

105.2.4

REPUBLIEK VAN SUID-ÁFRIKA

**WETSONTWERP VIR DIE  
BEVORDERING VAN  
ORDELIKE BINNELANDSE  
POLITIEK**

*(Soos ingedien)*

(MINISTER VAN JUSTISIE)

[W 50—88 (AS)]

REPUBLIC OF SOUTH AFRICA

**PROMOTION OF ORDERLY  
INTERNAL POLITICS BILL**

*(As introduced)*

(MINISTER OF JUSTICE)

[B 50—88 (GA)]

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## GENERAL EXPLANATORY NOTE:

[                    ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with solid line indicate insertions in existing enactments.

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# BILL

To prohibit or further regulate the receipt of money from outside the Republic by or for certain organizations and persons for certain purposes; and create certain offences in relation to conduct in respect of certain groups; to amend the Fund-raising Act, 1978, so as to make further provision for control of the collection of certain contributions; and to provide for matters connected therewith.

**B**E IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

### Definitions

1. In this Act, unless the context otherwise indicates—
- 5 (i) "Director-General" means the Director-General: Justice; (v)  
(ii) "financial institution" means—  
(a) a bank as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965);  
10 (b) a mutual building society as defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965); or  
(c) a building society as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986); (vi)  
(iii) "inspector" means an inspector appointed under section 11; (ix)  
(iv) "Minister" means the Minister of Justice; (x)  
15 (v) "money" includes anything which can be cashed or converted into money; (vii)  
(vi) "office-bearer", in relation to an organization, means a member of the governing or executive body of—  
20 (a) the organization;  
(b) any branch, section or committee of the organization; or  
(c) any local, regional or subsidiary body forming part of the organization;  
(i)  
(vii) "officer", in relation to an organization, means a person working for the organization or for a branch, section or committee of the organization, or  
25 for a local, regional or subsidiary body forming part of the organization; (ii)  
(viii) "organization" includes any body, group or association of persons, or any institution, federation, society, movement, trust or fund, incorporated or unincorporated, and whether or not it has been established or registered in accordance with any law; (xi)  
30 (ix) "prescribe" means prescribe by regulation under section 15; (xiii)  
(x) "Registrar" means the Registrar of Restricted Organizations and Persons appointed under section 4; (xii)  
(xi) "restricted organization" means an organization declared under section 3 to be a restricted organization; (iii)

- (xii) "restricted person" means a person declared under section 3 to be a restricted person; (iv)  
 (xiii) "this Act" includes regulations made under section 15. (viii).

#### Prohibition of receipt of foreign money for political purposes

5 2. No political party as defined in section 1 of the Electoral Act, 1979 (Act No. 45 of 1979), may directly or indirectly receive any money from outside the Republic, and no other organization or person may directly or indirectly receive from outside the Republic, or directly or indirectly bring in or cause to be brought into the Republic, any money which is intended to be used, or in the discretion of that  
 10 organization or person may be used, to further, propagate, pursue or oppose any political aim or object.

#### Declaration of certain organizations or persons as restricted organizations or persons

3. (1) If the Minister is satisfied that an organization or person—  
 15 (a) engages or participates in the furthering, propagating, pursuing or opposing of any political aim or object; or  
 (b) is being used as a channel for introducing money which in the opinion of the Minister is to be used for the financing of activities—  
 (i) which may endanger the safety of the public or the maintenance of public order in the Republic; or  
 20 (ii) which may delay the termination of a state of emergency the existence of which has been declared in the Republic, from outside the Republic into the Republic; and  
 (c) has received or receives money from outside the Republic, he may, without prior notice to that organization or person and without hearing any person,  
 25 by notice in the *Gazette* declare the organization or person to be a restricted organization or a restricted person, as the case may be.  
 (2) The Minister may at any time by like notice withdraw a notice issued under subsection (1).

#### Appointment of Registrar of Restricted Organizations and Persons

30 4. The Minister shall appoint an officer in the public service as Registrar of Restricted Organizations and Persons, who shall exercise the powers and perform the duties conferred or imposed upon him by or under this Act, subject to the control and supervision of the Minister.

#### Transfer or delivery of foreign money of restricted organizations or persons to Registrar

5. (1) The Registrar may in writing direct any restricted organization or person to transfer or deliver to him, forthwith, any money in the possession or under the control of that organization or person received from outside the Republic before that organization or person was declared to be a restricted organization or a restricted  
 40 person, as the case may be.  
 (2) (a) A restricted organization which or person who receives any money directly or indirectly coming from outside the Republic, and any other organization which or person who receives such money for or on behalf of or for the benefit of a restricted organization or person, shall forthwith—  
 45 (i) on the prescribed form give notice to the Registrar of such receipt; and  
 (ii) transfer or deliver that money to the Registrar.  
 (b) Where any money has so been transferred or delivered by an organization or person other than the restricted organization or person concerned, the Registrar shall in writing give notice to that restricted organization or person of the transfer or delivery.  
 50 (3) (a) If the Registrar has reason to suspect that any money in the possession or under the control of a restricted organization or person or any other organization or person is money contemplated in subsection (2) (a) which has not been transferred or delivered to the Registrar in terms of that subsection, he may in writing direct the restricted organization or person or  
 55 the other organization or person, as the case may be, to transfer or deliver the money to him.

(b) Where the direction is addressed to an organization or person other than the restricted organization or person concerned, the Registrar shall cause a copy thereof to be served on that restricted organization or person.

(4) Any money which—

- 5 (a) has, on instruction from outside the Republic, been credited to the account of a restricted organization or person, or of any other organization or person for the benefit of a restricted organization or person; or  
 (b) has been paid to a restricted organization or person, or any other organization or person for the benefit of a restricted organization or person,  
 10 from a bank account in the Republic of a person who is resident outside the Republic or an organization of which the head-office is outside the Republic,

shall for the purposes of this Act be deemed to have been received by the restricted organization or person concerned from outside the Republic.

