member of the Board shall be appointed for a term of five years and shall on the expiration of such term be eligible for reappointment for one further term only.

(6) If the office of a member of the Board becomes vacant before the expiration of the period for which he or she was appointed, the Senate may, subject to subsection (1) (a), appoint another person to hold office for the unexpired portion of his or her predecessor's term of office.

(7) The Senate shall give notice in the Gazette of the appointment of a member of the Board and the date of his or her appointment and, in the case of a member appointed to fill a vacancy on the Board, the period for which he or she is appointed.

Chairperson and deputy chairperson

6. (1) The members of the Board shall at the first meeting of the Board, with the chief Justice presiding, elect one of their number to be chairperson of the Board and another one to be deputy chairperson of the Board to act as chairperson during the absence or incapacity of the chairperson.

(2) The first chairperson and the first deputy chairperson shall hold office for a term of not more than two years, after which an election shall be held annually: Provided that such chairperson and deputy chairperson shall be eligible for re-election for one further term not exceeding one year.

(3) The deputy chairperson, when acting as chairperson as contemplated in subsection (1), shall have all the powers and duties of the chairperson.

(4) The office of chairperson or deputy chairperson shall become vacant-

- (a) at the expiry of the incumbent's term of office as chairperson or deputy chairperson;
- (b) when the incumbent tenders his or her resignation as chairperson or deputy chairperson in writing;
- (c) when the incumbent ceases to be a member of the Board;
- (d) when a resolution to that effect is passed by the Board; or
- (e) when the incumbent dies or is declared mentally incapacitated by a court of law.

(5) The election of a new chairperson or deputy chairperson shall, in the case of a vacancy arising as contemplated in paragraphs (a), (b), (c), (d) and (e), be conducted by the chief executive officer.

Meetings and seat of Board

7. (1) The Board shall meet not less than four times a year on a quarterly basis.

(2) The seat of the Board shall be in Pretoria and meetings of the Board shall be held at the time and place determined by the Board and shall be presided over by the chairperson.

(3) The Board may establish such offices as it may consider necessary to enable it to exercise its powers, to carry out its duties and to perform its functions conferred on, imposed upon or assigned to it by the Constitution, this Act or any other law.

(4) The chairperson of the Board may at any time call a special meeting of the Board to be held at such time and place as he or she may determine, and shall, upon a request signed by not fewer than three members of the Board, call a special meeting thereof to be held within 30 days after the date of receipt of such request, at such time and place as he or she may determine.

(5) Seven members of the Board appointed in terms of section 5(1)(a) shall constitute a quorum for any meeting of the Board.

(6) The Board shall function in a manner that accommodates the consensus-seeking spirit underlying the principle of multilingualism as enshrined in the Constitution.

(7) If the Board fails to reach consensus, voting at any meeting of the Board shall take place by a show of hands, and the decision of two thirds of the members of the Board present at any duly constituted meeting thereof shall constitute a decision of the Board.

(8) No decision made by or act performed under the authority of the Board shall be invalid by reason only of an interim vacancy on the Board if such decision was made or such act was performed or authorised by a meeting of the Board convened in accordance with this section.

(9) The Board may make rules in relation to the conduct of its meetings.

Powers and functions of Board

8. (1) The Board, in addition to any powers and functions conferred on or assigned to it by law-

- (a) shall make recommendations with regard to any proposed or existing legislation, practice and policy dealing directly or indirectly with language matters at any level of government, and with regard to any proposed amendments to or the repeal or replacement of such legislation, practice and policy;
- (b) may request any organ of state to supply it with information on any legislative, executive or administrative measures adopted by it relating to language policy and language practice;
- (c) may advise any organ of state on the implementation of any proposed or existing legislation, policy and practice dealing directly or indirectly with language matters;
- (d) may monitor the observance of any advice given in terms of paragraph (c);
- (e) shall make recommendations to organs of state at all levels of government where it considers such action advisable for the adoption of measures aimed at the promotion of multilingualism within the framework of the Constitution;
- (f) shall actively promote an awareness of the principle of multilingualism as a national resource by developing, administering and monitoring access, information and implementation programmes;
- (g) shall actively promote the development of the previously marginalised languages by-
 - (i) developing, administering and monitoring access, information and implementation programmes; and
 - (ii) undertaking such studies for report on or relating to language development as it considers advisable in the exercise of its powers and the performance of its functions;
- (h) may in respect of equitable, wide-spread language facilitation services, issue directives on and monitor-
 - (i) applicable standards determined by the Board for such services; and
 - (ii) the rendering of such services;
- (i) may investigate on its own initiative or on receipt of a written complaint, any alleged violation of a language right, language policy or language practice in terms of section 11;
- (j) may, having regard to the constitutional provisions and principles dealing directly or indirectly with language matters in general, and to section 3(9) of the Constitution in particular-

