

(SA) LANGUAGE PRACTITIONERS' COUNCIL BILL, 2000

BILL

To establish the Language Practitioners' Council of South Africa; to provide for control over the training, accreditation, and registration of language practitioners; and to provide for matters incidental thereto.

1 Definitions

In this Act, unless the context otherwise indicates-

'accreditation' means, in respect of individuals, the process by means of which language professionals are evaluated by the Council to ensure that they comply with the quality standards required for the registration of persons in specified categories and that they are accredited.

'Council' means the Council established in terms of section 2;

'Director-General' means the Director-General responsible for language or his nominee;

'impaired' means a mental or physical condition, or the abuse of or dependence on chemical substances, which affects the competence, attitude, judgement or performance of a student or a person registered in terms of this Act;

2000/07/19

Interpreting means the act of transposing an utterance from a source language to a target language in spoken form

Interpreter means a person who transposes an utterance from a source language to a target language in spoken form;

Language editing means the act of effecting corrections of language and/or style in written texts

Language editor means a person who effects corrections of language and or style in written texts

'language practitioner' means translators, interpreters, terminologists, lexicographers and language editors registered as such under this Act;

Lexicography means the act of compiling a dictionary or dictionaries

Lexicographer means a person who compiles a dictionary or dictionaries

'member' means a member of the Council;

'Minister' means the Minister responsible for language matters;

'prescribe' means prescribe by regulation and 'prescribed' shall have a corresponding meaning;

'qualification' means a duly accredited degree, diploma or certificate awarded after examination, by a training institution, of a person's proficiency in a particular subject;

'register', when used as a verb, means to enter in a register, the words 'registered', 'registrable', 'registration' and all other words formed with or derived from the word 'register' having a corresponding meaning;

'register', when used as a noun, means a register kept in accordance with the provisions of this Act, and when used in relation to any class or a member of any class of persons in respect of which a register is kept, means the register kept for that class;

'registrar' means the registrar appointed under section 12 or a person lawfully acting in that capacity;

'registration' means the act of registering, after completion of or compliance with the accreditation process prescribed by the Council;

'regulation' means any regulation made under this Act;

'rule' means any rule made under this Act;

Sign language interpreting means the act of mediating between spoken and sign language users by using speech or sign language

Sign language interpreter means a person who mediates between individuals in spoken or sign language

Terminology means the act of researching and establishing technical terms

Terminologist means a person who researches and establishes technical terms

'this Act' includes the regulations, rules and any proclamation or order issued or made under this Act;

Translation means the act of transposing a text from one language (source language) to another language (target language in written form)

'translator' means a person who transposes a text from one language (source language) to another language (target language in written form);

'unprofessional conduct' means improper or disgraceful or dishonourable or unworthy conduct or conduct which, when regard is had to the profession of a person who is registered in terms of this Act, is improper or disgraceful or dishonourable or unworthy;

2 Establishment of Translation and Interpreting Professions Council of South Africa

(1) There is hereby established a juristic person to be known as the Language Practitioners' Council of South Africa.

(2) The head office of the Council and its permanent Committees shall be situated in Pretoria.

3 Objects of Council

The objects of the Council are, in respect of language practitioners -

- (a) to accredit;
- (b) to register;

- (c) to scrutinise and maintain standards; and
- (d) to develop, implement, revise or amend a Code of Ethics to govern their conduct;
- (e) protect their professional interests; and
- (f) to protect the members of the public who make use of services provided by language practitioners.

4 General powers of Council

- (1) The Council may-
 - (a) acquire, hire or dispose of property, borrow money on the security of the assets of the Council and accept and administer any trust or donation;
 - (b) consult and liaise with –
 - (i) SAQA in respect of the establishment of an ETQA in terms of the SAQA Act;
 - (ii) the Council for Higher Education in respect of specific training courses or programmes; and
 - (iii) the National Skills Authority in respect of skills development;
 - (d) promote and regulate professional liaison between registered professionals;
 - (e) promote liaison and co-ordination in the field of training and accreditation, both in the Republic and elsewhere, and to promote the standards of such training in the Republic;

