



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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[No. 3557.]

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1031. 14th June, 1972.

No. 1031. 14 Junie 1972.

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

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 67 of 1972: South African Indian Council Amendment Act, 1972.

No. 67 van 1972: Wysigingswet op die Suid-Afrikaanse Indiërraad, 1972.

Wet No. 67, 1972

WYSIGINGSWET OP DIE SUID-AFRIKAANSE INDIËRRAAD,
1972.

WET

Tot wysiging van die Wet op die Suid-Afrikaanse Indiërraad, 1968, ten einde die aantal lede van die Suid-Afrikaanse Indiërraad te verhoog; voorsiening te maak vir die verkiesing van sekere lede van genoemde Raad; sekere bykomende werksaamhede aan genoemde Raad en sy uitvoerende komitee op te dra; die kwalifikasies van lede van genoemde Raad nader te omskryf; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 8 Junie 1972.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Vervanging van
artikel 1 van
Wet 31 van 1968.

1. Artikel 1 van die Wet op die Suid-Afrikaanse Indiërraad, 1968 (hieronder die Hoofwet genoem), word hierby deur die volgende artikel vervang:

„Voort-
bestaan en
samestelling
van Suid-
Afrikaanse
Indiërraad.

1. Die Raad ingestel by hierdie artikel voor die vervanging daarvan deur artikel 1 van die Wysigingswet op die Suid-Afrikaanse Indiërraad, 1972, en met die naam die Suid-Afrikaanse Indiërraad, bly voortbestaan en bestaan, behoudens die bepalings van artikel 1A, uit die getal lede, maar hoogstens vyf-en-twintig, wat die Minister bepaal.”.

Invoeging van
artikel 1A in
Wet 31 van 1968.

2. Die volgende artikel word hierby in die Hoofwet na artikel 1 ingevoeg:

„Same-
stelling van
Raad deur
benoeming
en verkies-
ing van
lede.

1A. (1) Die Staatspresident kan, na oorleg deur die Minister met die Raad, by proklamasie in die *Staatskoerant* verklaar dat met ingang van 'n datum in dié proklamasie vermeld, die Raad bestaan uit die getal lede, maar hoogstens dertig, aldus vermeld, van wie 'n getal wat aldus vermeld word, deur die Minister aangestel word, en die res verkies word op die wyse wat in daardie proklamasie voorgeskryf word.

(2) 'n Proklamasie ingevolge hierdie artikel kan na oorleg deur die Minister met die Raad deur die Staatspresident by dergelike proklamasie gewysig word.

(3) Sonder om afbreuk te doen aan die algemeenheid van die bevoegdhede wat by subartikel (1) verleen word, kan 'n proklamasie wat ingevolge daardie subartikel uitgereik is, ook voorsiening maak vir—

- (a) die kwalifikasies van kandidate en kiesers;
- (b) die prosedures wat by die nominasie van kandidate en by verkiesings nagekom moet word; en
- (c) die gebiede of provinsies wat verkose lede van die Raad verteenwoordig.

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ACT

To amend the South African Indian Council Act, 1968, so as to increase the number of members of the South African Indian Council; to provide for the election of certain members of the said Council; to entrust certain additional functions to the said Council and its executive committee; to further define the qualifications of members of the said Council; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 8th June, 1972.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. The following section is hereby substituted for section 1 of the South African Indian Council Act, 1968 (hereinafter referred to as the principal Act): Substitution of section 1 of Act 31 of 1968.

“Continued existence and constitution of South African Indian Council.

1. The council established by this section prior to the substitution thereof by section 1 of the South African Indian Council Amendment Act, 1972, and known as the South African Indian Council shall continue to exist and shall, subject to the provisions of section 1A, consist of so many members, but not exceeding twenty-five, as the Minister may determine.”.

2. The following section is hereby inserted in the principal Act after section 1:

Insertion of section 1A in Act 31 of 1968.

“Constitution of Council by appointment and election of members.

