

REPUBLIC OF SOUTH AFRICA

EXPLANATORY MEMORANDUM

PROHIBITION OF IMPROPER INTERFERENCE BILL, 1966

CLAUSE ONE

In terms of this clause the population of the Republic will be divided into four population groups for the purposes of this Bill, namely the White, Bantu, Indian and Coloured population groups, based on the classification in terms of the Population Registration Act, 1950.

That Act provides that only South African citizens and persons who are not such citizens but who have obtained permanent residence in this country, must be classified for purposes of the population register.

No person who is not classified in terms of the Population Registration Act, 1950, i.e. aliens who are only temporarily in the Republic, will be able to interfere with the political activities of the one or other population group or take part therein in a way which will be prohibited by this Bill.

CLAUSE TWO

1. In this clause certain acts are indicated which a person who is a member of one population group may not perform, directly or indirectly, with regard to any one of the other three population groups or members thereof, namely-

- (a) he will not be able to render any assistance to a member of any one of the other three population groups in regard to such person's registration as a voter;
- (b) he will not be able to take part in or render assistance in connection with the establishment or organization of the political parties of another population group;
- (c) he will not be able to be a member of or take part in the political activities of members of any one of the other three population groups. The result of this is that no mixed political parties will be allowed. In case of a contravention, every member of such a party will be subject to the penalties indicated in clause 5;
- (d) he will not be able to render financial assistance or hold meetings or in any other way make propaganda or prepare or disseminate propaganda material or render any other assistance to support or oppose a political party of another population group than his own or support or oppose the election of a candidate at an election by members of such other population group.

The result will be that the political parties of each population group will only be able to oppose one another, but will not in any way be able to render support to or oppose the political parties of other population groups.

Members of one population group may, however, address members of other population groups or in any way approach them to publicize their own political convictions to such other population groups, provided such publication is not in support of a specific political party of that other population group or of a specific candidate at an election by members of such other population group. The lastmentioned prohibition does not apply in respect of a candidate nominated for election by members of such population group or their elected representative.

These provisions do not prohibit any member of any population group to criticize the actions of the government of the day, provided such criticism if delivered by a member of a population group other than the population group out of which the government is constituted does not refer to the political party of which members of the government are members.

The freedom of the Press is explicitly guaranteed by sub-clause 2(6) whereby it is provided that the provisions of this Bill are in no way applicable to registered newspapers;

- (e) he will not be able to convey any member of another population group to a polling station or other place of voting or to render assistance in regard to such conveyance;
- (f) he will not in the case of a White person who is a candidate at an election in terms of the Separate Representation of Voters Act, 1951, or who is in terms of the provisions of that Act, elected as a member of the House of Assembly or Provincial Council of the Cape of Good Hope, be able to intimate to the non-White voters that he is or was a member or supporter of a White political party or of a political party of another population group or enlighten them in regard to the principles which he describes as the principles of such White or other political party.

Such candidate or member will, however, be able in terms of paragraph 2(4)(b) to obtain support for his election, or to report to his voters, or intimate his views about the political parties of those voters to them.

2. The Minister of the Interior will be empowered to prohibit anything else which in his judgment may have the effect of defeating the objects of the Bill (clauses 2(1)(g) and 2(3)).

3. In terms of sub-clause 2(4) state officials and other persons in the exercise of their powers or performance of functions or duties in terms of a legal provision or professional persons in the exercise of their profession, will not be subject to the provisions of clause 2(1).

4. In terms of sub-clause 2 (7) the prohibition contained in sub-clause 2(1) will also be applicable to legal entities and powers are granted to the Minister to prevent the defeat of the Act by such legal entities.

CLAUSE THREE

In this clause it is proposed that the Minister be empowered to exempt by notice in the Gazette any person or class or group of persons from the provision of the Bill and to withdraw such exemption.

CLAUSE FOUR

This clause provides for the tabling of any notice issued by the Minister.

CLAUSE FIVE

In sub-clause (1) the penalties for contravention of clause 2 are prescribed whilst in sub-clause (2) it is proposed that at a second conviction a person shall be disqualified as a voter for a period of 5 years whether or not he is punished with a fine or imprisonment or both.

In the case of senators, and members of the House of Assembly or provincial councils such disqualification as a voter will also result in disqualification as such member.

It is however proposed in sub-clause 5 (4) that prosecutions may only be instituted on the express directions of the Attorney-General.

CLAUSE SIX

Additional qualifications for nomination as senator in terms of the Separate Representation of Voters Act, 1951, are proposed, namely--

- (1) such a person may not for a period of three years before his nomination have belonged to a White political party or have been associated with or have received support from it. A sitting senator is, however, protected in that it is only required of him to have ceased the day before his first nomination after the coming into force of this Act, to belong to such a party, or to have been associated with or to have received support from it;
- (2) such a person must deliver to the Minister of the Interior the declaration and undertaking mentioned in this clause;
- (3) such a person must not have been convicted during a period of 5 years before nomination day of an offence in terms of clause 5 of this Bill.

Penalties are prescribed for a false declaration or an act contrary to the undertaking.

CLAUSES SEVEN AND EIGHT

For the election of a member of the House of Assembly or a member of the provincial council of the Cape of Good Hope in terms of the Separate Representation of Voters Act, 1951, it is required that a candidate shall not for a period of 3 years before the day on which nomination takes place, have belonged to a white political party or have been associated with or have received support from it.

A sitting member is, however, protected in that it is only required of him that on the day before his first nomination after the coming into operation of this Act, he should have ceased to belong to such party or have been associated with or have received support from it.

The provisions of clauses 6, 7 and 8 are independent of each other and that means that the protection to a sitting senator, member of the House of Assembly or provincial councillor only applies in respect of a nomination or election to the body of which he is at present a member.

CLAUSE NINE

In sub-clause (a) it is proposed that no senator or member of the House of Assembly or member of the provincial council or commissioner of oaths, shall as presiding officer handle postal votes at elections in terms of the Separate Representation of Voters Act, 1951, but that only non-Whites will be able to handle postal votes or to be nominated or appointed as election agents, sub-agents, polling agents and messengers.

In sub-clause (b) the same requirements are stated for a candidate at a nomination for an election as a member of the House of Assembly or a member of the provincial council in terms of the Separate Representation of Voters Act, 1951, as those with which a senator must comply at nomination.

The same penalties as in the case of a false declaration or violation of his undertaking by a senator are prescribed, and in addition specific provision is made for vacation of seats in all cases in the event of conviction in the case of a senator by the proposed section 8 (6) of Act 46 of 1951, and in the case of a member of the House of Assembly or a provincial councillor by the proposed section 36 (12) of Act 46 of 1946.

CLAUSE TEN

It is proposed that the Minister of the Interior be empowered if he has reason to believe that a nomination of a candidate at the election of a member of the House of Assembly or a member of the provincial council is contrary to law, to submit the matter to the competent division of the Supreme Court for decision.

CLAUSE ELEVEN

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