

Tracking a Bill

The process of passing
a Bill through Parliament



The Black Sash
March 1995



TERMS USED IN THIS DOCUMENT

Parliament: The legislature or law-making body of the nation, consisting of two houses. These are:

The National Assembly: Made up of 400 members who are democratically elected nationwide.

The Senate: Made up of 90 members nominated by each of the nine provincial legislatures in accordance with a system of proportional representation (i.e. not constituency based). This is a mechanism to ensure that the provinces have a say in the national government. It may also act as a check on the activities of the National Assembly.

Speaker: The member of the National Assembly who chairs sittings and is responsible for enforcing the house rules.

President of the Senate: The member of the Senate who chairs sittings and is responsible for enforcing the house rules.

Cabinet: An executive body of "ministers", selected by the President from the members of parliament. Cabinet ministers represent government departments (e.g., the Minister of Justice is the member of parliament who represents the Department of Justice in the Cabinet).

Cabinet Committee: A committee set up by the cabinet which may include people from outside the cabinet.

Departments: Administrative bodies which correspond to cabinet ministries and which carry out the day-to-day work flowing from legislative and executive decisions. Currently there are 26 government departments (e.g., Transport Department, Housing Department).

Portfolio Committee: A permanent parliamentary committee which will operate for the duration of the current parliament (5 years). In the case of the National Assembly there is normally a portfolio committee for each government department. In the Senate there are 13 portfolio committees at present. Portfolio committees are by design proportionately representative of the political parties (although smaller parties in parliament have difficulty covering the numerous committees).

Select Committee: A portfolio or ad hoc committee which deals with legislation from a particular government department. Only the Senate has continued to use the term since late 1994. It will probably be phased out during 1995.

Joint Committees: Made up of members of both the Senate and the National Assembly. Some exist by specific provision of the constitution (e.g. the Finance and Defence Joint Committees). Others are ad hoc and are formed in the case of a dispute over a bill between the two houses, in order to bring the bill into a mutually acceptable form.

Standing Committee: Any committee appointed for the full duration of parliament.

Ad hoc Committee: A temporary committee which is appointed to look at one particular issue and is dissolved when the task is completed.

Legislative power: The authority to make and enact laws.

Bill: A piece of legislation introduced in parliament and in the process of becoming an act. (See Summary of Process below.)

Tabling a bill: To propose or introduce a bill in parliament.

Money Bills: Bills which emanate from the budget process, including the Appropriation Bill, the Income Tax Bill and the Finance Bill.

Delegated legislation: Legislation provided for in an act and produced outside of parliament.

Regulations: Rules or orders which a minister (or others in authority) makes for the purpose of administering acts, within guidelines legislated by parliament.

SUMMARY OF PROCESS

The Conception of a Bill:

1. The cabinet, a ministry/department, a member of parliament or a private citizen or organisation decides that a bill is necessary.
2. In the first two instances, the appropriate government department may produce a "green" and/or a "white" paper.
 - 2.1 A green paper is a proposal for government policy on a specific issue. It is an optional consultative document, circulated outside parliament for input from specialist interest groups with relevant expertise. It is then amended to reflect these views. It may be restructured into a white paper.
 - 2.2 A white paper, also optional, is a final government policy statement on a specific issue. Available from the government printer, it is a guide for drafting the proposed legislation. In addition to the green paper stage, the white paper stage is an important time for interest groups to comment and to lobby for changes since it is relatively early in the legislative process.
 - 2.3 Citizens, organisations, and members of parliament may likewise circulate a proposal for a bill and consult widely with relevant bodies. (See 3.1 below)

Drafting a Bill:

3. For the most part, the department which is responsible for a matter drafts a bill and submits it to the relevant cabinet committee for approval. If the committee approves it, the draft bill goes to the full cabinet.
 - 3.1 However, citizens, organisations or members of parliament may draft measures and these may be presented to the relevant department, always by a member of parliament. These are called Private Member's Bills. Such a bill will also be referred to the cabinet.
4. The cabinet refers the draft bill to state law advisers who check that it does not conflict with existing acts or with the spirit and objectives of the constitution.
5. The draft bill is then referred back to the department. It remains a draft until it is published for tabling, at which point it becomes a bill.
 - 5.1 *All bills (other than the Money Bills) must be published in the Government Gazette before they are tabled. In urgent cases the member of parliament responsible for tabling a bill may, in consultation with the Speaker, certify in writing that it is an urgent measure. The bill may then be introduced without waiting for it to be published in the Gazette.

