



JAN S. DE VILLIERS
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Select Committee on Education and Recreation, Arts
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and to

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25 September 2008

Dear Mr Tolo

BIBLE SOCIETY OF SOUTH AFRICA ACT REPEAL BILL: B 70B-2008

We act for the Bible Society of South Africa which currently exists as a statutory body in terms of Act 15 of 1970.

As you will be aware, the above Repeal Bill was scheduled to have been approved by Parliament's National Assembly this week. We understand that the Bill will immediately thereafter be referred for consideration to the Select Committee of the NCOP of which you are the Chairperson.

Once the Repeal Bill acquires force of law the Bible Society will cease to have a statutory existence. It will, however, thereupon continue its work without interruption, now in the form of a section 21 company, namely the Bible Society of South Africa (Association incorporated under section 21) Registration number 2008/007505/08, which has already been approved as a Public Benefit Organisation by the Tax Exemption Unit of SARS.

Earlier in this process we appeared before the National Assembly's Portfolio Committee for Arts and Culture and made detailed submissions to them in regard to the practical transitional arrangements that would have to be made to provide for a smooth transfer of the business of the Bible Society to the new section 21 company.

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This communication is confidential and privileged. If received in error it must please be returned to us at our cost.

As confirmed by Mr Pierre-Jean Gerber who introduced the above Repeal Bill as a Private Member's Bill, and also by the members of the NA's Portfolio Committee when we appeared before them at the public hearings, it is expressly not the aim of Parliament to take away any existing rights or privileges of the Bible Society through the repeal of the Bible Society of South Africa Act.

The detailed practical transitional arrangements that we have proposed to the NA's Portfolio Committee included that a clause be inserted in the Repeal Bill providing for the transfer of the business of the Bible Society to the new section 21 company, as a going concern and including all its assets and liabilities, rights and obligations. The aim would be to achieve such transfer by vesting and registering the assets of the Bible Society in the name of the new section 21 company without saddling the latter with any liability for taxes, levies and the like and to avoid a huge amount of legal work and substantial attorneys' costs. The Portfolio Committee were in agreement with these sentiments and did not take issue with us in regard thereto.

When the current version of the Bill, B 70B-2008, was approved by the Portfolio Committee some of the clauses that we proposed should be included in the Repeal Bill were indeed incorporated. However, some of the other proposed clauses were left out as they appeared to the Parliamentary legal advisers not to be necessary.

We are in agreement with the Parliamentary legal advisers that most of the additional clauses that we previously proposed may well be left out without detriment to the new section 21 company.

We have pointed out to the Parliamentary legal advisers, however, that it is imperative that before approval by the NCOP of the final version of the Repeal Bill two of the proposed sub-clauses eliminated by the legal advisers be included in the current version of the Bill. The two issues that need to be addressed in further sub-clauses 2(3) and 2(4) are the following:

1. Bequests and donations to the statutory Bible Society:

- 1.1. Sub-sections 2(1) and 2(2) of the current version of the Repeal Bill (B 70B-2008) already correctly designate the new section 21 company as the legal successor to the statutory Bible Society, and provides for the transfer as a going concern of the business of the Bible Society to the new section 21 company. That would imply that all the assets and liabilities, rights and obligations of the statutory Bible Society are included in what is being transferred. As (correctly) pointed out by the Parliamentary legal advisors, it is therefore not necessary to list the various types of assets and liabilities, rights and obligations that the statutory Bible Society possesses and owns.
- 1.2. It is very important, however, that not only the existing assets which already form part of the Bible Society's business be dealt with, but also the expectation that the Bible Society has of future donations and bequests, which are not yet assets of the Society and are not yet part of the going concern which is being transferred in terms of sub-section 2(2) of the current version of the Repeal Bill. There will obviously already be in existence bequests in wills, donations in trust etc. in which provision has been made to benefit the "Bible Society of South Africa", but which bequests in wills, donations in trusts etc. will take effect at some later date only upon the decease of the testators in question or the happening of some other event.

- 1.3. Please see the suggested new sub-section 2(3) in the attached revised draft Repeal Bill that we have annexed hereto for your consideration. This proposed new sub-section 2(3) makes absolutely sure that all such bequests and donations, which were intended for the statutory Bible Society, will now accrue to the new section 21 company which has taken the place of the statutory Bible Society.