1A. (1) The State President may, after consultation by the Minister with the Council, by proclamation in the *Gazette* declare that from a date specified in such proclamation the Council shall consist of so many members, not exceeding thirty, as may be so specified, of whom such number as may be so specified shall be appointed by the Minister and the remainder shall be elected in the manner prescribed in such proclamation.

(2) Any proclamation in terms of this section may be amended by the State President by like proclamation after consultation by the Minister with the Council.

(3) Without prejudice to the generality of the powers conferred by subsection (1) any proclamation issued in terms of that subsection may also provide for—

- (a) the qualifications of candidates and voters;
- (b) the procedures to be followed in the nomination of candidates and at elections; and
- (c) the areas or provinces which elected members of the Council shall represent.

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(4) Indien 'n proklamasie kragtens subartikel (1) uitgereik word, word die Raad soos dit dan saamgestel is, tot die eerste verkiesing van lede ingevolge subartikel (1), geag geldiglik ingevolge hierdie artikel saamgestel te wees, en word die persone wat ten tyde van die uitreiking van die proklamasie lede van die Raad is, behoudens die ander bepalings van hierdie Wet, geag lede te wees wat deur die Minister ingevolge genoemde subartikel aangestel is."

Wysiging van
artikel 2 van
Wet 31 van 1968.

3. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Die lede van die Raad beoog in artikel 1 word deur die Minister aangestel, en hulle en lede van die Raad kragtens artikel 1A (1) aangestel, moet die provinsie die Kaap die Goeie Hoop, die provinsie Natal en die provinsie Transvaal verteenwoordig in die verhouding wat die Minister billik ag."

Vervanging van
artikel 3 van
Wet 31 van 1968.

4. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

„Kwalifikasies van lede van Raad.

3. Niemand word as 'n lid van die Raad aangestel of kan as so 'n lid verkies word nie—

- (a) as hy nie 'n Indiër is nie;
- (b) as hy nie blywend in die Republiek woonagtig is nie;
- (c) as hy 'n winsbetrekking in die diens van die Staat bekleed;
- (d) indien hy nie die toepaslike kwalifikasies besit wat by proklamasie ingevolge artikel 1A voorgeskryf is nie."

Vervanging van
artikel 5 van
Wet 31 van 1968.

5. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

„Ampstermyn van lede van Raad.

5. (1) Behoudens die bepalings van artikel 6 bekleed 'n lid van die Raad sy amp vir 'n tydperk van drie jaar vanaf die datum waarop hy aangestel of verkies word: Met dien verstande dat die ampstermyn van persone wat op 'n bepaalde tydstip lede van die Raad is, nie verder strek nie as 'n datum wat die Minister by kennisgewing in die *Staatskoerant* bepaal as die datum van verstryking van die ampstermyn van daardie lede.

(2) Indien 'n vakature in die Raad ontstaan, moet dié vakature gevul word—

- (a) in die geval van 'n aangestelde lid, deur die aanstelling deur die Minister ooreenkomstig die bepalings van hierdie Wet, van iemand om die vakature te vul; en
 - (b) in die geval van 'n verkose lid, deur die verkiesing, ingevolge die bepalings van hierdie Wet, van iemand om die vakature te vul,
- en iemand aldus aangestel of verkies, bekleed, behoudens die bepalings van subartikel (1), sy amp vir die onverstreke deel van sy voorganger se ampstermyn."

Vervanging van
artikel 6 van
Wet 31 van 1968.

6. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

„Ontruiming van amp deur lede van Raad.

6. 'n Lid van die Raad ontruim sy amp—

- (a) indien hy ophou om vir aanstelling of verkiesing as lid van die Raad bevoeg te wees; of
- (b) indien hy sonder verlof van die Raad van drie

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(4) If a proclamation is issued under subsection (1) the Council as then constituted shall, until the first election of members in terms of subsection (1), be deemed to be validly constituted in terms of this section, and the persons who are members thereof at the time of the issuing of such proclamation shall, subject to the other provisions of this Act, be deemed to be members appointed by the Minister in terms of the said subsection."