SUMMARY OF PROCESS

Tabling a Bill (the First Reading):

6. The bill is listed for tabling on the parliamentary order paper of either the National Assembly or the Senate, depending on various factors (e.g. which house's committee on the relevant issue is less busy). Money bills, however, always go first to the National Assembly.
- 6.1 *If the bill is introduced in the National Assembly, the member in charge of the bill should deliver a notice of first reading of the bill to the secretary for that house. If the member wishes to give an introductory speech s/he should notify the secretary in writing.
- 6.2 *No amendment is allowed on the first reading of a bill.

The Committee Stage:

7. The Speaker of the National Assembly (or the President of the Senate) refers the bill to the appropriate portfolio committee or, by a resolution of the house, to any other committee.
- 7.1 *Persons wishing to make representations on the bill to the committee have at least 3 weeks after publication in the Gazette to do so. This will not apply if the bill is considered to be "urgent business" (see item 5.1 above) and therefore not published in the Gazette.
8. In the portfolio committee the following procedure is followed:
 - a) an introductory discussion takes place;
 - b) evidence and submissions by interested parties may be heard. Submissions should be sent to the committee clerk of the relevant committee (see Appendix 3);
 - c) the principle of the bill is debated;
 - d) a clause-by-clause debate follows;
 - e) the bill is presented to the house it came from with a report specifying the amendments, if any. If the committee is not unanimous, the report should specify:
 - in which respects there was not consensus
 - the views of the minority, as well as the majority opinion.

The Second Reading:

9. The bill is discussed by parliament (called the second reading debate) in the originating house.
10. Any member of that house may propose an amendment at this stage. Any amendments will appear in the Order Papers and, together with the bill, are referred back to the portfolio committee, which may accept or reject the house's amendments. The bill is then returned to the house. If the portfolio committee has introduced any further changes, debate is confined to the objects and principles of these changes.
11. The bill is passed (accepted) or rejected by a simple majority vote. Once a bill is passed or rejected by the originating house, the other house is informed of the decision.

SUMMARY OF PROCESS

Referral to the Other House:

12. The house so informed refers the bill to its appropriate committee. This committee follows the same procedures outlined in points 7 to 11 above.
- 12.1 If the Senate is satisfied with a bill which has already gone through the National Assembly, it has the option of not referring the bill to a committee. The National Assembly does not have this option.
- 12.2 If one house passes the bill and the other does not, the bill is referred to a joint committee which is made up of members of both houses. The joint committee has the task of amending the bill into a form acceptable to both houses. The new form of the bill is then discussed at a joint sitting of the two houses, where it is accepted or rejected.
13. A bill which is passed by both houses (or the two houses at a joint sitting) becomes an act.

The Last Formal Procedures:

14. The President, if s/he chooses, signs and assents to the act.
15. The act is enrolled in the Supreme Court in Bloemfontein.
16. The act is promulgated (made known to the public) via a full text printing in the Government Gazette.
17. The act comes into force
 - a) on the date stated in the act; or
 - b) on a date fixed by the President by proclamation in the Gazette; or
 - c) on the date of publication in the Gazette (if there is no reference in the act to a specific date or to a forthcoming proclamation by the President).
18. If an act is to be amended, parliament must go through this whole procedure again, starting with an amendment bill.

A DRAFT BILL

The cover page of a draft bill is shown below.