- 15 (5) Money which has been transferred or delivered to the Registrar in terms of subsection (1), (2) or (3), shall be handled by him as if it were trust money as defined in section 1 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975).

#### Furnishing of proof to Registrar

6. (1) A restricted organization or person may within 30 days as from the date—  
 20 (a) on which that organization or person transferred or delivered any money in terms of section 5 (1), (2) (a) or (3) (a) to the Registrar;  
 (b) of receipt of a notice in terms of section 5 (2) (b);  
 (c) on which a copy of a direction in terms of section 5 (3) (b) was served on that organization or person,

25 furnish the Registrar with proof in writing—

- (i) in relation to the source from which the money came or was acquired;  
 (ii) of the reason why and the purpose for which the money was paid or forwarded to the restricted organization or person; and  
 (iii) of the purpose for which the money is to be used.

30 (2) Where proof in terms of subsection (1) has been furnished to the Registrar, he may—

- (a) in writing direct the restricted organization or person concerned to furnish such further information as the Registrar may deem necessary or expedient;  
 35 (b) in writing direct the restricted person concerned, or, in the case of a restricted organization, an office-bearer or officer of that organization, or any other person whom he has reason to believe to be able to furnish such further information, to appear before the Registrar at the time and place mentioned in the direction to be examined by him in relation to any matter referred to in subparagraph (i), (ii) or (iii) of subsection (1).

(3) The restricted organization or person concerned may within the period of 30 days referred to in subsection (1) request the Registrar in writing to be afforded the opportunity to give oral evidence before him, and the Registrar shall upon the receipt of such a request afford the restricted person or, in the case of a restricted  
 45 organization, any office-bearer or officer of the restricted organization, the opportunity to give such evidence before him.

(4) The Registrar may administer the oath to or accept an affirmation from any person who is being examined by him or is giving oral evidence before him.

(5) No person who is being examined by the Registrar or is giving oral evidence  
 50 before him shall be entitled to be assisted at his appearance before the Registrar in terms of this section by a legal representative, and no other person shall be present during such examination or giving of evidence, except a person in the service of the State whose presence is considered necessary by the Registrar.

(6) A person who has been directed under subsection (2) to appear before the  
 55 Registrar, shall be entitled to the same witness fees as may be payable to a witness in criminal proceedings.

(7) The Registrar may, in the performance of his functions in terms of this section, at any time and without prior notice enter any premises and there make such investigation and inquiry as he may deem necessary, and seize any document on  
 60 those premises which in his opinion has a bearing on the purpose of the investigation, or make extracts therefrom or copies thereof, and require any person whom he suspects to have the necessary information, to give an explanation of anything contained in such a document.

**Powers of Minister and Registrar in relation to money of restricted organizations or persons**

7. (1) If no proof referred to in section 6 (1) has been furnished to the Registrar, he shall return the money transferred or delivered to him in terms of section 5 (2) or 5 by virtue of a direction under section 5 (1) or (3), to the foreign source from which the money came or, if the return is not practicable, dispose of the money in such manner as the Minister may, after consultation with the Minister of National Health and Population Development, determine.

(2) (a) If the Registrar, after consideration of any proof, further information, document or explanation contemplated in section 6 and after any examination, investigation or inquiry so contemplated, is satisfied that the money concerned or any part thereof will not be used for the furthering, propagating, pursuing or opposing of any political aim or object or for the financing of any activity contemplated in section 3 (1) (b) (i) or (ii), he shall transfer or deliver the money or the part thereof concerned, as the case may be, to the restricted organization or person concerned;

(b) The Registrar shall in relation to any money concerned which is not so transferred or delivered submit a written report of his findings to the Minister.

(3) If the Minister, after consideration of the Registrar's report in terms of subsection (2)—

(a) does not agree with the findings of the Registrar, he shall direct the Registrar to hand over or deliver the money to which the report relates to the restricted organization or person concerned;

(b) is satisfied that the findings of the Registrar are correct, he shall—

(i) direct the Registrar to return that money to the foreign source from which it came or, if the return is not practicable, to dispose of the money in such manner as the Minister may, after consultation with the Minister of National Health and Population Development, determine; and

(ii) by registered letter give notice to the restricted organization or person concerned of his decision.

**Time limit in respect of, and effect of, certain proceedings**

8. (1) After the expiration of a period of 30 days—

(a) as from the date of a notice issued by the Minister in terms of section 3 (1), no proceedings shall be instituted in any court for an order declaring the notice invalid, and after the expiration of a period of 12 months as from the date of such a notice, no court shall have jurisdiction to pronounce upon the validity thereof;

(b) as from the date of receipt of a notice contemplated in section 7 (3) (b) (ii), no proceedings shall be instituted in any court for an order declaring the decision concerned of the Minister in terms of section 7 (3) (b) invalid, and after the expiration of a period of 12 months as from the date of receipt of such a notice, no court shall have jurisdiction to pronounce upon the validity of the decision concerned;

Provided that if the court concerned is satisfied that the fact that such proceedings have at the expiration of the said period of 12 months not yet been concluded, is not due to the fault of the party who instituted the proceedings, the court may extend that period by such further period as the court may deem fit.

(2) No court shall have jurisdiction to make an order whereby, pending the outcome of proceedings contemplated in subsection (1), the operation of any notice issued by the Minister in terms of section 3 (1) is suspended or in any other manner postponed.

(3) When proceedings contemplated in subsection (1) have been instituted for an order setting aside a decision of the Minister in terms of section 7 (3) (b), the money concerned shall not be disposed of in accordance with section 7 (3) (b) (i) before judgment has been given in the proceedings.