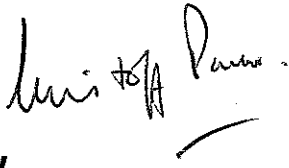
2. The logistics of effecting delivery and procuring vesting and registration of the Bible Society's assets in the name of the new section 21 company:

- 2.1. At present there is no delivery mechanism in the Repeal Bill to ensure the smooth logistical transfer of the assets and liabilities of the going concern to the new section 21 company.
- 2.2. Unless a specific new sub-section is introduced to provide for the foregoing, there will be a huge problem. The statutory Bible Society will have ceased to exist, it will have no directors and no one will be able to act on its behalf. It will also not have a liquidator to deal with its assets, as happens e.g. in the case of deregistration or liquidation of a company. The assets will simply remain *in limbo* and no one will be able to transfer them to the new section 21 company.
- 2.3. Please see the suggested new sub-section 2(4) in the attached revised draft Repeal Bill that we have annexed hereto for your consideration. This proposed new sub-section 2(4) makes specific provision for the way in which transfer of the various assets is to be achieved. Such transfer will accordingly be governed by statute without requiring anything further to be done by the statutory Bible Society which will already have ceased to exist.
- 2.4. Further, it is imperative that the new section 21 company steps into the shoes of the statutory Bible Society without attracting any liability for taxes, levies or duties in the process of vesting or registering the statutory Bible Society's assets in the name of the new section 21 company.
- 2.5. The proposed new sub-section 2(4) will ensure the required smooth vesting and registration of the Bible Society's assets in the name of the new section 21 company without saddling it with any onerous tax or similar liability or unnecessary legal costs.

We accordingly request that the Select Committee approve the amplification of Repeal Bill B 70B-2008 by the inclusion of the proposed sub-sections 2(3) and 2(4) contained in the attached draft amplified Repeal Bill.

We think that the above proposals are clear and self explanatory and very much doubt that any further debate in regard thereto should be necessary. If you nonetheless consider that the Select Committee should be addressed on the matter or if you want any further clarification in relation to of the Bible Society's position, we shall appreciate being given the opportunity to appear before the Select Committee in a public hearing as soon as possible after 13 October 2008 when we understand the Parliamentary committees will resume their work.

Yours faithfully

A handwritten signature in black ink, appearing to read 'CP Pauw', with a horizontal line underneath.

CP PAUW
JAN S. DE VILLIERS

Copies to: Ms Refilwe Mathabathe, Parliamentary Legal Advisor
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The Reverend G S Kritzinger, CEO, Bible Society of South Africa
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BIBLE SOCIETY OF SOUTH AFRICA ACT REPEAL BILL

Repeal of laws

1. The Bible Society of South Africa Act, 1970 (Act No. 15 of 1970), is hereby repealed.

Savings

2. (1) The Bible Society of South Africa (Association incorporated under Section 21) Registration number 2008/007505/08 is designated the legal successor to the Bible Society incorporated in terms of the repealed Act on the date of repeal.

(2) The business of the Bible Society is transferred as a going concern to the Bible Society of South Africa (Association incorporated under section 21) Registration number 2008/007505/08 upon the date of repeal notwithstanding any prohibition against the transfer of any asset or obligation.

(3) The expectance of the receipt by the Bible Society of donations and bequests pursuant to the provisions of any written instrument is transferred to the Bible Society of South Africa (Association incorporated under Section 21) Registration number 2008/007505/08 which is designated as the authorised recipient of all donations and bequests which would, but for the repeal of the Bible Society of South Africa Act, have accrued to the Bible Society by virtue of any written instrument unless a contrary intention appears from the instrument.

(4) The vesting and transfer into the name of the Bible Society of South Africa (Association incorporated under Section 21) Registration number 2008/007505/08 of the assets and liabilities of the business of the Bible Society shall take place without payment of transfer duty or stamp duty or fees of office or any other duty, levy or tax imposed by any statutory authority and without attracting any liability for capital gains tax, and in the case of any immovable property the transfer shall take place by an endorsement on the title deed thereof without the need for a formal transfer or on the registered deed of lease without the need for a formal cession, and in the case of a bond by an endorsement on the bond without the need for a formal cession and in the case of any right or obligation appearing from any unregistered document, by operation of law without the need for a written cession or delegation.

Short title

- 3 This Act is called the Bible Society of South Africa Act Repeal Act, 2008.