REPUBLIC OF SOUTH AFRICA

**Staatskoerant
Government Gazette**

Vol. 349 PRETORIA, 18 JULY 1994 No. 15864

GENERAL NOTICE

NOTICE 790 OF 1994

The Draft Bill hereunder is hereby published by the Technical Committee on the Police Act appointed by the Minister of Safety and Security for general information and comment from interested parties. Comment must reach the Committee before 8 August 1994 at the following address:

FOR ATTENTION: MR A. CACHALIA
The Chairman
Technical Committee
P.O. Box 5306
PRETORIA
0001
Fax: (012) 322-5291 OR
(012) 320-7531

4. A brief explanation of the purpose of the bill precedes the contents.

3. The drafters invite people to make comment, giving a deadline and destination for such comment.

BILL

To provide for the establishment of the SOUTH AFRICAN POLICE SERVICE and matters connected therewith.

14039-A 15864-1

TABLING: The first reading, in the first house

After any comments which are received have been considered, the bill is published for tabling. Bills ready for tabling will be listed in the publication entitled Announcements, Tablings and Committee Reports (left), which also indicates referrals to committees.



Once tabled in either the Senate or National Assembly a bill is passed on to the appropriate portfolio committee. This stage is another effective time to protest the principle of the bill or to lobby for changes.

To illustrate the process by which a bill then becomes law (an act), the stages of the Human Rights Commission Bill follow.

HUMAN RIGHTS COMMISSION BILL

1. On the cover page, the original bill is identified by B (for Bill) and a number (In this case 8). Subsequent amendments and versions of the bill will be identified as B 8A, B 8B, and so on. If a bill becomes law, it receives a new number (e.g. Act 54 of 1994).

[B 8—94]

2. "94" refers to the year of tabling/introduction.

(As introduced)

(MINISTER OF JUSTICE)

ISBN 0 621 15634 5

3. "As introduced" indicates that this is the original form of the bill, at the time of tabling.

TABLING: The first reading, in the first house

4. Inside, the text of the bill begins with an explanatory memorandum, giving more detail about the purpose of the bill.

BILL

To regulate matters incidental to the establishment of the Human Rights Commission by the Constitution of the Republic of South Africa, 1993; and to provide for matters connected therewith.

5. Definitions generally follow, to ensure a common understanding of the terms used in the bill.

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

Definitions

1. In this Act unless the context otherwise indicates—

5 (i) "Chairperson" means the chairperson of the Commission referred to in section 115(1) and (5) of the Constitution; (v)

(ii) "Commission" means the Human Rights Commission established by section 115(1) of the Constitution; (iii)

"Constitution" means the Constitution of the Republic of South

6. The various subdivisions of a bill are called clauses, subsections, paragraphs and subparagraphs.

1993 (Act No. 200 of 1993); (ii)

"Fundamental rights" includes the fundamental rights referred to in

Chapter 3 of the Constitution; (i) and

"President" means the President of the Republic. (iv)

Term of office of members of Commission

15 2. (1) The members of the Commission referred to in section 115(1) of the Constitution shall hold office for such period as the President may determine, but not exceeding 7 years: Provided that the President shall remove any such member from office if—

20 (a) such removal is requested by a joint committee composed as contemplated in section 115(3)(a) of the Constitution; and

(b) such request is approved by the National Assembly and the Senate by a resolution adopted by a majority of at least 75 per cent of the members present and voting at a joint meeting.

25 (2) Subject to section 115(3) of the Constitution, any person whose term of office as a member of the Commission has expired, may be reappointed.

(3) A member of the Commission may resign from office by submitting at least three months' written notice thereof to Parliament.

