

REPUBLIC OF SOUTH AFRICA

**ECONOMIC CO-OPERATION
PROMOTION LOAN FUND
AMENDMENT BILL**

(As introduced in the National Assembly)

(MINISTER OF FOREIGN AFFAIRS)

[B 3—98]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP
DIE LENINGSFONDS TER
BEVORDERING VAN
EKONOMIESE SAMEWERKING**

(Soos ingedien in die Nasionale Vergadering)

(MINISTER VAN BUITELANDSE SAKE)

[W 3—98]

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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Economic Co-operation Promotion Loan Fund Act, 1968, so as to provide that any amounts owing in terms of loans granted to the governments of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei under that Act shall not be repayable; to provide that moneys in the Economic Co-operation Promotion Loan Fund may be used to complete any project which is the subject of an agreement entered into with any of the said governments; to provide that any payment for such completion shall be made to the provincial government which has taken over the project in question; and to authorise the Minister of Foreign Affairs to pay moneys in the said fund not required for immediate use into the National Revenue Fund; and to provide for matters connected therewith.

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

Amendment of section 3 of Act 68 of 1968, as substituted by section 1 of Act 29 of 1986

1. Section 3 of the Economic Co-operation Promotion Loan Fund Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the addition of the following subsections:

“(3) Any amounts owing in terms of loans granted under subsection (1) out of the fund to the government of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei shall not be repayable to the fund.” 10

(4) Moneys in the fund may be used to complete any project which at the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), was the subject of an agreement entered into with any government referred to in subsection (3).

(5) Any payment for the completion of a project referred to in subsection (4) shall, notwithstanding the terms and conditions of the relevant agreement, be made to the provincial government which has taken over the project in question.”. 15

Amendment of section 5 of Act 68 of 1968, as substituted by section 3 of Act 29 of 1986

2. Section 5 of the principal Act is hereby amended by the addition of the following subsection:

“(3) Notwithstanding subsection (1), the Minister may pay into the National Revenue Fund such an amount of the moneys contemplated in subsection (1) as the Minister, in consultation with the Minister of Finance, may determine.” 5

Short title

3. This Act shall be called the Economic Co-operation Promotion Loan Fund Amendment Act, 1998. 10

MEMORANDUM ON THE OBJECTS OF THE ECONOMIC CO-OPERATION PROMOTION LOAN FUND AMENDMENT BILL, 1998**Objects**

Acting in terms of section 3(2) of the Economic Co-operation Promotion Loan Fund Act, 1968 (Act No. 68 of 1968), hereinafter referred to as “the Act”, the Minister of Foreign Affairs entered into agreements with the governments of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei in terms of which loans were granted to those governments for development projects within their respective areas of jurisdiction. In the case of the former Republic of Bophuthatswana there was also a separate agreement providing for a non-refundable financial grant from the Economic Co-operation Promotion Loan Fund for the development of the Winterveld area. With the enactment of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the said former Republics ceased to exist and the rights and obligations of the lender and borrower, by virtue of the said agreements, were merged and were vested in the Republic of South Africa. In that respect, the Bill merely endorses a factual situation. The said former governments no longer exist, and if the Government of the Republic would be required to repay the amounts owing under the loans granted to the former governments it would simply mean that it would make the payments concerned to itself. The capacities of debtor and creditor have by merger become vested in the same entity.

The development projects which formed the subject of the said agreements and which had at the commencement of the said Constitution not been completed, were taken over by the provincial governments within whose areas of jurisdiction the localities of the development projects are situated. The Bill proposes to provide that all payments as contemplated in the relevant agreements which may be required for the completion of those projects shall be paid to the provincial governments concerned.

The Bill also provides that the Minister of Foreign Affairs, acting in consultation with the Minister of Finance, may pay money which is not required and which will not be used for any existing development project into the National Revenue Fund, established by section 213 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

Consultation

The following departments and institutions were consulted:

Office of the Auditor-General
Office of the (then) Public Service Commission
Department of State Expenditure
Department of Finance
Eastern Cape Provincial Administration
North West Provincial Administration
Northern Province Provincial Administration

Parliamentary procedure

The State Law Advisers are of the opinion that this Bill must be dealt with in accordance with section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.