- (f) analyse and prioritise education and training needs in the language profession and make recommendations on the provision of such education and training;
 - (g) recognise accreditations of voluntary associations (SAATI/AFRILEX);
 - (h) levy and recover fees from certain registered persons; and
 - (i) grant, refuse, ratify, withdraw accreditation.
- (2) The Council must-
- (a) determine strategic policy, and to make decisions in terms thereof, with regard to the Council and the registered professions, for matters such as finance, education, registration, accreditation, ethics and standards of professional conduct, disciplinary procedure, scope of the professions, professional matters and maintenance and development of professional competence;
 - (b) co-ordinate the activities of the Council established in terms of this Act;
 - (c) propose levels of competency testing and qualifications;
 - (d) monitor and audit achievements in terms of those standards and qualifications without itself being the provider of education and training;
 - (e) keep record of learning and registered language professionals;
 - (f) devise a manner of application for registration and consider applications for registration;
 - (g) to develop and implement the national system of registration for professional language practitioners;

- (h) to develop and implement a framework for the accreditation of language practitioners at all levels;
 - (i) to develop, implement, enforce and revise the professional code of ethics governing the conduct of all registered language practitioners;
 - (j) perform any other developmental function on the provision of language services that may be required by the Minister;
 - (k) perform any other function aimed at the development of language professionals; and
 - (l) perform any other function necessary to attain the objectives of this Act.
- (3) Advise the Minister on-
- (a) accreditation and competency levels in the language profession(s), to improve the provision and the quality of services rendered by language practitioners, through adequate education and training;
 - (b) standards, competency testing and accreditation in the language professions;
 - (c) relevant international standards;
 - (d) any matter falling within the scope of this Act.

5 Constitution of Council

- (1) The Council shall consist of the following members whom the Minister shall appoint-
- (a) one person nominated by the department responsible for language;

- (b) one person nominated by the Department of Justice;
- (c) one person nominated by the Pan South African Language Council;
- (d) one person nominated by the South African Qualifications Authority;
- (e) one person nominated by the Council of Higher Education;
- (f) six persons nominated by professional and other associations in the field of translation, interpreting, lexicography, terminology, language editing and law.

(2) Subject to the provisions of section 6, the members of the Council shall hold office for a period of five years, but shall be eligible for redesignation or reappointment for one more term.

(3) If any of the persons or bodies referred to in subsection (1) except the Minister, fails to make a designation or an appointment or to inform the registrar [in terms of subsection (3)] of the names of the persons to be designated or appointed by them, the Minister shall make the necessary designation or appointment, and any designation or appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).

(4) The names of the members of the Council and the date of commencement of their term of office shall be published by the registrar in the Gazette as soon as possible after the constitution of the Council.

6 Code of Ethics

- (1) The Council shall develop a Code of Ethics for language practitioners.
- (2) A draft Code shall be published by notice in the Gazette and every provincial gazette and the notices shall specify the time to interested parties to comment.

- (3) The Council shall consider all comments before completing the Code .
- (4) The Council shall be responsible for final approval and administration of the Code of Ethics and shall ensure that the Code is available to all members of the public upon request and at reasonable times.
- (5) The Code shall be binding on all registered language practitioners.

7 Appointment of Registrar and Secretariat

- (1) The executive functions of the Council must be performed by a Registrar appointed by the Director-General in terms of the Public Service Act, 1994 (Proclamation 103 of 1994). [alternative: The executive functions of the Council must be performed by a registrar appointed by the Minister after consultation with the Council.]
- (2) The registrar shall be a person with experience and expertise in matters relating to the functions of the Council.
- (3) The registrar shall be appointed within 6 months after the Council has been constituted.
- (4) The Minister may appoint an interim registrar for a period not exceeding 6 months.
- (5) The Minister may appoint as many persons as he or she may reasonably determine to be necessary for administrative support and performance of the secretarial functions of the Council.

8 Functions of registrar

- (1) The Registrar shall be the accounting officer of the Council.
- (2) The Registrar shall be the Information Officer for purposes of the Access to Information Act, 2000 (Act no 2 of 2000).
- (3) The Registrar shall attend Council meetings and have voting powers ex officio.
- (4) The Registrar shall-
 - (a) keep a register;
 - (b) keep financial records;
 - (c) prepare agendas for meetings of the Council and reports on the activities of the Council;
 - (d) submit an annual report pertaining to the financial state of affairs to the Council; and
 - (e) perform such functions as may be required by the Act or the Council.