**Use of money transferred or delivered to restricted organizations or persons**

9. No money transferred or delivered to a restricted organization or person in terms of or by virtue of this Act shall be used for any purpose other than the purpose stated in the proof contemplated in section 6 (1) (iii).

### Accounting of financial activities

10. Every restricted organization or person shall—

- 5 (a) open a separate savings or cheque account at a financial institution, into which it or he shall deposit all money transferred by the Registrar to it or him in terms of section 7;
- (b) in one of the official languages of the Republic, keep the prescribed records of its or his financial transactions in relation to all such money;
- (c) furnish the Registrar with the prescribed reports, returns and financial statements at the prescribed times.

### 10 Inspection of affairs of restricted organizations or persons

11. (1) The Registrar may with the approval of the Director-General appoint officers in the public service as inspectors, who shall exercise the powers and perform the duties conferred or imposed upon them by or under this Act, subject to the control and supervision of the Registrar.

15 (2) If the Registrar deems it necessary, he may with the approval of the Director-General and on such conditions as the Minister may determine with the concurrence of the Minister of Finance, but subject to the laws relating to the public service, appoint any person who is not in the full-time employment of the State, as an inspector in a particular case or may so appoint such a person to assist an inspector  
20 appointed in terms of subsection (1) with an inspection referred to in subsection (5).

(3) A person appointed in terms of subsection (2) shall, for the purpose of the inspection for which he has been appointed, have all the powers and all the duties of an inspector referred to in subsection (1).

(4) A person appointed as an inspector in terms of subsection (1) or (2) shall be  
25 furnished with a certificate of appointment signed by the Registrar and stating that he has been appointed as an inspector in terms of this section.

(5) The Registrar or an inspector may at any time inspect the affairs or any part of the affairs of a restricted organization or person.

(6) The Registrar or an inspector who carries out an inspection of the affairs of a  
30 restricted organization or person in terms of this section—

- 35 (a) may at any time and without prior notice enter any premises and there make such investigation and inquiry as he may deem necessary, and without a warrant search those premises for money, securities, records, accounts or documents, and while he is on the premises or at any other time request any person to deliver to him, there and then or at a time and place determined by him, any or all of the securities, records, accounts or documents in relation to the restricted organization or person concerned;
- 40 (b) may examine any or all of such securities, records, accounts or documents and make or cause to be made extracts therefrom or copies thereof or, after he has issued a receipt therefor, remove from the premises concerned such securities, records, accounts or documents for examination by him or for the making of any extract therefrom or copy thereof, or may seize them if, in his opinion, they can provide proof of the commission of any offence or irregularity;
- 45 (c) may request from any person referred to in paragraph (a), or from any office-bearer or officer of the restricted organization concerned, or from the restricted person concerned, such explanations of any entry in the securities, records, accounts or documents referred to in paragraph (a) as he may deem necessary;
- 50 (d) may examine any person who is or was an office-bearer or officer of the restricted organization concerned, or the restricted person concerned, or any person who is or was an employee, auditor, accountant or representative of that organization or person, in relation to the affairs and activities of the organization or person concerned, in so far as they are connected with  
55 the receipt and appropriation of money, and may for the purpose of the examination administer the oath to or accept an affirmation from him.

(7) A person who is being examined in terms of subsection (6) shall be entitled to have his legal representative present at the examination.

(8) A person requested thereto in terms of subsection (6) (a), shall forthwith, or at the time and place determined by the Registrar or an inspector under that subsection, deliver to the Registrar or inspector any security, record, account or document referred to in that subsection which is in his possession or under his control or to which he has access, and shall at the request of the Registrar or inspector furnish the Registrar or inspector with the information at his disposal in relation to that security, record, account or document, or in relation to the affairs and activities of the restricted organization or person concerned.

(9) A person carrying out or assisting with an inspection under this section, shall preserve or assist in preserving secrecy in respect of all matters that may come to his knowledge in the performance of his functions, and shall not communicate any such matter to any person other than the Registrar, except by an order of a court of law.

(10) Notwithstanding subsection (9), any information acquired by the Registrar as a result of an inspection under this section may be used by the Registrar or his staff in the performance of their functions in terms of this Act.

#### Service of notices and orders

12. Any notice or direction issued by the Registrar under this Act, and any copy as contemplated in section 5 (3) (b), shall be served—

- (a) by sending it by registered letter through the post; or
- (b) by delivering or tendering it to the person concerned or to an office-bearer or officer of the organization concerned.

#### Offences and penalties

13. (1) A person who—

- (a) contravenes section 2;
- (b) refuses or fails to comply with section 5 (2) (a) or a direction under section 5 (1) or 5 (3) (a);
- (c) refuses or fails to comply with a direction under section 6 (2);
- (d) refuses to answer any question put to him in terms of section 6 (2);
- (e) contravenes section 9;
- (f) contravenes section 10, or conceals, destroys, mutilates or forges any prescribed record contemplated in that section, or enters any false entry into such a record, or with the intent to defraud or to deceive, erases anything contained in such a record;
- (g) refuses or fails to comply with any request by the Registrar or an inspector in terms of section 11 or to answer to the best of his knowledge any question put to him by the Registrar or an inspector in the exercise of his powers;
- (h) wilfully hinders or obstructs the Registrar or an inspector or a person appointed in terms of section 11 (2) in the performance of his functions, or falsely represents himself to be the Registrar or an inspector or a person appointed in terms of section 11 (2); or
- (i) participates in any transaction, agreement or scheme which is intended to evade section 5 (2).

shall be guilty of an offence.

(2) A person convicted of an offence referred to in subsection (1) shall be liable on conviction—

- (a) in the case of an offence referred to in paragraph (a), (b), (e) or (i) of subsection (1), to a fine not exceeding R20 000 or to a fine equal to twice the amount of money involved, whichever shall be the greater, or to imprisonment for a period not exceeding 10 years or to both that fine and that imprisonment;
- (b) in the case of an offence referred to in paragraph (c), (d), (f), (g) or (h) of subsection (1), to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one year or to both that fine and that imprisonment.