- (i) monitor the observance of the constitutional provisions regarding the use of language;
 - (ii) monitor the contents and observance of any existing and new legislation, practice and policy dealing directly or indirectly with language matters at any level of government;
 - (iii) assist with and monitor the formulation of programmes and policies aimed at fostering the equal use of and respect for the official languages, while taking steps to ensure that communities using the languages referred to in section 3(10)(c) of the Constitution have the opportunity to use their languages in appropriate circumstances;
 - (iv) for purposes of this subsection, in appropriate circumstances, make funds available for such a period and subject to such conditions as the Board may from time to time determine;
- (k) may establish, compile and maintain databases including, but not limited to, databases of-
- (i) all legislative measures (including the provisions of the Constitution) dealing with language matters; and
 - (ii) every policy and practice of any institution or organ of state dealing directly or indirectly with language matters.
- (2) The Board may-
- (a) initiate studies and research aimed at-
 - (i) promoting respect for the official languages of the Republic referred to in section 3(1) of the Constitution, and their equal use and enjoyment;
 - (ii) promoting respect for the languages referred to in section 3(10)(c) of the Constitution;
 - (iii) the development of the previously marginalised languages of South Africa;
 - (iv) the non-diminution of rights relating to language and the status of languages existing at the commencement of the Constitution;
 - (v) promoting multilingualism in South Africa;
 - (vi) promoting the utilisation of South Africa's language resources; and
 - (vii) the prevention of the use of any language for the purposes of exploitation, domination or division;
 - (b) advise on the co-ordination of language planning in South Africa;
 - (c) facilitate co-operation with language planning agencies outside South Africa; and
 - (d) make funds available for the purpose of this subsection for such period and subject to such conditions as the Board may from time to time determine.
- (3) The Board may commission any person or body of persons or institution to conduct research and prepare publications on its behalf and may for this purpose make resources available to any such person or body of persons or institution.

(4) For the purposes of this section, the Board may provide any person or body of persons with financial or other assistance.

(5) The Board shall initiate or investigate legislation, policy and practice dealing directly or indirectly with language in general and the provisions of the Constitution dealing directly or indirectly with language at any level of government, or cause it to be investigated, and may submit recommendations thereon to any legislature or organ of state.

(6) The Board may summon any person to give evidence before it, or to produce any official document or such other information or object as may be necessary for the performance of the Board's functions.

(7) If the Board deems it necessary, it may advise the Government to provide individuals or groups who are adversely affected by gross violations of language rights with financial and other support.

(8) The Board shall in the manner prescribed by the Board by notice in the Gazette and the Provincial Gazette establish-

(a) a provincial language committee in each province to advise it on any language matter in or affecting any province or any part thereof where no such provincial committee exists or where an existing provincial language committee has jurisdiction only with respect to the official languages of a particular province: Provided that if a provincial language committee exists in a particular province, and such a committee is, in the view of the Board, sufficiently representative of the languages used in the province, that committee shall be deemed to have been established in terms of this subsection for as long as it remains so representative;

(b) a language body to advise it on any particular language, sign language or augmentative and alternative communication if no such language body exists or if an existing language body does not serve its purpose: Provided that if such a body exists, it shall be deemed to have been established in terms of this subsection.

(9) The Board may authorise any of its members to act on its behalf in any matter.

(10) The Board may-

(a) appoint one or more committees consisting of one or more of its members and such other persons as it deems fit, to advise it on the exercise and performance of the Board's powers and functions;

(b) delegate or assign to any committee such of its powers, duties and functions as it deems fit;

(c) designate a chairperson and, if it deems it necessary, a deputy chairperson for every committee; and

(d) require a report to be submitted by a committee on completion of the duties and functions assigned to it under paragraph (b).

(11) The Board may in furtherance of its objects and for the purpose of the exercise of its powers and performance of its functions-

(a) make rules and issue notices; and

(b) publish such rules and notices in the Gazette and in the Provincial Gazette.

Board's relationship with organs of state, other institutions, persons and

bodies of persons

9. (1) The Board shall strive to promote close co-operation between itself and organs of state or any person or body of persons or any institution involved in the development of language and the promotion of language rights.