9 Vacation of office and filling of vacancies

- (1) A member of the Council shall vacate his office if-
 - (a) is or becomes an unrehabilitated insolvent or commits an act of insolvency;
 - (b) failed to attend three consecutive meetings of the Council without valid reasons and prior approval of the chairperson as noted in the minutes of those meetings;

- (c) he is or becomes disqualified under this Act from practising his profession;
- (d) he ceases to hold any qualification necessary for his designation or appointment or tenders his resignation in writing to the person or body by whom he was designated or appointed and that person or body accepts his resignation;
- (e) he ceases to be a South African citizen;
- (f) is or has been declared by a competent court to be of unsound mind; or
- (g) is or has been convicted, whether in the Republic or elsewhere, of theft, fraud, forgery, uttering a forged statement, perjury, corruption or any offence involving dishonesty;
- (h) the Minister, in the public interest and for just cause, and after consultation with the person or body by whom the member was designated or appointed, terminates his membership;
- (i) is or becomes a political office bearer;
- (j) is or has been removed from an office of trust on account of misconduct;
- (k) fails or has failed in material respects to execute his or her duties as set out in the Act;

(1) has been or becomes unable to perform his or her functions of office effectively due to serious ill-health continuing for longer than two (2) months.

(2) Every vacancy on the Council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by designation or appointment by the person or body by whom and in the manner in which the vacating member was designated or appointed, and every member so designated or appointed shall hold office for the unexpired portion of the period for which the vacating member was designated or appointed.

7 President and vice-president

(1) At the first meeting of every newly constituted Council the members of the Council shall elect a president and a vice-president from among their number.

(2) The president and vice-president shall hold office during the term of office of the members of the Council unless the president or vice-president shall sooner resign or cease to be a member of the Council.

(3) The vice-president may, if the president is absent or for any reason unable to act as president, perform all the functions and exercise all the powers of the president.

(4) If both the president and vice-president are absent from any meeting or have been given leave of absence, the members present shall elect one of their number to preside at that meeting to act as chairperson during such inability and the person so presiding may, during that meeting and until the

president or the vice-president resumes duty, perform all the functions and exercise all the powers of the president.

(5) If the office of president or vice-president becomes vacant, the members of the Council shall, at the first meeting after such vacancy occurs or as soon thereafter as may be convenient, elect from among themselves a new president or vice-president, as the case may be, and the member so elected shall hold office for the unexpired portion of the period for which his predecessor was elected.

(6) A president or a vice-president may vacate office as such without such vacation by itself terminating his membership of the Council.

8 Meetings of the Council

(1) The Council shall hold at least two meetings in each year at venues to be determined by the Council, and may in addition hold such further meetings as the Council may from time to time determine.

(2) The first meeting of the Council must be held at the place and time specified by the Minister.

(3) The president may at any time convene a special meeting of the Council, to be held on such date and at such place as he may determine and he shall, upon a written request by the Minister or a written request signed by at least six members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such date and at such place as he may determine: Provided that such written request shall state clearly the purpose for which the meeting is to be convened.

9 Quorum and procedure at meetings

(1) The majority of the members of the Council shall constitute a quorum at any meeting of the Council.

(2) A decision of the majority of the members of the Council present at any meeting shall constitute a decision of the Council: Provided that in the event of an equality of votes the member presiding shall have a casting vote in addition to a deliberative vote.

(3) No decision taken by the Council or act performed under authority of the Council shall be invalid by reason only of an interim vacancy on the Council or of the fact that a person who is 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 Committees

(1) (a) The Council shall establish a registration-, accreditation-, disciplinary- and appeals subcommittee in the prescribed way and any other committees as the need arises, each consisting of so many persons, appointed by the Council, as the Council may determine:- Provided that in the case of the disciplinary and appeal committees referred to in subsection (2), at least one member of the Council, who shall be the presiding officer of such committee.

(2) The Council shall from time to time, as the need arises, establish disciplinary or appeal committees, each consisting of, as presiding officer,

a member of council, not more than two registered persons drawn from the profession of the registered person charged with misconduct.

(3) An appeal committee referred to in subsection (2) shall have the power to vary, confirm or set aside a finding of a disciplinary committee or to refer the matter back to the disciplinary committee with such instructions as it may deem fit.

(4) A decision of a disciplinary committee, unless appealed against, shall be of force and effect from the date determined by the disciplinary committee.

(5) Where a matter has been considered by a disciplinary appeal committee the decision of the appeal committee, unless appealed against, shall be of force and effect from the date determined by the appeal committee.

11 Delegation

(1) The Council may delegate to any committee or any person such of its powers as it may from time to time determine, but shall not be divested of any power so delegated.