#### Presumption in connection with use of certain foreign money

14. If in any prosecution for the contravention of section 2 in which it is alleged—

(7) A person who is being examined in terms of subsection (6) shall be entitled to have his legal representative present at the examination.

(8) A person requested thereto in terms of subsection (6) (a), shall forthwith, or at the time and place determined by the Registrar or an inspector under that subsection, deliver to the Registrar or inspector any security, record, account or document referred to in that subsection which is in his possession or under his control or to which he has access, and shall at the request of the Registrar or inspector furnish the Registrar or inspector with the information at his disposal in relation to that security, record, account or document, or in relation to the affairs and activities of the restricted organization or person concerned.

(9) A person carrying out or assisting with an inspection under this section, shall preserve or assist in preserving secrecy in respect of all matters that may come to his knowledge in the performance of his functions, and shall not communicate any such matter to any person other than the Registrar, except by an order of a court of law.

(10) Notwithstanding subsection (9), any information acquired by the Registrar as a result of an inspection under this section may be used by the Registrar or his staff in the performance of their functions in terms of this Act.

#### Service of notices and orders

12. Any notice or direction issued by the Registrar under this Act, and any copy as contemplated in section 5 (3) (b), shall be served—

- (a) by sending it by registered letter through the post; or
- (b) by delivering or tendering it to the person concerned or to an office-bearer or officer of the organization concerned.

#### Offences and penalties

13. (1) A person who—

- (a) contravenes section 2;
- (b) refuses or fails to comply with section 5 (2) (a) or a direction under section 5 (1) or 5 (3) (a);
- (c) refuses or fails to comply with a direction under section 6 (2);
- (d) refuses to answer any question put to him in terms of section 6 (2);
- (e) contravenes section 9;
- (f) contravenes section 10, or conceals, destroys, mutilates or forges any prescribed record contemplated in that section, or enters any false entry into such a record, or with the intent to defraud or to deceive, erases anything contained in such a record;
- (g) refuses or fails to comply with any request by the Registrar or an inspector in terms of section 11 or to answer to the best of his knowledge any question put to him by the Registrar or an inspector in the exercise of his powers;
- (h) wilfully hinders or obstructs the Registrar or an inspector or a person appointed in terms of section 11 (2) in the performance of his functions, or falsely represents himself to be the Registrar or an inspector or a person appointed in terms of section 11 (2); or
- (i) participates in any transaction, agreement or scheme which is intended to evade section 5 (2),

shall be guilty of an offence.

(2) A person convicted of an offence referred to in subsection (1) shall be liable on conviction—

- (a) in the case of an offence referred to in paragraph (a), (b), (e) or (i) of subsection (1), to a fine not exceeding R20 000 or to a fine equal to twice the amount of money involved, whichever shall be the greater, or to imprisonment for a period not exceeding 10 years or to both that fine and that imprisonment;
- (b) in the case of an offence referred to in paragraph (c), (d), (f), (g) or (h) of subsection (1), to a fine not exceeding R1 000 or to imprisonment for a period not exceeding one year or to both that fine and that imprisonment.

#### Presumption in connection with use of certain foreign money

14. If in any prosecution for the contravention of section 2 in which it is alleged—  
[B/W 50—88]



- (a) that an organization or person has directly or indirectly received money from outside the Republic, or has directly or indirectly brought money or caused money to be brought into the Republic; and
- 5 (b) that the money is intended to be used, or in the discretion of the organization or person may be used, to further, propagate, pursue or oppose a political aim or object,
- it is proved—
- (i) that the money has directly or indirectly been received from outside the Republic or has directly or indirectly been brought into or caused to be
- 10 brought into the Republic; and
- (ii) that that organization or person engages or participates in the furthering, propagating, pursuing or opposing of any political aim or object,
- it shall be presumed, until the contrary is proved, that that money is intended to be used, or in the discretion of that organization or person may be used, to further,
- 15 promote, pursue or oppose a political aim or object.

### Regulations

15. (1) The Minister may make regulations regarding—
- (a) additional powers and duties of the Registrar and inspectors;
- (b) any matter permitted or required to be prescribed;
- 20 (c) any matter in respect of which the Minister considers it necessary or expedient to make regulations so as to achieve the objects of this Act.
- (2) A regulation made under subsection (1) may prescribe penalties for a contravention thereof not exceeding a fine of R500 or imprisonment for a period of six months.

### 25 Prohibition of certain conduct in respect of certain groups

16. (1) Any person who says or does anything which is intended to have the effect, or which may reasonably have the effect, that—
- (a) hostility between persons of different nationality, cultural or religious groups or parts of such groups is caused, encouraged or fomented;
- 30 (b) any member of a nationality, cultural or religious group, in his capacity as such a member, is insulted or injured in his feelings; or
- (c) any political, nationality, cultural, religious or population group, or members or part of such a group, is persuaded, advised, encouraged or incited to commit violence against any member or members of the same or any
- 35 other such group,
- shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment not exceeding two years or to both that fine and that imprisonment.
- (2) If in any prosecution for an offence in terms of subsection (1) it is proved that
- 40 the accused has said or done what is alleged in the charge, and if what he said or did resulted or was likely to have resulted in any of the effects referred to in subsection (1), it shall be presumed, unless the contrary is proved, that the accused said or did so with the intent to bring about that effect.
- (3) A magistrate's court shall be competent to impose any punishment provided
- 45 for in subsection (1).