3. Section 2 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 2 of Act 31 of 1968.

"(1) The members of the Council contemplated in section 1 shall be appointed by the Minister, and they and members of the Council appointed under section 1A (1) shall represent the province of the Cape of Good Hope, the province of Natal and the province of the Transvaal in such proportion as the Minister may deem equitable."

4. The following section is hereby substituted for section 3 of the principal Act. Substitution of section 3 of Act 31 of 1968.

"Qualifications of members of Council.

3. No person shall be appointed or be capable of being elected as a member of the Council—

- (a) if he is not an Indian;
- (b) if he is not permanently resident in the Republic;
- (c) if he holds an office of profit in the service of the State;
- (d) if he does not have the relevant qualifications prescribed by proclamation in terms of section 1A."

5. The following section is hereby substituted for section 5 of the principal Act: Substitution of section 5 of Act 31 of 1968.

"Period of office of members of Council.

5. (1) A member of the Council shall, subject to the provisions of section 6, hold office for a period of three years as from the date on which he is appointed or elected: Provided that the period of office of persons who are members of the Council at any particular time shall not extend beyond a date fixed by the Minister by notice in the *Gazette* as the date of expiry of the period of office of those members.

(2) If a vacancy occurs on the Council such vacancy shall be filled—

- (a) in the case of an appointed member, by the appointment by the Minister, in accordance with the provisions of this Act, of a person to fill such vacancy; and
 - (b) in the case of an elected member, by the election, in terms of the provisions of this Act, of a person to fill such vacancy,
- and any person so appointed or elected shall, subject to the provisions of subsection (1), hold office for the unexpired portion of the period of office of his predecessor."

6. The following section is hereby substituted for section 6 of the principal Act: Substitution of section 6 of Act 31 of 1968.

"Vacation of office by members of Council.

6. A member of the Council shall vacate his office—

- (a) if he ceases to be qualified for appointment or election as a member of the Council; or
- (b) if he has been absent without the leave of the

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- opeenvolgende gewone vergaderings van die Raad afwesig was; of
- (c) indien hy skriftelik te kenne gee dat hy wil bedank en sy bedanking deur die Minister aanvaar word; of
 - (d) indien hy insolvent raak of 'n akkoord met sy skuldeisers tref; of
 - (e) indien hy deur 'n bevoegde hof kranksinnig verklaar word; of
 - (f) indien sy gesondheidstoestand sodanig word dat die Minister, handelende op advies van ten minste twee geregistreerde geneeshere hom as ongeskik vir verdere diens in die Raad beskou en hom dienoooreenkomstig skriftelik in kennis stel; of
 - (g) indien hy aan 'n misdryf skuldig bevind en gevonnissen word tot 'n tydperk van gevangenisstraf sonder die keuse van 'n boete; of
 - (h) indien hy weens onbehoorlike gedrag uit 'n vertrouensamp ontslaan word, of indien hy hom skuldig gemaak het aan gedrag op grond waarvan hy, volgens die oordeel van die Minister, na oorleg met die Raad, nie 'n geskikte persoon is om 'n lid van die Raad te bly nie, en dienoooreenkomstig skriftelik deur die Minister in kennis gestel word; of
 - (i) indien by verstryking van 'n tydperk van dertig dae nadat hy skriftelik in kennis gestel is dat hy as 'n lid van die Raad aangestel is, hy nog nie die Sekretaris van Indiërsake skriftelik in kennis gestel het dat hy die aanstelling aanvaar nie.”.

Wysiging van
artikel 10 van
Wet 31 van 1968.