(2) The Registrar may delegate to any person such of his or her powers as he or she may from time to time determine, but shall not be divested of any power so delegated

12 Finances of Council

(1) The Council is funded from –

- (a) registration fees;
- (b) examination fees;
- (c) funds appropriated by Parliament for the purpose; and
- (d) moneys obtained through fundraising efforts.
- (e) donations and contributions received from any sources;
- (f) interest earned on moneys invested
- (g) income derived from any other source in terms of this Act.

(2) All fees payable under this Act shall, unless otherwise provided, be paid to the Council and the Council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

(3) The Council may invest any unexpended portion of its moneys and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.

(4) (a) The Council shall utilise its funds to defray expenditure arising from or connected with the performance of its functions in terms of this Act.

(b) The Council may utilise its funds only in accordance with the objectives of the Public Finance Management Act, 1999 (Act no 1 of 1999) and in accordance with a statement of its estimated income and expenditure, which has been approved by the Minister.

(c) The Council shall utilise a donation and a contribution contemplated in subsection (1) (e) in accordance with the conditions, if any, imposed by the donor or contributor concerned.

(d) The unspent moneys standing to the credit of the Council at the end of a financial year, shall be carried forward as a credit balance to the next financial year.

(3) (a) The Council shall in each financial year, at such time as the Minister may determine, submit to the Minister for approval a statement of the Council's estimated income and expenditure for the next financial year. However, the Council may at any time during the course of a financial year concerned, submit a supplementary statement of estimated income and expenditure for that financial year to the Minister for approval.

(b) The Minister may grant such approval with the agreement of the Minister of Finance.

(c) The Council shall not incur any expenditure in excess of the total amount approved under paragraph (b).

(4) The Council may, in respect of any work completed or service rendered by it under this Act, charge such fees as it considers fit.

(5) The moneys of the Council that are not required for immediate use or as a reasonable working balance, may be invested with the Corporation for Public Deposits, established by section 2 of the Corporation for Public Deposits Act, 1984 (Act 46 of 1984).

(6) For each financial year the Council shall-

(a) have accounting records kept, in accordance with generally accepted accounting practice and procedures, of all money received by or

accruing to it in terms of subsection (1), and of all payments made from those moneys, during the financial year; and

(b) have a current record kept of its assets and liabilities.

(7) Annually, as soon as may be reasonably possible after the end of each financial year, the Council shall have financial statements prepared, consisting of-

(a) an income and expenditure statement, showing all moneys that were received by and had accrued to the Council in terms of subsection (1) during the past financial year, and all the expenditure incurred and payments made by it, during that past year; and

(b) a balance sheet, showing the Council's financial position and the state of its assets and liabilities as at the end of the past financial year; and

(c) a cash-flow statement for that past year.

(8) The Council's accounting records and financial statements shall be submitted to the Auditor-General for auditing within three months after the end of each financial year.

(9) The Council shall, within 30 days after receipt of the auditor's report, submit its audited financial statements and the auditor's report to the Minister, who shall lay it on the table in the National Assembly within 14 days after receipt, if the National Assembly is then sitting or, if it is not sitting then, within 14 days after the beginning of its next sitting.

(10) The Council's financial year shall run from 1 April in any year to 31 March in the following year, both days included.

16 Keeping of registers

(1) The registrar shall keep registers in respect of accredited language practitioners and enter in the register the name, physical address, qualifications, date of initial registration and such other particulars of every person whose application for registration has been granted.

(2) The registrar shall keep the registers correctly and in accordance with the provisions of this Act and shall remove therefrom the names of all registered persons who have died or whose names have to be removed in terms of this Act and shall from time to time make the necessary alterations in the addresses or qualifications of registered persons.

(3) Every registered person who changes his address shall in writing notify the registrar thereof within thirty days after such change.

(4) No qualification nor accreditation shall be entered in the register unless the registrar is satisfied that the person claiming to possess such qualification or experience is entitled thereto and has duly so demonstrated in the accreditation process conducted by the Council, and any entry which is proved to the satisfaction of the Council to have been made in error or through misrepresentation or in circumstances not authorized by this Act, may be removed from the register and a record of the reason for every such removal shall be made in the register, and the person in respect of whose entry such removal has been made, shall be notified thereof.