### Prohibition of display or exhibition in public of certain flags, standards, banners, badges, emblems, marks or slogans

17. (1) The Minister may, if he is of the opinion that the display or exhibition in public of any flag, standard, banner, badge, emblem, mark or slogan may have any
- 50 effect referred to in section 16, by notice in the *Gazette* identify such flag, standard, banner, badge, emblem, mark or slogan.

(2) Any person who in public displays or exhibits any flag, standard, banner, badge, emblem, mark or slogan which has so been identified, or any variation or other representation of such a flag, standard, banner, badge, emblem, mark or slogan, or anything on which such a flag, standard, banner, badge, emblem, mark or slogan or any variation or other representation thereof appears or is depicted, shall be guilty of an offence and on conviction liable to the penalties provided for in section 16.

(3) Any person who attends or remains present at any gathering, concourse, procession, congregation of persons or occasion where a display or exhibition contrary to subsection (2) occurs, shall be guilty of an offence and on conviction liable to the penalties provided for in section 16.

#### Amendment of section 1 of Act 31 of 1974

18. Section 1 of the Affected Organizations Act, 1974, is hereby amended—

(a) by the insertion after the definition of “affected organization” of the following definition:

“‘affected person’ means a person who has in terms of section 2 been declared to be an affected person;”;

(b) by the insertion after the definition of “organization” of the following definition:

“‘prescribe’ means prescribe by regulation under section 8B;”;

(c) by the substitution for the definition of “Registrar” of the following definition:

“‘Registrar’ means the Registrar of Affected Organizations and Persons appointed in terms of section 3.”.

#### 25 Substitution of section 2 of Act 31 of 1974

19. The following section is hereby substituted for section 2 of the Affected Organizations Act, 1974:

##### “Prohibition of the receipt of foreign money by certain organizations and persons

2. (1) If the [State President] Minister is satisfied that politics are being engaged in by or through an organization or person with the aid of or in co-operation with or in consultation with or under the influence of an organization or person abroad, he may, without notice to the first-mentioned organization or person and without hearing anybody, but subject to the provisions of section 8, by [proclamation] notice in the Gazette declare that organization or person to be an affected organization or person, as the case may be.

(2) No person shall—

(a) ask for or canvass [foreign] money from abroad for or on behalf of or for the benefit of an affected organization or person;

(b) receive money which directly or indirectly comes from abroad for or on behalf of or for the benefit of an affected organization or person, or receive or in any other manner handle or deal with such money with the intention of handing it over or causing it to be handed over to such an organization or person or with the intention of using it or causing it to be used on behalf or on the instructions of such an organization or person;

(c) bring or cause to be brought or assist in bringing from abroad into the Republic any money for or on behalf of or for the benefit of an affected organization or person, or bring in or cause to be brought in from abroad any money into the Republic with the intention of handing it over or causing it be handed over to such an organization or person or with the intention of using it or causing it to be used on behalf or on the instructions of such an organization or person;

(d) receive money which directly or indirectly comes from abroad in payment of goods supplied to or by or services rendered to or by an

affected organization or person, or in payment of goods supplied to or by or services rendered to or by any other organization or person on instructions of an affected organization or person.

(2A) No affected organization or person shall—

- 5 (a) ask for or canvass money from abroad;  
 (b) receive money which directly or indirectly comes from abroad;  
 (c) bring or cause to be brought or assist in bringing into the Republic any money from abroad,  
 whether for itself or himself or for or on behalf of or for the benefit of any  
 10 other organization or person.

(3) Money in the possession of an affected organization or person which that organization or person had, before it was declared to be an affected organization, or he was declared to be an affected person, as the case may be, directly or indirectly received from abroad, whether before  
 15 or after the commencement of this Act, shall not be handed over, transferred, donated, paid or given in exchange to any other organization or person for any purpose whatsoever: Provided that it may, within one year after the organization or person was declared to be an affected organization or person, as the case may be, be donated to a welfare organization, designated by the Minister, which is registered in terms of  
 20 the National Welfare Act, [1965 (Act No. 79 of 1965)] 1978 (Act No. 100 of 1978), and which is not an affected organization, for use in furtherance of the objects in respect of which that welfare organization is so registered, or to any other organization approved by the Minister.”

#### 25 Substitution of section 3 of Act 31 of 1974

20. The following section is hereby substituted for section 3 of the Affected Organizations Act, 1974:

##### “Registrar of Affected Organizations and Persons

30 3. (1) The Minister may appoint a person as Registrar of Affected Organizations and Persons, and announce his office address by notice in the *Gazette*.

(2) The Registrar, or any person acting under his written authority, may at all reasonable times enter upon any premises there to inspect and extract information from or make copies of any document relating to the  
 35 finances of an affected organization or person and may, if in his opinion it is desirable for practical reasons, remove any such document to any other premises for those purposes.

(3) The Registrar shall in respect of every affected organization and person fix a financial year and shall within six months after the close of  
 40 every financial year, report to the Minister on the moneys received and paid out by the organization or person concerned during that financial year.

(4) The Registrar may require of any person attached to an affected organization or of any affected person particulars of moneys received or  
 45 paid out in respect of that organization or person, and if he is furnished therewith, he shall submit them to the Minister.

(5) The Minister shall, as often as he deems fit, but at least once in every year, lay upon the Tables of [the Senate and the House of  
 50 Assembly] Parliament any reports and particulars received by him in terms of subsection (3) or (4), or extracts therefrom.

(6) No person shall hinder, resist or obstruct the Registrar or any person [referred to in] acting under his authority in terms of subsection  
 (2) in the exercise of his powers under this section.”