(2) The Board may consult and work closely with any person or body of persons who has special knowledge of and experience in the language problems of South Africa, or who is in any way involved in the development and promotion of the principles referred to in section 3 of the Constitution.

(3) The Board, prior to making or publishing any report, findings, point of view, advice or recommendation, shall obtain the advice of-

(a) the provincial language committee concerned established under section 8(8) (a);

(b) any organ of state in respect of a matter impacting directly or indirectly on any language, language policy or language practice followed, implemented or proposed by or in such organ of state;

(c) any language body established under section 8(8) (b); or

(d) any person, group, language body or institution involved in or having an interest in the promotion of the official South African languages by inviting submissions by means of a notice to this effect in the Gazette and the Provincial Gazette.

(4) The committee, organ of state or language body referred to in paragraphs (a), (b) and (c) shall be compelled to give the advice requested by the Board.

(5) The Board may consult with any person, body, group or institution other than those referred to in subsection (3).

Performance of administrative work of Board

10. (1) The Board shall, at its first meeting or as soon as practicable thereafter, appoint a chief executive officer of the Board who-

(a) shall, in consultation with the Public Service Commission and the Minister of Finance, appoint such staff as may reasonably be necessary to assist him or her with the work incidental to the performance of the functions of the Board;

(b) shall be responsible for the management of and administrative control over the staff appointed in terms of paragraph (a), and shall for those purposes be accountable to the Board;

(c) shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975),-

(i) be charged with the responsibility of accounting for State money received or disbursed for or on behalf of the Board;

(ii) cause the necessary accounting and other related records to be kept;

(d) shall exercise the powers and carry out the duties and perform the functions which the Board from time to time confers on or assigns to him or her in order to achieve the objects of the Board, and shall for those purposes be accountable to the Board.

(2) The records referred to in subsection (1)(c) (ii) shall be audited by the Auditor-General.

(3) Expenditure in connection with matters provided for in this Act shall be paid out of money appropriated by Parliament for that purpose.

(4) The chief executive officer of the Board shall be appointed on such terms and conditions and shall receive such remuneration, allowances and other service benefits as the Board may determine in accordance with the regulations made under subsection (7).

(5) The other staff of the Board shall be appointed on such terms and conditions and shall receive such remuneration, allowances and other service benefits as the chief executive officer may determine in accordance with the regulations made under subsection (7).

(6) The Board may, in consultation with the Public Service Commission, in the exercise of its powers or the performance of its functions in terms of this Act, the Constitution or any other law, in the case of specific projects, enter into contracts for the purpose of obtaining the services of persons having technical or specialised knowledge of any matter relating to the functions of the Board and, with the concurrence of the Minister of Finance, determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.

(7) The President may, after the Board has made a recommendation and after consultation with the Public Service Commission, make regulations regarding the following matters in relation to the staff of the Board:

- (a) (i) The different categories of salaries and scales of salaries which shall apply to the different categories of staff;
- (ii) the requirements for appointment, promotion, discharge and disciplinary steps;
- (iii) the recognition of appropriate qualifications and experience for the purposes of appointment to a specific post;
- (iv) the procedure and criteria for evaluation, and the conditions or requirements for promotion;
- (b) the powers, duties, conduct, discipline, hours of attendance and leave of absence, including leave gratuity, and other conditions of service;
- (c) the creation of posts on the establishment of the Board;
- (d) the training of staff, including financial assistance for such training;
- (e) a code of conduct to be complied with by staff;
- (f) the provision of official transport;
- (g) the conditions on which and the circumstances under which remuneration for overtime duty and travel, subsistence, climatic, local and other allowances may be paid;
- (h) subject to section 14, the legal liability of any member of staff in respect of any act performed in terms of this Act or any other law and the legal liability emanating from the use of official transport;
- (i) the circumstances under which and the conditions on and the manner in which a member of staff may be found guilty of misconduct, or to be suffering from continued ill-health, or to be incapable of carrying out his or her duties of office efficiently;
- (j) the procedure for dealing with complaints and grievances of members of

staff and the manner in which and time when or period wherein and person to whom documents in connection with requests and communications of such members of staff shall be submitted;

- (k) the membership or conditions of membership of a particular pension fund and the contributions to and the rights, privileges and obligations of members of staff or their dependants with regard to such a pension fund;
- (l) the membership or conditions of membership of a particular medical aid scheme or medical aid society and the manner in which and the conditions on which membership fees and other moneys which are payable or owing by or in respect of members of staff or their dependants to a medical aid scheme or medical aid society may be recovered from the salaries of such members of staff and paid to such medical aid scheme or medical aid society;
- (m) the contribution to and the rights, privileges and obligations of members of staff or their dependants with regard to such a medical aid scheme or medical aid society;
- (n) in general, any matter which is not contrary to this Act or the Constitution and which is reasonably necessary for the regulation of the terms and conditions of service of members of staff.