17 Removal of name from, and restoration to, register

(1) The Council may direct the registrar to remove from the register the name of any person-

(a) who has been absent from the Republic during the three years immediately preceding such removal;

(b) who has failed to notify the registrar, within a period of [three] six months as from the date of an enquiry sent by the registrar by certified mail to the address appearing in the register in respect of such person, of his present address;

(c) who has requested that his name be removed from the register, in which case such person may be required to lodge with the registrar an affidavit to the effect that no disciplinary or criminal proceedings are being or are likely to be taken against him;

(d) who has failed to pay to the Council, within three months as from the date on which it became due for payment, any annual fee prescribed;

(e) whose name has been removed from the register, record or roll of any university, college, society or other body from which that person received the qualification by virtue of the holding whereof he was registered;

(f) who has been registered in error or through fraud.

(2) Notice of the removal of an entry from the register, shall be given by the registrar to the person concerned by way of certified mail addressed to

such person at the address appearing in respect of him or her in the register.

(3) As from the date on which notice has been given in terms of subsection (2)-

(a) any registration certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and

(b) such person shall cease to practise the profession in respect of which he was registered or to perform any act which he, in his capacity as a registered person, was entitled to perform,

until such time as his name or the entry removed from the register is restored to the register.

(4) If from the documents submitted to him, it appears to the judge concerned, or it is brought to his notice in any other manner, that the person to whom the documents relate is a person registered under this Act, he shall, if the said person is declared a mentally ill person as contemplated in section 19 (1) (b) of the Mental Health Act, direct that a copy of the order declaring such person a mentally ill person be transmitted to the registrar and the registrar shall, on receipt of the said copy, remove the name of the person concerned from the register.

(5) The name of a person whose name has in terms of this section been removed from the register or an entry removed from the register shall be restored to the register by the registrar upon the person concerned-

(a) applying on the prescribed form for such restoration;

- (b) paying the fee prescribed in respect of such restoration (if any);
- (c) in the case where his name has been removed from the register in terms of subsection (4), submitting proof to the satisfaction of the Council of his discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he had been detained;
- (d) paying any annual fee which was not paid and payment of an additional fee as may be decided upon; and
- (e) complying with such other requirements as the Council may determine.

18 Right to appeal

(1) Any person who is aggrieved by any decision of the Council or a disciplinary appeal committee, may appeal to the appropriate High Court against such decision.

(2) Notice of appeal must be given within one month from the date on which such decision was given.

19 Custody and publication of registers

The registers shall be kept at the office of the Council and the registrar shall, at intervals to be determined by the Council and according to the instructions and on the authority of the Council, cause copies of the registers, or of supplementary lists showing all alterations, additions,

revisions and deletions made since the last publication of the complete registers, to be printed and published.

20 Register as proof

(1) A copy of the last published issue of a register or any supplementary list purporting to be printed and published on the authority of the Council shall be prima facie proof, in all legal proceedings, of the facts therein recorded, and the absence of the name of any person from such copy shall be proof, until the contrary is proved, that such person is not registered according to the provisions of this Act: Provided that in the case of any person whose name-

(a) does not appear in such copy, or whose name has been added to the register after the date of the last published issue thereof, a certified copy under the hand of the registrar of the entry of the name of such person in the register, shall be proof that such person is registered under the provisions of this Act;

(b) has been removed from the register since the date of the last published issue thereof and has not been restored thereto, a certificate under the hand of the registrar that the name of such person has been removed from the register shall be proof that such person is not registered according to the provisions of this Act.

(2) A certificate of registration shall be evidence of registration for a period of one year only and thereafter an annual practising certificate, which shall be issued upon payment of the required annual fee and the submission of such information as may be required by the Council to enable it to keep

accurate statistics on [human resources in the language field,] language practitioners shall be regarded as proof of registration.

21 Issue of duplicate registration certificate, certificate of status, extract from register or certificate by registrar

(1) If the registrar is satisfied-

(a) on proof submitted by the registered person concerned, that a registration certificate has been destroyed; or

(b) by virtue of an affidavit submitted by the registered person concerned, that a registration certificate has been lost,

he may issue a duplicate registration certificate to that person upon payment of the prescribed fee.

(2) The registrar may, upon payment of the prescribed fee, issue to any registered person a certificate of status containing particulars relating to such person's registration as well as a statement to the effect that the said person is not disqualified from practising his profession and that no disciplinary steps are pending against him in terms of this Act.

(3) The registrar may issue a certified extract from the register or a certificate under his hand to any person upon payment of the prescribed fee.