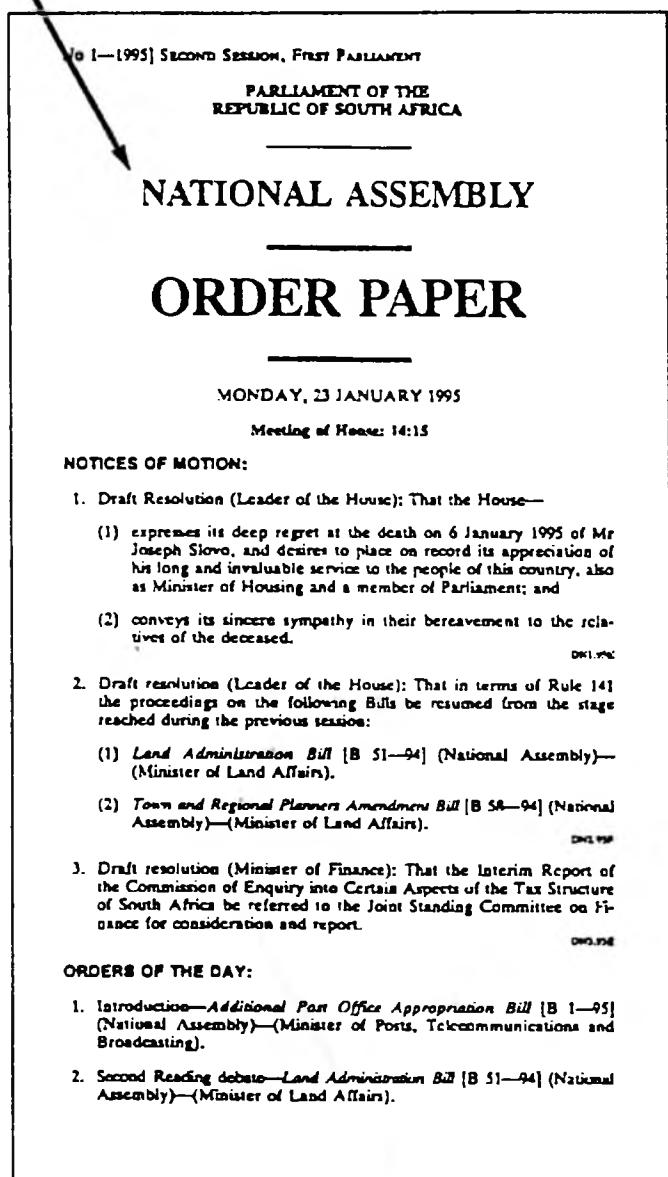
TABLING: The first reading (continued)

Order Papers, which are drawn up separately for the two houses and distributed daily to members of the the Senate and National Assembly, indicate:

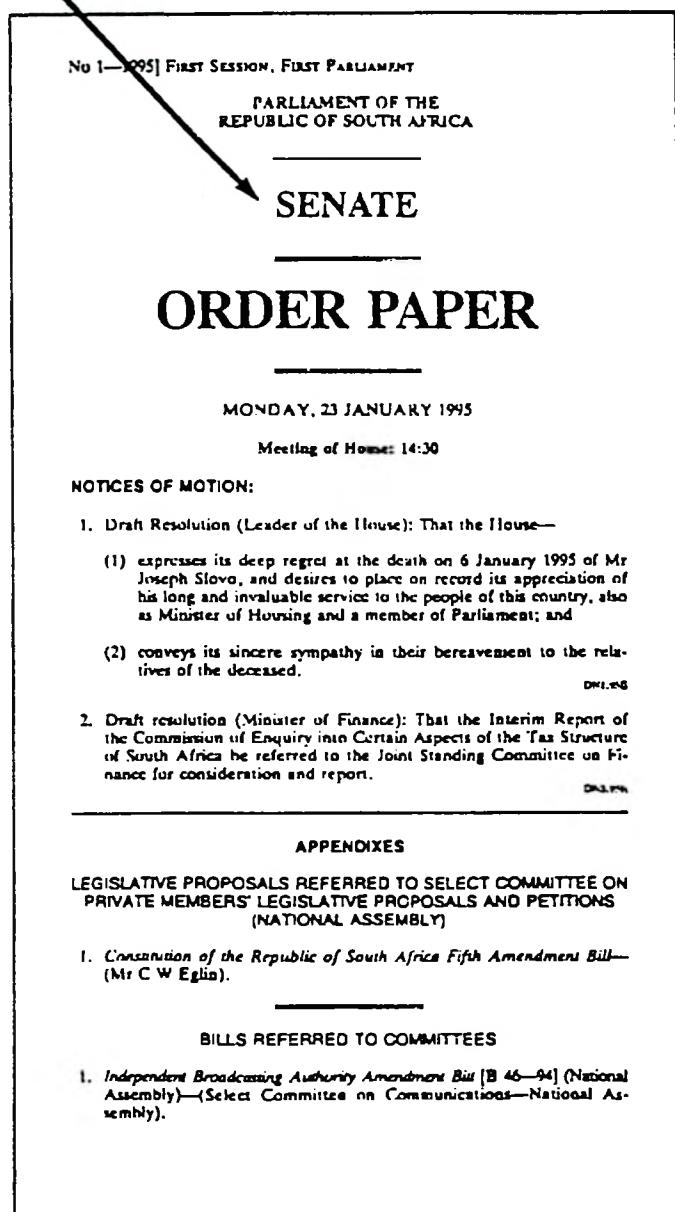
- what will be discussed in the respective houses of parliament;
- which bills have been sent to which committee;
- when and where the committees will be meeting.