7. Artikel 10 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Behoudens die bepalings van hierdie Wet beklee die lede van die uitvoerende komitee hul amp vir die duur van hul ampstermyn as lede van die Raad: Met dien verstande dat—

 - (a) iemand wat 'n lid is van die uitvoerende komitee op 'n ter sake datum wat ingevolge artikel 5 (1) bepaal is, in sy amp as so 'n lid aanbly tot die samestelling van die eerste nuwe uitvoerende komitee na daardie datum; en
 - (b) die Raad te eniger tyd 'n gekose lid van die uitvoerende komitee by besluit van 'n meerderheid bestaande uit twee-derdes van al sy lede van sy amp kan onthef.”;
- (b) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

„(a) Wanneer die voorsitter van die uitvoerende komitee om enige rede nie in staat is om sy amppligte uit te voer nie, of die voorsittersamp vakant is, kies die lede van die uitvoerende komitee uit hul eie geledere 'n waarnemende voorsitter om as sodanig op te tree totdat die voorsitter in staat is om sy amp te hervat of die vakature gevul word.”; en
- (c) deur subartikel (6) te skrap.

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Council from three consecutive ordinary meetings of the Council; or

- (c) if he signifies in writing his wish to resign and his resignation is accepted by the Minister; or
- (d) if he becomes insolvent or compounds with his creditors; or
- (e) if he is declared by a competent court to be of unsound mind; or
- (f) if the condition of his health becomes such that the Minister, acting on the advice of at least two registered medical practitioners considers him unfit for further service on the Council and informs him in writing accordingly; or
- (g) if he is convicted of an offence and sentenced to a term of imprisonment without the option of a fine; or
- (h) if he is removed from an office of trust on account of improper conduct, or if he has been guilty of conduct by reason whereof he is in the opinion of the Minister, after consultation with the Council, not a fit person to remain a member of the Council and is informed in writing by the Minister accordingly; or
- (i) if at the expiration of a period of thirty days after he has been informed in writing that he has been appointed as a member of the Council, he has failed to notify the Secretary for Indian Affairs in writing of his acceptance of the appointment."

7. Section 10 of the principal Act is hereby amended—

Amendment of
section 10 of
Act 31 of 1968.

- (a) by the substitution for subsection (2) of the following subsection:

"(2) Subject to the provisions of this Act the members of the executive committee shall hold office for the duration of their period of office as members of the Council: Provided that—

- (a) any person who is a member of the executive committee on any relevant date fixed in terms of section 5 (1), shall continue in his office as such a member until the constitution of the first new executive committee after that date; and
 - (b) the Council may at any time by resolution of a majority consisting of two-thirds of all its members remove any elected member of the committee from office.";
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(a) When the chairman of the executive committee is for any reason unable to perform the duties of his office, or the office of chairman is vacant, the members of the executive committee shall elect from among themselves an acting chairman to serve as such until the chairman is able to resume his office or the vacancy is filled.";
 - (c) by the deletion of subsection (6).

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Invoeging van artikel 10A in Wet 31 van 1968.

8. Die volgende artikel word hierby in die Hoofwet na artikel 10 ingevoeg:

„Werk-
saamhede
van uit-
voerende
komitee.

10A. (1) Die uitvoerende komitee verrig die werksaamhede van die Raad wat die Raad bepaal of wat by regulasie kragtens hierdie Wet voorgeskryf is.

(2) Die uitvoerende komitee behartig, onder die opdrag van die Raad, die volgende aangeleenthede vir sover dit Indiërs betref en in die mate waarin bevoegdheide om dié aangeleenthede te behartig, aan die uitvoerende komitee kragtens subartikel (4) gedelegeer is, naamlik—

(a) onderwys;

(b) gemeenskapswelsyn; en

(c) die ander aangeleenthede wat die Staatspresident van tyd tot tyd by proklamasie in die *Staatskoerant* bepaal.

(3) Die uitvoerende komitee moet ten opsigte van elk van die aangeleenthede bedoel in subartikel (2) sy voorsitter of een van sy ander lede aanwys om namens hom en onder sy opdrag die bevoegdheide uit te oefen en die werksaamhede en pligte te verrig wat met die betrokke aangeleentheid in verband staan.

(4) Ondanks andersluidende wetsbepalings kan die Minister of die uitvoerende komitee van 'n provinsie by kennisgewing in die *Staatskoerant* 'n bevoegdheid wat aan die Minister of so 'n uitvoerende komitee of die betrokke administrateur, na gelang van die geval, verleen is by 'n wet wat op 'n aangeleentheid bedoel in subartikel (2) betrekking het, aan die uitvoerende komitee delegeer.