(4) A certificate may be issued subject to certain conditions imposed by the Council and such conditions shall be indicated on the certificate.

22 Qualifications and experience prescribed for registration

The Minister may, on the recommendation of the Council, prescribe the qualifications obtained by virtue of examinations conducted by a university, a technikon or other examining authority in the Republic, which, when held singly or conjointly with another qualification or duly proven and current experience, shall entitle any holder thereof to apply for registration in terms of this Act if he has, before or in connection with or after the acquisition of the qualification in question, complied with such conditions or requirements as may be prescribed.

23 Penalty for professing to be a registered person or the holder of certain qualifications

Any person who is not registered as a [Interpreter or Translator] language practitioner, but-

- (a) pretends to be so registered in respect of such profession; or
- (b) uses any name, title, description or symbol indicating, or calculated to lead persons to infer that he is the holder of any qualification which by rule under this Act is recognized by the Council as acceptable for registration in respect of such profession, but of which qualification he is not the holder; or
- (c) uses any name declared by regulation to be a name which may not be used,

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

24 Inquiries by Council into charges of misconduct

(1) The Council shall have the power to institute an inquiry into any complaint, charge or allegation of unprofessional conduct against any person registered under this Act, and appoint an officer and an assessor with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the Council or such committee, as the case may be, on matters of law, procedure or evidence. for this purpose.

(2) On finding a person guilty of professional misconduct, the Council shall have the power to impose any of the penalties prescribed:- Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the Council may postpone the holding of an inquiry until such case has been determined.

(3) the Council may, whenever it is in doubt as to whether an inquiry should be held, in connection with the complaint, charge or allegation in question consult with or seek information from any person, including the person against whom the complaint, charge or allegation has been lodged.

25 Matters for and procedure at inquiry by Council

(1) Every person registered under this Act who, after an inquiry held by the Council, is found guilty of [improper or disgraceful] unprofessional conduct, [or conduct which, when regard is had to such person's profession, is improper or disgraceful], shall be liable to one or other of the following penalties-

- (a) a caution or a reprimand or a reprimand and a caution; or
- (b) suspension for a specified period from practising or performing acts specially pertaining to his profession; or
- (c) removal of his name from the register; or
- (d) a fine not exceeding R10 000; or
- (e) the payment of the costs of the proceedings or a restitution.

(2) If an appeal is lodged against a penalty of erasure or suspension from practice, such penalty shall remain effective until the appeal is heard.

(3) Every person whose conduct is the subject of an inquiry, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.

(a) For the purposes of any inquiry held in terms of section 41, a Council may take evidence and may, under the hand of the President of the Council or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the President of the Council or the person presiding at the inquiry, administer an oath to any witness or accept an affirmation from him or her, and may examine

any book, record, document, translation, transcript or thing which any witness had been required to produce.

(b) A summons to appear before a Council as a witness or to produce to it any book, record, document or thing shall be [as nearly as practicable], in the prescribed form, shall be signed by the President of the Council or the registrar and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court.

(c) Every person summoned in terms of this subsection shall be bound to obey the summons and any person who, having duly been summoned-

(i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;

(ii) refuses to take the oath or to make an affirmation when required by the President of a Council or the person presiding at the inquiry to do so;

(iii) refuses to produce any book, record, document, translation, transcript or thing which he has in terms of the summons been required to produce;

shall be guilty of an offence and on conviction liable to a fine as determined by the Minister in consultation with the Minister of Justice by notice in the Gazette: Provided that every person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

[(5) The President of a Council, where the Council itself holds an inquiry, or the President of a committee of a Council, where such committee holds an inquiry under powers delegated to it by the Council, may appoint a person with adequate experience in the administration of justice to be present as an assessor at such an inquiry and to advise the Council or such committee, as the case may be, on matters of law, procedure or evidence.]

(6) The Council may, if it deems fit, and subject to such conditions as it may determine-

(a) terminate any suspension under subsection (1) before the expiry of the specified period; or

(b) on payment of the prescribed fee, restore to the register any name which has been removed therefrom.

(8) If a person registered in terms of this Act (in this section referred to as the accused) is allegedly [to be] guilty of unprofessional conduct and the Council on reasonable grounds is of the opinion that it shall impose a fine as determined by the Minister in consultation with the Minister of Justice by notice in the Gazette on conviction after an inquiry under section 41, the Council may issue a summons as prescribed on which an endorsement is made by the Council that the accused may admit that he is guilty of the said conduct and that he may pay the fine stipulated without appearing at the said inquiry.