Order Papers are available to the public from the Government Printer.

1. Blue paper (for the National Assembly)



2. Yellow paper (for the Senate)



THE COMMITTEE STAGE

REPUBLIC OF SOUTH AFRICA

SELECT COMMITTEE AMENDMENTS TO HUMAN RIGHTS COMMISSION BILL

[B 8—94]

(As agreed to by the Select Committee on Justice (Senate))

[B 8A—94]

ISBN 0 621 15642 6

1. "As agreed to" indicates that only the recommended amendments to the bill are included in the document. (For "as amended", see next stage below).

2. This document is identified by the "A" after the original number.

REPUBLIC OF SOUTH AFRICA

HUMAN RIGHTS COMMISSION BILL

(As amended by the Select Committee on Justice (Senate))

(MINISTER OF JUSTICE)

[B 8B—94]

ISBN 0 621 15643 4

3. The bill is now identified as B8B-94.

The Senate received the Human Rights Commission Bill first, and passed it on to its Select Committee (old term for portfolio committee) on Justice, which made certain amendments.

THE SECOND READING, IN THE FIRST HOUSE

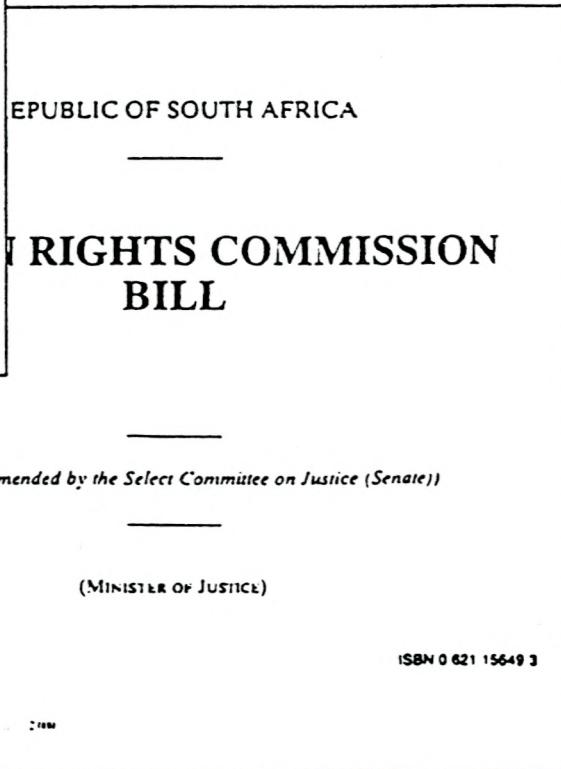
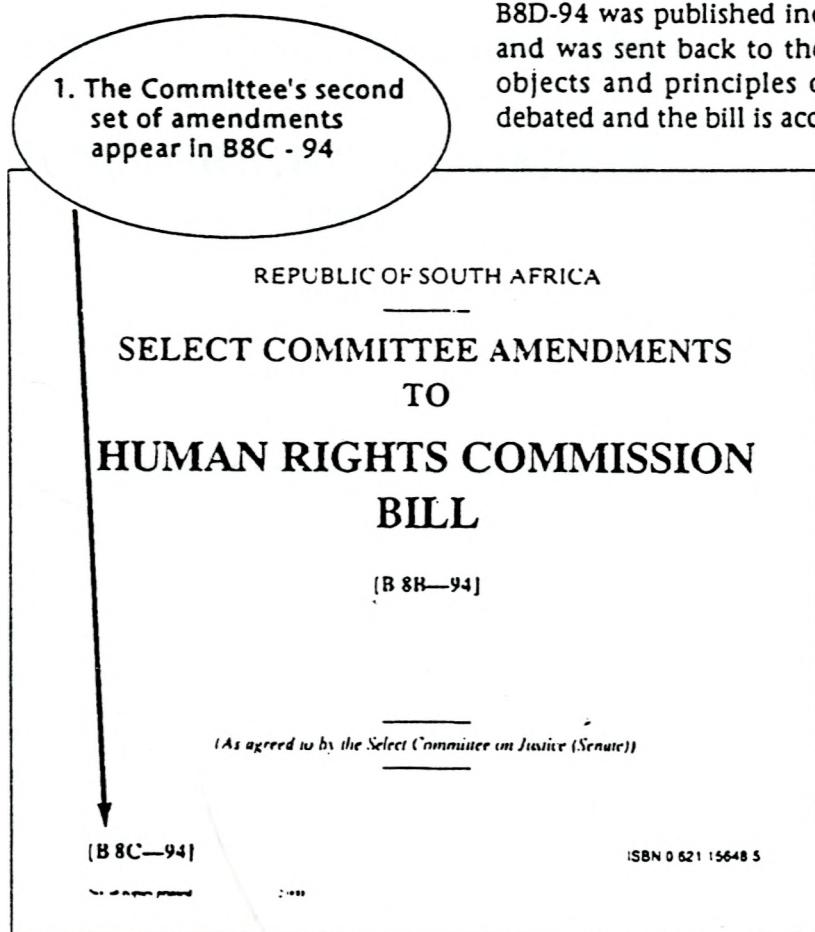
After a committee has considered the bill, it is returned to the originating house for the second reading debate. At this stage, any member of the house may propose amendments. If, however, the house is satisfied with the bill as it came from the portfolio/select committee, it may vote on it.

In the case of the Human Rights Commission Bill, the Senate next considered B8B-94 and could accept, reject, or further amend the legislation. In fact, the bill as amended by the Select Committee on Justice was not acceptable and was returned to that committee with amendments proposed by the Senate, listed in the order papers.

The committee considered those proposed amendments and issued B8C-94, listing the new set of amendments as proposed by the committee.

B8D-94 was published incorporating this second set of amendments, and was sent back to the Senate for deliberation. At this stage the objects and principles of the most recent changes only may be debated and the bill is accepted or rejected by a simple majority vote.

1. The Committee's second set of amendments appear in B8C - 94



2. The bill is now identified as B8D-94 .

REFERRAL TO THE SECOND HOUSE

After a bill has been accepted by the originating house it goes to the other house, in this case the National Assembly. (Reminder: when the Senate is the second house, it has the option of not referring the bill to a committee; the National Assembly does not have this option). The National Assembly's Select Committee (now referred to as the Portfolio Committee) on Justice made certain amendments. Once approved by the house, during the second reading debate, the amended bill was then returned to the senate for approval or rejection.