(5) 'n Proklamasie wat kragtens subartikel (2) (c) uitgereik is, moet binne 14 dae na afkondiging daarvan in die Senaat en in die Volksraad ter Tafel gelê word, indien die Parlement in gewone sessie is of, indien die Parlement nie in gewone sessie is nie, binne veertien dae na die aanvang van sy eersvolgende gewone sessie.

(6) Wanneer 'n lid van die uitvoerende komitee om die een of ander rede nie in staat is om sy werksaamhede te verrig nie, kan die uitvoerende komitee 'n ander sodanige lid aanwys om die werksaamhede van eersgenoemde lid uit te voer totdat hy sy werksaamhede kan hervat.”.

Invoeging van artikel 13A in Wet 31 van 1968.

9. Die volgende artikel word hierby in die Hoofwet na artikel 13 ingevoeg:

„Geldig-
heid van
stappe deur
Raad ge-
doen indien
vakature
bestaan of
sekere on-
reëlmatig-
hede plaasge-
vind het.

13A. Geen beslissing wat die Raad geneem het of handeling wat kragtens magtiging van die Raad verrig is, is ongeldig nie slegs omrede van 'n vakature in die Raad of die feit dat iemand wat nie geregtig was om as 'n lid van die Raad sitting te neem nie, as 'n lid sitting geneem het toe die beslissing geneem of die handeling gemagtig is, indien die beslissing geneem of die handeling gemagtig is deur die vereiste meerderheid van die lede van die Raad wat toe aanwesig was en geregtig was om as lede sitting te neem.”.

Kort titel
en inwerking-
treëding.10. (1) Hierdie Wet heet die Wysigingswet op die Suid-Afrikaanse Indiërraad, 1972, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Die Staatspresident kan verskillende datums ten opsigte van die verskillende bepalings van hierdie Wet kragtens subartikel (1) bepaal.

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8. The following section is hereby inserted in the principal Act after section 10:

Insertion of section 10A in Act 31 of 1968.

"Functions of the executive committee.

10A. (1) The executive committee shall carry out such functions of the Council as may be determined by the Council or prescribed by regulation under this Act.

(2) The executive committee shall, under the direction of the Council, deal with the following matters in so far as they affect Indians and to the extent to which powers to deal with such matters have been delegated to it under subsection (4), namely—

- (a) education;
- (b) community welfare; and
- (c) such other matters as the State President may from time to time determine by proclamation in the *Gazette*.

(3) The executive committee shall in respect of each of the matters referred to in subsection (2) designate its chairman or one of its other members to exercise and perform on its behalf and under its direction the powers, functions and duties incidental to the matter in question.

(4) Notwithstanding anything to the contrary contained in any law, the Minister or the executive committee of a province may by notice in the *Gazette* delegate any power conferred upon him or it or the administrator concerned, as the case may be, by any law which relates to any matter referred to in subsection (2), to the executive committee.

(5) Any proclamation issued under subsection (2) (c) shall be laid upon the Table of the Senate and of the House of Assembly within fourteen days after promulgation thereof, if Parliament is in ordinary session or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

(6) Whenever a member of the executive committee is for any reason unable to perform his functions, the executive committee may designate any other such member to perform the functions of such first-mentioned member until he is able to resume his functions."

9. The following section is hereby inserted in the principal Act after section 13:

Insertion of section 13A in Act 31 of 1968.

"Validity of steps taken by Council when vacancy exists or certain irregularities have occurred.

13A. No decision taken by the Council, or act performed under the authority of the Council shall be invalid by reason only of a vacancy on the Council or of the fact that a person who was not entitled to sit as a member of the Council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Council who were present at the time and entitled to sit as members."

10. (1) This Act shall be called the South African Indian Council Amendment Act, 1972, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.

(2) The State President may under subsection (1) fix different dates in respect of the different provisions of this Act.