(9) Where a summons in terms of subsection (8) is issued against an accused, the accused may, without appearing at an inquiry, admit his guilt in respect of the conduct referred to in subsection (1) by paying the

stipulated fine (in this section referred to as the admission of guilt fine) to the Council before a date specified in the summons.

(10) (a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the Council within 14 days after such imposition.

(b) The imposition of a penalty shall have the effect of a civil judgment of the magistrate's court of the district in which the inquiry took place.

(11) The Minister may on the recommendation of the Council amend the amount mentioned in subsection (8) by notice in the Gazette.

26 Postponement of imposition of penalty and suspension of operation of penalty

(1) Where a Council finds a person guilty of conduct referred to therein, it may-

(a) postpone for such period and on such conditions as may be determined by it, the imposition of the penalty; or

(b) impose any penalty, but order the execution of such penalty or any part of the penalty to be suspended for such period and on such conditions as may be determined by it.

(2) (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (a), the Council is satisfied that the person concerned has observed all the relevant conditions, the Council shall inform the person concerned that no penalty will be imposed upon him or her.

(b) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1) (b), and the Council is satisfied that the person concerned has observed all the relevant conditions, the Council shall inform such person that such penalty or part thereof will not be executed.

(c) If the execution of a penalty or any part of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the Council shall put such penalty or part thereof into operation, unless such person satisfies the Council that the non-observance of the condition concerned was due to circumstances beyond his control.

27 Effect of suspension or removal from register

Every person who has been suspended or whose name has been removed from the register shall, be disqualified from carrying on his profession as a registered language practitioner and his registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the register by the Council.

28 Penalty for false evidence

Any person who gives false evidence on oath at any inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

29 Limitation of liability

Save as is provided in this Act, the Council or a Council or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

30 Council to make rules relating to offences under this Chapter

(1) The Council may make rules in consultation with the Minister, relating to-

(a) the conduct of the business and the procedure at meetings of the Council, committees of the Council and of Council and the manner in which minutes of such meetings shall be kept;

(b) the manner in which contracts shall be entered into on behalf of the Council, the accounts of the Council shall be kept and the manner in which money accruing to the Council shall be disposed of;

(c) the allowances which may be paid to members of the Council or to members of Council or to members of committees of the Council;

(d) any fees payable in terms of this Act;

(e) the forms of the registers to be kept in terms of this Act and of all certificates which may be issued under this Act and the manner in which alterations may be effected in such registers;

(f) the forms to be completed and the documents to be submitted by applicants for registration or for restoration to the register;

- (g) the returns and information to be furnished by any person registered in terms of this Act;
- (h) policy issues;
- (i) accreditation;
- (j) the acts or omissions in respect of which the Council may take disciplinary steps under this Chapter:
- (k) any matter which in terms of this Act is required to be or may be promulgated as rules to ensure that the Council achieves its objectives.

(2) The Council shall, not less than three months before any rule is made in terms of this Act, cause the text of such rule to be published in the Gazette together with a notice declaring the Council's intention to make such rule and inviting interested persons to furnish the Council with any comments thereon or any representations they may wish to make in regard thereto.

(3) No rule made in terms of subsection (1) or any amendment or withdrawal thereof shall be of force and effect until approved by the Minister and published in the Gazette.

31 Regulations

(1) The Minister may, in consultation with the Council, make regulations relating to-

(a) (i) the registration by the Council of students in registrable professions studying at any recognised training institution, the fees payable in respect of such registration and the removal by the Council from the register in question of the names of such students so registered;

(ii) the standards of general education required of such students as a condition precedent to such registration;

(iii) the duration of the curricula to be followed by such students at such training institutions;

(iv) the minimum requirements of the curricula and the standards of education and examinations to qualify for registration in terms of this Act, which must be maintained at every training institution offering training in any such profession, in order to secure recognition under this Act of the qualifications in question at such training institutions;

(b) (i) the minimum age and the standard of general education required of a candidate for examination for a certificate entitling the holder thereof to registration in terms of this Act;

(ii) the persons who may be admitted to such examinations;

(iii) the courses of study and the training required for such examinations;

(iv) the institutions at which such courses or training may be taken or undergone and any other requirements in connection with such study or training;

(v) the registration by the Council of persons taking or undergoing such courses or training and the fees payable in respect of such registration;

(vi) the fees payable by candidates for such examinations;