(8) Any regulation under this section relating to State expenditure shall be made in consultation with the Minister of Finance.

(9) When making an appointment in terms of this section, the Board shall seek to ensure that the staff of the Board is broadly representative of the South African population.

Procedure of and mediation, conciliation or negotiation by Board

11. (1) Any person acting on his or her own behalf or any person, body of persons or institution acting on behalf of its members or members of a language group or any organ of state may lodge with the Board a complaint concerning any alleged violation or threatened violation of a language right, language policy or language practice.

(2) The complaint shall be in writing and shall specify-

- (a) the interest of the complainant in the matter;
- (b) (i) the nature of the right allegedly violated or allegedly threatened to be violated; or
(ii) the grounds on which he or she is of the opinion that an investigation is necessary; and
- (c) all relevant information known to him or her.

(3) The Board shall render the necessary assistance free of charge for the purposes of submitting a complaint and, where necessary, shall assist the complainant to comply with the requirements referred to in subsection (2).

(4) The Board shall on its own initiative or on receipt of a written complaint investigate the alleged violation of any language right, language policy or language practice.

(5) (a) The Board shall, after an investigation of the alleged violation in terms of subsection (4), and if it is of the view that there is substance in the allegation, by mediation or conciliation or negotiation, endeavour-

- (i) to resolve and settle any dispute; or
 - (ii) to rectify any act or omission,
arising from or constituting a contravention or infringement of legislation or alleged contravention or infringement of legislation, language policy or language practice, or a violation of or threat, or alleged violation of or threat to any language right.
- (b) If any endeavour in terms of paragraph (a) fails and provided that the Board is of the view that there are good reasons to address the matter further, the Board shall assist the complainant or other persons adversely affected to secure redress by-
- (i) referral of the matter, with a recommendation, to the organ of state against which the complaint was lodged;
 - (ii) recommending that the organ of state against which the complaint was lodged provide the complainant with financial or other assistance with a view to redressing any damage;
 - (iii) providing, in its sole discretion, the complainant with financial or other assistance to redress any damage; or
 - (iv) making arrangements for or providing the complainant with financial or other assistance to enable him or her to obtain relief from any other organ of state or a court of law.

(6) The Board shall inform the complainant of its decisions and, in a case where the Board has decided to take no action, it shall inform the complainant of the reasons for such decision.

(7) The Board shall publish its decisions in accordance with section 12(1).

Reports

12. (1)(a) The Board shall make public its reports, findings, points of view, advice or recommendations by means of publication in the Gazette on a quarterly basis or such other shorter period as the Board deems fit, and in the case of provincial language matters, also in the Provincial Gazette.

(b) The Board may, at any time, submit a report to Parliament or a provincial legislature if it deems it necessary.

(2) The Board's reports shall be taken into account by Parliament, legislatures and executive bodies at all levels of government, and by all organs of state, other institutions, persons and bodies of persons.

(3) The Board shall annually not later than the first day of June submit to-

(a) Parliament a comprehensive report on all its activities during the preceding year, up to 31 March; and

(b) a provincial legislature a comprehensive report on all its activities in respect of provincial language matters regarding that province.

Remuneration and allowances of members of Board

13. A member of the Board or of any committee thereof may, from moneys appropriated by Parliament for such purpose, be paid such remuneration and allowances in respect of services performed by him or her with regard to the functions of the Board, as may be determined by the President in consultation with the Cabinet and the Minister of Finance.

Liability of Board

14. (1) The State Liability Act, 1957 (Act No. 20 of 1957), shall apply mutatis mutandis in respect of the Board and any reference in the Act to the "Minister of the department concerned" shall be construed as a reference to the Board.

(2) A member of the Board shall not be personally liable in respect of anything reflected in any report, finding, point of view, advice or recommendations made or expressed in good faith and submitted to Parliament or any provincial legislature or made known in terms of this Act or the Constitution.

Short title

15. This Act shall be called the Pan South African Language Board Act, 1995.