



DEPARTMENT: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA
OFFICE OF THE CHIEF STATE LAW ADVISER

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Parliamentary Legal Adviser

ATTENTION: ADV. ANTHEA J GORDON

FAX NO. 021 403 3888

RE: LANGUAGE PRACTICES RELATING TO PARLIAMENTARY ACTS BILL

1. We have been approached by the Parliamentary Legal Adviser for comment on the Language Practices Relating to Parliamentary Acts Bill pursuant to a decision of the Joint Rules Committee of Parliament on 4 August 2004.
2. We have perused the Bill and have to point out that the Bill needs careful redrafting in the form and style that conforms to legal practice.
3. Clause 2 appears to be in conflict with section 6(4) of the Constitution since it

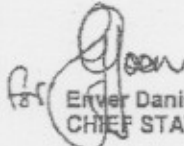
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requires a Bill to be introduced in only two languages. Legislation creates rights and duties throughout the jurisdiction of the legislature, and ought to be intelligible to the people to whom it applies. Legislation at national level should therefore in principle be published in all the principal languages of the state.¹ Parliament should promote the development and use of all the official languages. However, this doesn't mean that every piece of legislation should be introduced into Parliament in all the official languages if this is not economically viable.


4. In respect of clause 4, we agree with the views expressed in paragraph 13 of the legal opinion given by the Parliamentary Law Advisers on 21 May 2001 that an Act should be amended in the language in which it was promulgated.

5. Although the Bill seeks to regulate which text of an Act is or must be regarded as the official text (in clauses 1 (definition), 2 (Cabinet member specifying), 3 (Cabinet member specifying) and 4 (deeming provision)) we are of the opinion that some of those provisions could conflict with section 82 of the Constitution which provides that "(T)he signed copy of an Act of Parliament is conclusive evidence of the provisions of that Act and, after publication, must be entrusted to the Constitutional Court for safekeeping.". In terms of section 81 of the Constitution a Bill assented to and signed by the President becomes an Act of Parliament.


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¹ Constitutional Law of South Africa; Chaskalson et al, 37-8.

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