

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
FOREIGN SERVICE BILL**

[B 35—2015]

*(As agreed to by the Portfolio Committee on International Relations and
Cooperation (National Assembly))*

[B 35A—2015]

ISBN 978-1-4850-0567-4

No. of copies printed 400

AMENDMENTS AGREED TO

FOREIGN SERVICE BILL

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CLAUSE 1

1. On page 2, after line 19, to insert the following definition:

“**‘acquire’** in relation to an immovable asset, means acquisition through construction, purchase, lease, acceptance of a gift outside the Republic or by any other lawful means, for use by the Foreign Service;”.
2. On page 2, in line 22, after “means” to omit “the training unit of the Department” and to substitute “the Diplomatic Academy as contemplated in section 7”.
3. On page 2, after line 22, to insert the following definition:

“**‘disposal’** means to sell, exchange or donate immovable assets in accordance with this Act;”.
4. On page 2, in line 24, after “1994),” to insert “or any other legislation, and includes”.
5. On page 2, in line 25, before “members” to omit “including”.
6. On page 2, in line 25, after “section” to omit “contemplated in section 2”.
7. On page 2, in line 27, after “section” to omit “2” and to substitute “3”.
8. On page 2, after line 31, to insert the following definition:

“**‘GIAMA’** means the Government Immovable Asset Management Act, 2007 (Act No. 19 of 2007)”.
9. On page 2, in line 34, after “of” to insert “section 84(2)(i) of the Constitution and as also recognised by”.
10. On page 3, in line 7, after “Republic” to omit “in accordance with the reservations made by South Africa upon its accession thereto”.
11. On page 3, after line 8, to insert the following definition:

“**‘immovable asset’** means land or an immovable structure on land, or rights in such land or immovable structure;”.
12. On page 3, from line 9, to omit the definition of “locally recruited personnel”.
13. On page 3, in line 14, to omit “2” and to substitute “3”.
14. On page 3, in line 16, to omit “7(2)(a) and to substitute “7(2)”.
15. On page 3, from line 19, to omit the definition of “prescribed” and to substitute the following:

“**‘prescribed’** means prescribed by regulation in terms of

section 14, or by codes or directives made by the Minister in terms of section 11;”.

16. On page 3, in line 26, after “its” to omit “subordinate”.
17. On page 3, in line 26, after “regulations,” to omit “policies” and to substitute “guidelines”.

NEW CLAUSE

1. On page 3, after line 26, to insert the following new clause after clause 1 and renumber the existing clause 2 as clause 3, and the subsequent clauses accordingly:

“Application of Act

2. (1) Subject to the provisions of this Act, the conditions of service of members of the Foreign Service must be governed by the law governing that employee’s conditions of service.

(2) Where this Act conflicts with the provisions of the Public Service Act, 1994, (Proclamation No. 103 of 1994), or any other legislation, and it is not possible to read the conflicting provisions as complementary to one another, this Act must prevail.”.

CLAUSE 2

1. On page 3, in line 35, after “and” to omit “of”.
2. On page 3, in line 36, after “Missions” to insert “, including Heads of Mission,”.
3. On page 3, in line 44, after “all” to omit “three”.
4. On page 3, in line 45, after “services” to omit “in terms of the Republic’s policies”.
5. On page 3, in line 46, after “dignitaries” to insert “as prescribed”.
6. On page 3, from line 47, after “services”, to omit “to South African nationals in the Republic and abroad” and to substitute “in line with the Guidelines for the Provision of Consular Services”.
7. On page 3, in line 56, after “the” to omit “foreign service” and to substitute “Foreign Service”.

CLAUSE 3

1. On page 3, from line 59, after “Mission”, to omit “or in cases where the Minister has granted an exemption based on operational requirements”.
2. On page 4, in line 2, after “department” to insert “, or appointed on a contractual basis for a fixed period,”.
3. On page 4, from line 4, to omit subclause (2) and to add the following:

“(2) The head of a national department must, in writing, notify the Director-General of an employee who has approval from that national department to be transferred to a South African Mission.

(3) A member of the Foreign Service may not take up a position at a South African Mission until such time—

- (a) as he or she has successfully completed the prescribed mandatory training requirements;
- (b) as he or she has met the prescribed requirements for such transfer;
- (c) as he or she has obtained a security clearance as issued by a competent authority; and
- (d) that the approval for the transfer has been granted by the Director-General.”.

CLAUSE 4

1. On page 4, after line 13, to add the following:

- “(3) All Heads of Mission—
- (a) must be fit and proper persons;
 - (b) may have relevant knowledge, skills and experience; and
 - (c) must reflect broadly the diversity of South Africa.”.

CLAUSE 5

1. On page 4, in line 15, after “Republic” to insert “by the Director-General”.
2. On page 4, in line 19, after “Republic” to insert “by the Director-General”.
3. On page 4, in line 22, after “held” to omit “at the Head Office of the Department”.
4. On page 4, in line 23, after “concerned” to omit “is stationed” and to substitute “was transferred”.
5. On page 4, from line 25, to omit subclause (5) and to insert the following:

- “(5) (a) A member of the Foreign Service must be recalled to the Republic by the Director-General—
- (i) when the Republic ceases to have diplomatic or consular representation in the foreign State where the member was transferred;
 - (ii) if the member is declared *persona non grata* by the State where that member was transferred; or
 - (iii) at the request of the State where that member was transferred.
- (b) A member of the Foreign Service may be recalled to the Republic, where such circumstances arise that would warrant the recall of that member, in the interest of the Republic.
- (6) A member of the Foreign Service may be recalled to the Republic at the request of that member.
- (7) With the exception of subsection (5), the Director-General may only recall a member of the Foreign Service that is employed by a national department other than the Department on written request from the head of the national department where that member is employed.”.

CLAUSE 6

1. On page 4, after line 31, to insert the following:

- “(a) providing the prescribed mandatory training for members of the Foreign Service as contemplated in section 4(3);”.