(vii) the appointment and remuneration of examiners for such examinations;

(viii) the issue of certificates by the Council and any other matter incidental to such examinations or the issue of such certificates;

(ix) the nature and duration of the practical training to be undergone by persons who have obtained such certificates but who have not yet been registered, before they may be so registered;

(x) the nature and duration of the training to be undergone by any person who has obtained a qualification but who is not yet registered as such, before he may be registered as such;

(c) the conditions under which any registered person may practise his profession;

(d) the names which may not be used;

(e) (i) the registration of interns or student interns, where applicable to a registrable profession, including the recording of particulars of their training and proof of the performance thereof;

(ii) the institutions at which or the persons with whom such training may be undertaken;

(iii) any other matter incidental to the registration or training of students;

(f) (i) the registration in terms of section 35, of the specialities or categories of registered persons;

(ii) the requirements to be satisfied, including the experience to be obtained, the nature and duration of the training to be undergone and the qualifications to be held by persons before any speciality or category may be registered;

(iii) the circumstances under which any applicant for the registration of a speciality shall be exempted from any of such requirements;

(iv) conditions in respect of the practices of persons whose specialities or categories have been registered, including conditions restricting the practice of any such person to the speciality or category registered in his name;

(g) the conduct of an inquiry held in terms of section 42, including-

(i) the manner in which complaints or charges brought against a registered person shall be lodged;

(ii) the method of summoning an accused person and the penalties for failure or refusal on the part of any such person to attend or for obstructing or interrupting the proceedings;

(iii) the continuation of a disciplinary inquiry, after a plea has been lodged, by the committee conducting the inquiry, should one or more members of the committee be unable to continue to serve: Provided that not less than two of the original members of the committee are available to continue with the inquiry;

(iv) the procedure to be followed to lodge an appeal with an appeal committee and the time within which an appeal may be lodged;

(v) any other matter relating to the conduct of such an inquiry;

(h) any matter which in terms of this Act is required to be prescribed by regulation; and

(i) generally, all matters which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(2) The Minister may, after consultation with the Council, if he deems it to be in the public interest, amend or repeal any regulation or rule made in terms of this Act.

(3) The provisions of any regulation made under paragraph (e) of subsection (1) relating to fees payable may vary according to the reason for the removal of a person's name from the register and the period during which it was so removed.

(4) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith.

(5) Any proclamation or notice issued or regulation, rule or order made under this Act may from time to time be amended or repealed by the authority by which it was issued or made.

(6) The Minister shall, not less than three months before any regulation is made under subsection (1), cause the text of such regulation to be published in the Gazette together with a notice declaring his intention to make such regulation and inviting interested persons to furnish him or her with any comments thereon or any representations they may wish to make in regard thereto.

(7) The provisions of subsection (6) shall not apply in respect of-

(a) any regulation which, after the provisions of subsection (6) have been complied with, has been amended by the Minister in consequence of representations received by him or her in pursuance of the notice issued thereunder; and

(b) any regulation in respect of which the Minister is advised by the Council that the public interest requires it to be made without delay.

32 Levying of annual fees on accredited and registered persons

(1) The Minister may, on the recommendation of the Council, at any time by notice in the Gazette authorize a Council to prescribe a fee to be paid annually to the Council by the registered persons concerned: Provided that in prescribing such fee the Council may differentiate between persons according to whether they have been registered before or after a date specified in the notice and may vary such fee according to whether it is paid before or after a specific date.

(2) If any person liable to pay any annual fee prescribed in terms of subsection (1) fails or refuses to pay such fee within the period specified in the notice in question, the Council may recover such fee by action in a competent court.

(3) If a person's name has been removed from the register, it shall be a condition precedent for the restoration of his name to the register that he pays the outstanding annual fee.

(4) The Council may by resolution exempt for an indefinite or definite period any registered person specified in the resolution from payment of any annual fee prescribed in terms of subsection (1).

33. Transitional Provisions

(1) For a period, not exceeding two years the Council may recognise

- (a) Any person admitted and enrolled by any division of the Supreme Court as a sworn translator in accordance with section 59(1) of the High Court Rules
- (b) accreditation granted by voluntary or other associations prior to the Council

Provided that the Council may conduct a competency test whenever it deems this reasonably necessary.

(2)

34 Short title and commencement

This Act shall be called the (SA) Language Practitioners' Council Bill, 2000, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

2000/07/19