#### Amendment of section 6 of Act 31 of 1974

55 21. Section 6 of the Affected Organizations Act, 1974, is hereby amended—

[B/W 50—88]

(a) by the substitution for subsection (1) of the following subsection:

"(1) If the Minister has reason to suspect that the objects or activities—

5       (a) of any organization or of any person who directly or indirectly takes part in the activities of any organization, are such that the organization should in terms of section 2 (1) be declared to be an affected organization;

      (b) of any person are such that he should in terms of section 2 (1) be declared to be an affected person,

10       he may in writing under his hand appoint a person (hereinafter called an authorized officer) to inquire into the objects and activities of that organization or of persons who so take part in the activities thereof or of the person referred to in paragraph (b)."; and

(b) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

15       “(f) with regard to a matter referred to in subsection (1), question [any person], either alone or in the presence of any other person, as he deems desirable, any person—

      (i) referred to in subsection (1) (b);

20       (ii) whom he finds on premises entered upon by him in terms of this section; or

      (iii) whom he on reasonable grounds believes to be or at any time before or after the commencement of this Act to have been an office-bearer, officer, member or active supporter of the organization concerned, or to be in possession of information required by him; and”.

25

#### Substitution of section 8 of Act 31 of 1974

22. The following section is hereby substituted for section 8 of the Affected Organizations Act, 1974:

30       **“Declaration in terms of section 2 only after factual report has been considered**

      8. The power conferred upon the [State President] Minister by section 2 to declare an organization to be an affected organization or a person to be an affected person, shall not be exercised unless the Minister has given consideration to a factual report made in relation to that organization or person by a committee consisting of three magistrates appointed by the Minister, of whom at least one shall be a chief magistrate or a regional magistrate.”.

35

#### Insertion of sections 8A and 8B in Act 31 of 1974

40   23. The following sections are hereby inserted after section 8 of the Affected Organizations Act, 1974:

##### “Accounting of financial activities

45       8A. (1) Every affected organization or person shall, in one of the official languages of the Republic, keep the prescribed records of all the money received and expended by it or him and of all its or his assets and liabilities and of all financial transactions entered into by it or him, and shall furnish the Registrar with the prescribed reports, returns and financial statements at the prescribed times.

50       (2) Subject to the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), such financial statements shall be audited by an accountant and auditor registered in terms of that Act.

55       (3) The Minister may in his discretion grant to an affected organization or person a certificate exempting that organization or person for the period and on the conditions and to the extent mentioned in the certificate from subsection (2), or any provision of this Act relating to the furnishing of reports, returns or financial statements, and may in his

discretion withdraw or amend the certificate at any time by notice to the organization or person concerned.

#### Regulations

- 5 8B. (1) The Minister may make regulations relating to—  
 (a) any matter permitted or required to be prescribed;  
 (b) any matter in respect of which the Minister deems it necessary or expedient to make regulations in order to achieve the objects of this Act.
- 10 (2) A regulation made under subsection (1) may prescribe penalties for a contravention thereof not exceeding a fine of R500 or imprisonment for a period of six months.”

#### Substitution of section 9 of Act 31 of 1974

24. The following section is hereby substituted for section 9 of the Affected Organizations Act, 1974:

#### 15 “Short title

9. This Act shall be called the Affected Organizations and Persons Act, 1974.”

#### Substitution of long title of Act 31 of 1974

25. The following long title is hereby substituted for the long title of the Affected Organizations Act, 1974:

#### “ACT

To provide for the prohibition of the receipt of money from abroad for or by certain organizations and persons; and to provide for matters connected therewith.”

#### 25 Amendment of section 1 of Act 107 of 1978, as amended by section 1 of Act 41 of 1980

26. Section 1 of the Fund-raising Act, 1978, is hereby amended—
- (a) by the substitution in subsection (1) for the definition of “collect” of the following definition:
- 30 “‘collect’, in relation to contributions, means in any manner whatsoever soliciting, accepting, collecting or obtaining contributions from **[the public]** any person or organization or attempting so to collect or obtain, or to receive in, or bring or cause to be brought into, the Republic any contribution so collected outside the Republic;”
- (b) by the substitution in subsection (1) for the definition of “contributions” of the following definition:
- 35 “‘contributions’ means movable or immovable property, including money or anything that can be exchanged for or converted into money, **[which is not transferred in fulfilment of a legally enforceable obligation (except a donation or gift) and the mere transfer of which does not confer the right to claim any consideration except any consideration in relation to]** the transfer of which, directly or indirectly—
- 40 (a) is intended to be a donation or gift; or  
(b) confers a right to participate in any competition, contest, game, scheme, arrangement or system in connection with which any prize may be won;”
- 45 (c) by the insertion in subsection (1) after the definition of “Director” of the following definition:
- “‘Director-general’ means the Director-general: National Health and Population Development and, for the purposes of Chapter II, includes

- the Head of the South African Defence Force in so far as that Chapter applies in relation to the South African Defence Force Fund;";
- (d) by the substitution in subsection (1) for the definition of "local authority" of the following definition:
- 5 "local authority" means any institution or body referred to in section 84 (1) (f) of the **[Republic of South Africa Constitution Act,] Provincial Government Act, 1961 (Act No. 32 of 1961)**, and also **[an Administration Board referred to in section 2 of the Administration of Black Affairs Act, 1971 (Act No. 45 of 1971)]**—
- 10 (a) a board of management or board as defined in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
- (b) a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);
- 15 (c) a regional services council established under section 3 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985);
- (d) a local government body established by virtue of section 30 (2) (a) of the Black Administration Act, 1927 (Act No. 38 of 1927);";
- (e) by the substitution in subsection (1) for the definition of "Minister" of the following definition:
- 20 "Minister" means the Minister of **[Social Welfare and Pensions] National Health and Population Development** and, for the purposes of Chapter II, includes the Minister of Defence in so far as that Chapter applies in relation to the South African Defence Force Fund;";
- (f) by the deletion in subsection (1) of the definition of "Secretary"; and
- 25 (g) by the deletion of subsection (2).