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO
HUMAN RIGHTS COMMISSION
BILL**

[B 8D—94]

(As agreed to by the Select Committee on Justice (National Assembly))

[B 8E—94]

ISBN 0 621 15751 1

REPUBLIC OF SOUTH AFRICA

1. The committee's amendments are published in B8E-94.

**HUMAN RIGHTS COMMISSION
BILL**

(As amended by the Select Committee on Justice (National Assembly))

2. The full text of the bill incorporating the National Assembly committee amendments is published in B8F-94.

(MINISTRY OF JUSTICE)

[B 8F—94]

ISBN 0 621 15752 X

THE LAST FORMAL PROCEDURES

An act must be signed and assented to by the President before it becomes law. In theory, the President may refuse to sign or may return legislation to parliament with amendments. In practice, however, convention compels the President to assent, in the manner required by law, to all bills passed by parliament. No South African president has ever refused to assent to an act.

The Human Rights Commission Act demonstrates the case where the act is signed by the President, but a proclamation in the Gazettes is to give the date the legislation will come into force (See item 17 in the preceding summary). In any case, the text which is signed (here it is the English text) will prevail should it be found that another text (e.g. Afrikaans) can be differently interpreted.

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

Vol. 354

KAAPSTAD, 7 DESEMBER 1994
CAPE TOWN, 7 DECEMBER 1994

No. 16143

KANTOOR VAN DIE PRESIDENT

No. 2095.

7 Desember 1994

Hierby word bekend gemaak dat die President sy goedkeuring gegev het aan die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word:

Nu. 54 van 1994: Wet op die Menseregtekommissie, 1994.

OFFICE OF THE PRESIDENT

No. 2095.

7 December 1994

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

No. 54 of 1994: Human Rights Commission Act, 1994.

1. The acts are numbered consecutively within the legislative year.

GOVERNMENT GAZETTE, 7 DECEMBER 1994

HUMAN RIGHTS COMMISSION ACT, 1994

No. 16143

Act No. 54, 1994

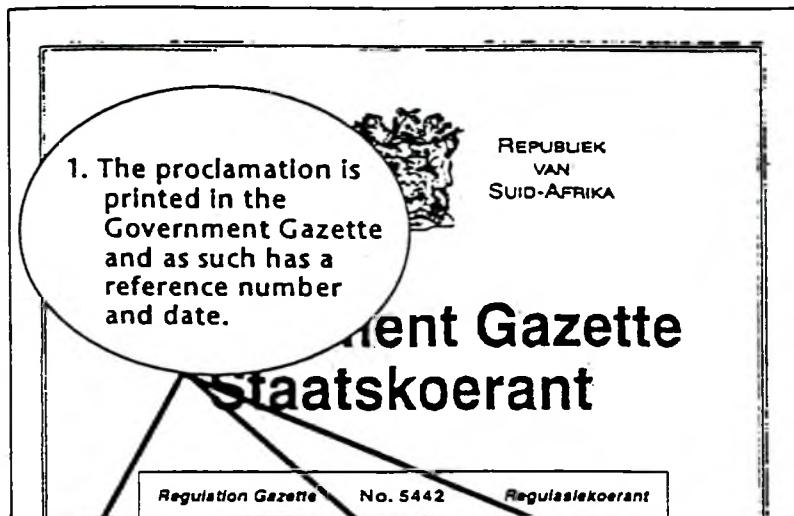
shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

Short title and commencement

55 20. This Act shall be called the Human Rights Commission Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

2. The act awaits proclamation before it can come into force.

DELEGATED LEGISLATION



PROCLAMATION by the President of the Republic of South Africa

No. R. 176, 1994
COMMENCEMENT OF THE RESTITUTION OF LAND
RIGHTS ACT, 1994 (ACT NO. 22 OF 1994)

Under section 43 of the Restitution of Land Rights
Act, 1994 (Act No. 22 of 1994), I determine 2 December
1994 as the date on which the said Act shall come
into operation.