#### Substitution of section 2 of Act 107 of 1978

27. The following section is hereby substituted for section 2 of the Fund-raising Act, 1978:

#### "Unauthorized collection of contributions prohibited

- 30 2. No person shall collect contributions, whether inside or outside the Republic, unless he is authorized thereto in terms of this Act and unless the collection takes place in accordance with the provisions of this Act."

#### Amendment of section 30 of Act 107 of 1978, as amended by section 6 of Act 41 of 1980

28. Section 30 of the Fund-raising Act, 1978, is hereby amended—
- 35 (a) by the substitution in subsection (5) for the words following on paragraph (d) of the following words:
- "at any time **[with the approval of the Minister]** inspect or cause the affairs of such organization or person to be inspected. **[or] and** may inspect or cause to be inspected the affairs of any other organization or person connected with the collection or disbursement of contributions by or for or on behalf of the first-mentioned organization or person.";
- 40 (b) by the substitution for paragraph (a) of subsection (6) of the following paragraph:
- 45 "(a) may at any time **[with the approval of the Minister]** and without prior notice enter any premises of the said organization or person, or any other premises which he deems necessary, and there make such investigation and enquiry as he deems necessary and, without a warrant, search such premises for money, securities, records, accounts or documents and, while he is on the premises or at any other time demand the delivery to him, then and there or at a time and place determined by him, of any or all of the securities, records, accounts or documents of such organization or person;"; and
- 50 (c) by the substitution for subsection (8) of the following subsection:

- 5           “(8) Any person requested thereto in terms of subsection (6) (a), shall forthwith, or at the time and place determined by the Director or an inspector under that subsection, deliver to the Director or inspector any security, record, account or document referred to in that subsection which is in his possession or under his control or to which he has access and shall at the request of the Director or inspector furnish the Director or inspector with the information relating to the affairs or activities, securities, records, accounts or documents of the said organization or person at his disposal.”.

Amendment of section 33 of Act 107 of 1978

- 10 29. Section 33 of the Fund-raising Act, 1978, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The provisions of Chapter I shall not apply in respect of the collection of contributions—
- (a) (i) collected in terms of any other law;
- 15       **[(b)]** (ii) collected by or for or on behalf of an institution managed or maintained exclusively by the State or a local authority or a hospital board established by or under any law;
- [(c)]** (b) collected in the Republic—
- (i) **[collected]** from any person by virtue of his membership of the organization collecting the contributions;
- 20       **[(d)]** (ii) **[collected]** by or on behalf of a religious body during a religious service or in terms of the written authority of such body and exclusively for the purpose of promoting the religious work of such body;
- 25       **[(e)]** (iii) **[collected]** for or on behalf of any educational institution from a former student or scholar of such institution or from the parent, guardian or foster parent of a person who is or was a student or scholar of such institution;
- [(f)]** (iv) **[collected]** for or on behalf of a political party;
- 30       **[(g)]** (v) **[collected]** under the supervision and control of the **[council of a university in the Republic or of a college as defined in the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), and] governing body of any educational institution, for the purposes of the development of such [university or college] institution;**
- 35       **[(h)]** (c) collected for or on behalf of or by an organization designated by the Minister for the purposes of this section.”; and
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) The Minister may withdraw a designation in terms of subsection (1)
- 40       **[(h)]** (c) at any time after notice of three weeks to the organization concerned.”.

Amendment of section 34 of Act 107 of 1978, as substituted by section 7 of Act 41 of 1980

30. Section 34 of the Fund-raising Act, 1978, is hereby amended—
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
- 45       “(b) contravenes any provision of section 7 (6), 7 (9) (b), 30 (11) or 31 (3), or refuses or fails—
- (i) to comply to the best of his ability with a request **[referred to in section 7 (8), 13 (1) (a) or 30 (8)]** or demand of the Director or an inspector in terms of this Act; or
- 50       (ii) to answer to the best of his knowledge any question put to him by the Director or an inspector in the exercise of his powers; **[or]”;**
- (b) by the insertion after paragraph (c) of subsection (1) of the following paragraph:
- 55       “(d) receives any contribution from any person, and by means of any scheme, arrangement or agreement gives out or attempts to give out that it is not a contribution,”;

(c) by the insertion after subsection (1) of the following subsection:

“~~(1A)~~ If in any prosecution for an offence in terms of subsection (1) (d) it is proved that the accused received from any other person any movable or immovable property, including money or anything that can be exchanged or converted into money, it shall be presumed, unless the contrary is proved, that it is a contribution.”; and

(d) by the substitution for subsection (2) of the following subsection:

“(2) Any person convicted of an offence under any provision of this Act shall be liable—

(a) in the case of an offence referred to in paragraph (a) or (d) of subsection (1), to a fine not exceeding [R1 500] R20 000 or imprisonment for a period not exceeding [three] 10 years or to both such fine and such imprisonment;

(b) in the case of an offence referred to in section 27 or paragraph (b) or (c) of subsection (1) of this section, to a fine not exceeding [R500] R2 000 or imprisonment not exceeding [six] 12 months or to both such fine and such imprisonment.”.

#### Amendment of section 36 of Act 107 of 1978

31. Section 36 of the Fund-raising Act, 1978, is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraph:

“(dA) the grounds on which the Director may reject an application for an authority or temporary authority;”.

#### Substitution of word “Secretary” in Act 107 of 1978

32. The Fund-raising Act, 1978, is hereby amended by the substitution for the word “Secretary” wherever it occurs of the word “Director-General”.

#### Repeal of laws

33. The Prohibition of Foreign Financing of Political Parties Act, 1968 (Act No. 51 of 1968), and sections 1, 2, 3, 4 and 5 of the Constitutional Affairs Amendment Act, 1985 (Act No. 104 of 1985), are hereby repealed.

#### 30 Short title and commencement

34. (1) This Act shall be called the Promotion of Orderly Internal Politics Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.



**MEMORANDUM ON THE OBJECTS OF THE PROMOTION OF  
ORDERLY INTERNAL POLITICS BILL, 1988**

1. The principle that political aims and objects ought to be pursued in the Republic without interference, monetary or otherwise, from abroad, is the subject of various laws. The Bill repeals and amends these laws where necessary so as to make the existing measures more effective, and extends them in an important respect in clauses 1 to 15.

2. The Prohibition of Foreign Financing of Political Parties Act, 1968 (Act No. 51 of 1968), has in practice been proved to be ineffective, on the one hand as a result of differences of opinion regarding the definition of the offence and on the other hand as a result of evidential problems arising from that definition. Consequently that Act is repealed, and the principles contained therein are re-enacted in an amended form in clause 2. In that clause political parties are absolutely prohibited from receiving money from abroad, and all other organizations and persons are prohibited from receiving money from abroad which is intended for political aims or objects. In order to lighten the burden of proof relating to the purpose for which specific money is to be used, a presumption is created in clause 14.

3. According to clause 3 the Minister of Justice may declare an organization which or person who furthers, propagates, pursues or opposes a political aim or object or is being used as a channel for introducing money from outside the Republic into the Republic to be used for the financing of activities which may endanger the safety of the public or the maintenance of public order in the Republic or which may delay the termination of a state of emergency the existence of which has been declared in the Republic, and receives money from abroad, to be a restricted organization or person. The effect of this will be that all money which accrues to such an organization or person from abroad must be paid over to the Registrar of Restricted Organizations and Persons, who will sift it. Only that money which will not be used as a said, will be returned to the organization or person concerned. All money from abroad which in the opinion of the Registrar is intended for political aims or objects, will either be returned to the foreign source from which it came or be dealt with as determined by the Minister of Justice. Money that has been returned to a restricted organization or person, may only be used for the declared purposes, and in respect of the spending thereof accounting instructions, coupled with monitoring powers, are prescribed.

4. In practice it was found that the Affected Organizations Act, 1974 (Act No. 31 of 1974), has various loopholes. The Act is therefore amended in clauses 18 to 25 to facilitate the effective administration of the Act. Provision is also made for the declaration of persons to be affected persons and for the accounting of the financial activities of affected organizations and persons.

5. Clauses 26 to 32 contain proposed amendments to the Fund-raising Act, 1978 (Act No. 107 of 1978). The main object is to bring about better control of the collection of contributions from the public. The amendments entail, *inter alia*, the following: The powers of the Director of Fund-raising and inspectors appointed by him are extended; contributions collected abroad for certain purposes are excluded from the exemption granted by section 33 of the Act (clause 29); the circumvention of the Act by means of certain schemes or agreements is made an offence, and in this connection a presumption is created (clause 30 (b) and (c)); the prescribed penalties are increased (clause 30 (d)); and the Minister of National Health and Population Development is empowered to prescribe by regulation grounds upon which the Director may reject applications for authority to collect contributions (clause 31).

6. Events during the past years have again proved that the fomenting of hostility between various political, nationality, cultural, religious or popula-

tion groups, and the inciting of such groups against one another, are used as instruments in the advancement of national and international political and other objectives. This type of conduct is dangerous and despicable and is usually used by extremists and terrorists. Clauses 16 and 17 contain further steps to guard against this.

5 “(8) Any person requested thereto in terms of subsection (6) (a), shall forthwith, or at the time and place determined by the Director or an inspector under that subsection, deliver to the Director or inspector any security, record, account or document referred to in that subsection which is in his possession or under his control or to which he has access and shall at the request of the Director or inspector furnish the Director or inspector with the information relating to the affairs or activities, securities, records, accounts or documents of the said organization or person at his disposal.”.

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**[(c)]** (b) collected in the Republic—

20 (i) **[collected]** from any person by virtue of his membership of the organization collecting the contributions;

**[(d)]** (ii) **[collected]** by or on behalf of a religious body during a religious service or in terms of the written authority of such body and exclusively for the purpose of promoting the religious work of such body;

25 **[(e)]** (iii) **[collected]** for or on behalf of any educational institution from a former student or scholar of such institution or from the parent, guardian or foster parent of a person who is or was a student or scholar of such institution;

**[(f)]** (iv) **[collected]** for or on behalf of a political party;

30 **[(g)]** (v) **[collected]** under the supervision and control of the **[council of a university in the Republic or of a college as defined in the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), and] governing body of any educational institution, for the purposes of the development of such **[university or college] institution;****

35 **[(h)]** (c) collected for or on behalf of or by an organization designated by the Minister for the purposes of this section.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The Minister may withdraw a designation in terms of subsection (1)

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“(1A) If in any prosecution for an offence in terms of subsection (1) (d) it is proved that the accused received from any other person any movable or immovable property, including money or anything that can be exchanged or converted into money, it shall be presumed, unless the contrary is proved, that it is a contribution.”; and

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“(2) Any person convicted of an offence under any provision of this Act shall be liable—

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5. Clauses 26 to 32 contain proposed amendments to the Fund-raising Act, 1978 (Act No. 107 of 1978). The main object is to bring about better control of the collection of contributions from the public. The amendments entail, *inter alia*, the following: The powers of the Director of Fund-raising and inspectors appointed by him are extended; contributions collected abroad for certain purposes are excluded from the exemption granted by section 33 of the Act (clause 29); the circumvention of the Act by means of certain schemes or agreements is made an offence, and in this connection a presumption is created (clause 30 (b) and (c)); the prescribed penalties are increased (clause 30 (d)); and the Minister of National Health and Population Development is empowered to prescribe by regulation grounds upon which the Director may reject applications for authority to collect contributions (clause 31).
6. Events during the past years have again proved that the fomenting of hostility between various political, nationality, cultural, religious or popula-

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