Given under my Hand and the Seal of the Republic
of South Africa at Cape Town this Seventeenth day of
November, One thousand Nine hundred and Ninety-
four.

N. R. MANDELA,

President

By Order of the President-in-Cabinet:

D. A. HANEKOM,
Minister of the Cabinet
+1814-A

2. It also has a
number identifying
the specific
proclamation.

No.
INWEP
VAN GRO
Kragtens. aankond. van
Grandreg. 1994 (Wet No. 22 van 1994). Bepaal de
herby 2 Desember 1994 as die datum waarop
genoemde Wet in werking tree.

Gegee onder my Hand en die Seal van die Republiek van Suid-Afrika te Kaapstad, op hede die Sewentigste dag van November Eenduusend Negehonderd Vier-en-negentig.

N. R. MANDELA,
President

Ophals van die President
D. A. HANEKOM,
Minister van die Kabinet

1. These regulations
appear in Gazette
16266, dated
17 February 1995.

2. They are also
Identifiable by the
number R210.

3. They provide detail
regarding the
Temporary
Employees Pension
Fund Act, 1979.

Delegated legislation is promulgated by virtue of original legislation, in order to set out in detail matters for which the original legislation provides in broad terms only. Examples of such legislation at the national level are proclamations and regulations.

Proclamations, which may only be issued by the President, announce the commencement of acts passed by parliament. The example below gives the date on which the Restitution of Land Rights Act came into force, which in this instance is the same date as that of the proclamation.

Regulations are issued by ministers, certain designated persons, or statutory bodies such as local authorities. These also appear in the Government Gazette.

12 No. 16266

GOVERNMENT GAZETTE, 17 FEBRUARY 1995

GOVERNMENT NOTICES

No. R. 210

17 February 1995

REGULATIONS MADE UNDER THE TEMPORARY EMPLOYEES PENSION FUND ACT, 1979

The Minister of Finance has in terms of section 8 of the Temporary Employees Pension Fund Act, 1979 (Act No. 75 of 1979), made the regulations set out in the Schedule.

SCHEDULE

Definition

1. (1) In this Schedule "the Regulations" means the regulations published under Government Notice No. R. 2099 of 21 September 1979, as amended, and any word to which a meaning has been assigned in the Regulations and the Temporary Employees Pension Fund Act, 1979, shall bear that meaning.

(2) In these regulations, unless the context otherwise indicates –

"actuarial obligation", with regard to a particular member of the Fund, means the actuarial obligation of the Fund with regard to that member on a fixed date, as calculated by the actuary;

Appendix 1: PARLIAMENT Address list

- **PARLIAMENT**
Post Box 15
8000 Cape Town
Phone : (021) 403 2911 (general enquiries)
Phone : (021) 403 2224 (for the day's schedule at Parliament). Ask for
Mr Morgan (Clerk of the Papers)
- **NATIONAL ASSEMBLY**
Mr C. Hahndiek (Senior Under-Secretary) (021) 403 2600
- **SENATE:**
Mr P. Pretorius (021) 403 2125
- **HEAD OF COMMITTEES**
Mr W. Fourie (021) 403 2804
- **IF YOU WANT TO BUY BILLS OR ACTS CONTACT:**
Government Printer
New Government Building
90 Plein Street, Cape Town
Mon to Fri 07H45 to 12H30 and 13H15 to 15H15
(021) 45-7531

Postal Address:
Government Printer
P O Box 571
Cape Town 8000

Appendix 2: CABINET Address list

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Executive Deputy President
Private Bag X1000 Private Bag X1000
Pretoria 0001 Cape Town 8000
Tel: (012) 319-1500 Tel: (021) 45-2225
Fax: (012) 323-3114 Fax: (021) 462-2838

Mr F W de Klerk
Executive Deputy President
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Pretoria 0001 Cape Town 8000
Tel: (012) 319-1578 Tel: (021) 401-4111
Fax: (012) 325-4008 Fax: (021) 461-5877