

REPUBLIC OF SOUTH AFRICA

ACADEMY OF SCIENCE OF SOUTH AFRICA BILL

(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill published in Government Gazette No 22367 of 8 June 2001) (The English text is the official text of the Bill)

(MINISTER OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY)

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BILL

To establish a juristic person known as the Academy of Science of South Africa; to determine its objects, functions and method of work; to prescribe the manner in which it is to be managed and governed; to provide for the repeal of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
 - “Academy” means the Academy of Science of South Africa, established by section 2;
 - “Council” means the Council of the Academy elected in terms of section 6;
 - “financial year” means the period from 1 April in any year to 31 March in the following year;
 - “Minister” means the cabinet member responsible for Arts, Culture, Science and Technology;
 - “prescribed” means prescribed by regulation;
 - “president” means president of the Academy elected and appointed in terms of section 6;
 - “regulation” means a regulation made under this Act;
 - “this Act” includes the regulations.

Establishment of Academy

2. A juristic person known as the Academy of Science of South Africa is hereby established.

Objects of Academy 20

3. The objects of the Academy are—
 - (a) to promote common ground in scientific thinking across all disciplines;
 - (b) to promote the optimum development of the intellectual capacity of all people; and
 - (c) to provide effective advice and facilitate appropriate action in relation to the collective needs, opportunities and challenges of all South Africans.

Relationship with Government

4. (1) The Academy is the only academy of science recognised by Government.
(2) The Minister may direct the Academy to perform acts on behalf of Government which are in accordance with its objects. 30

Composition of Academy

5. (1) There is only one category of members of the Academy, but a member may become an *emeritus* member from the beginning of the year in which the member turns 70 years of age.
- (2) A member of the Academy is a person who can be expected by the Academy to significantly assist the Academy in achieving its objects. 5
- (3) The criterion for election to membership of the Academy is significant achievement in the advancement or the application of science.
- (4) New Candidates for membership of the Academy are proposed and recommended by means of a prescribed certificate signed by not less than four members, at least two of whom have personal knowledge and understanding of the scientific work and significant contribution to science of the candidate. 10
- (5) The certificate must contain a draft citation explaining why the election of the candidate to membership of the Academy would further the objectives of the Academy.
- (6) The certificate must be accompanied by a prescribed statement from the candidate indicating the candidate's willingness to be considered for election to membership of the Academy, together with a *curriculum vitae*. 15
- (7) The Council of the Academy must annually evaluate, in terms of the prescribed criteria for membership, all new candidates and candidates brought forward from a previous year. 20
- (8) All existing members of the Academy will then be required, in a secret ballot, to cast votes that are either for or against every candidate passed by the Council or that indicate a neutral position.
- (9) Members of the Academy who do not vote are regarded as having recorded neutral votes. 25
- (10) A candidate having at least three times as many votes for him or her as against him or her is considered elected to membership of the Academy, as long as at least one half of the votes cast are in his or her favour.
- (11) Every person who is elected a member of the Academy must attend an annual general meeting of the Academy to sign the register of members and to subscribe to the following obligation: 30
- (a) "I (full name) hereby promise to promote the well-being of South Africa through scientific thought and generally to further the objectives of the Academy of Science of South Africa as far as this lies within my power; and
- (b) I shall also observe the prescribed constitution and prescribed standing orders of the Academy for as long as I remain a member thereof." 35
- (12) A member of the Academy is, subject to subsection (9), obliged to take part in the elections of new members of the Academy and the members of the Council.

Council

6. (1) The Academy is controlled and governed in accordance with this Act by the Council. 40
- (2) The Council must ensure that the objects of the Academy are actively pursued and must exercise general control over the performance of the functions of the Academy.
- (3) The Council consists of the following persons: 45
- (a) the president of the Academy who is the chairperson;
- (b) two vice-presidents;
- (c) the general secretary;
- (d) the treasurer;
- (e) seven other members; and
- (f) one member of the National Advisory Council on Innovation appointed by the Minister. 50
- (4) The members of the Council, except the member contemplated in subsection (3)(f), are elected by members of the Academy from their number and appointed by the Minister.
- (5) The Council exercises the powers and performs the duties conferred or imposed upon the Council by or under this Act. 55
- (6) (a) The Council meets at such times and places as the president may direct.
- (b) A quorum for a meeting of the Council is the majority of its members.

Disqualification, vacation of office and filling of vacancies

7. (1) A person may not be appointed as a member of the Council if that person—
- (a) is not a South African citizen and ordinarily resident in the Republic;
 - (b) is an unrehabilitated insolvent;
 - (c) has been convicted of an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment; 5
 - (d) has, as a result of improper conduct, been removed from an office of trust.
- (2) A member of the Council must vacate office if the member— 10
- (a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Council;
 - (b) resigns by written notice addressed to the Council;
 - (c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973); 15
 - (d) has without leave of the Council been absent from more than two consecutive meetings of the Council;
 - (e) has failed to pay an annual subscription fee set by the Council for a particular year by the end of the following financial year;
 - (f) has had more than three prescribed defaults recorded by the president during the previous five years, for which no satisfactory reasons have been given to the Academy by the member; 20
 - (g) has been found guilty of misconduct after a formal hearing for conduct which may bring the Academy into disrepute, but a member may not vacate office until the next annual general meeting at which the vacation of office must appear on the agenda. 25
 - (h) subject to this subsection, addresses his or her resignation in writing to the president, the Council accepts such resignation and all outstanding subscription fees have been paid.
- (3) Any member of the Council wishing to resign his or her membership must tender his or her resignation in writing to the president and the Council must accept such resignation if all subscription fees owing by such member have been paid. 30
- (4) If the office of a member of the Council becomes vacant before the expiration of the term of office of that member, the Minister must, within 60 days and subject to subsection (1), appoint a person nominated by the Council to fill the vacancy for the unexpired portion of the period for which the member who has vacated office was appointed. 35

Committees of Academy

8. (1) The Council may establish one or more committees which may exercise such powers or perform such functions of the Academy as the Council may determine. 40
- (2) A committee referred to in subsection (1) consists of such number of members of the Academy and employees of the Academy, if any, as the Council may deem necessary, and the Council may at any time dissolve or reconstitute a committee.
- (3) If a committee consists of more than one member, the Council must designate a member of the committee to be the chairperson thereof. 45
- (4) The Council is not absolved from the performance of any function entrusted to any committee of the Council in terms of this section.

Accounting Officer

9. (1) In addition to the other functions entrusted to the president by or under this Act, he or she shall be the accounting officer charged with the responsibility of accounting for all money received and the utilisation thereof and be responsible for the property of the Academy. 50
- (2) (a) The president may—
- (i) delegate to another member of the Council a power conferred upon the accounting officer by or under this Act; or 55
 - (ii) authorise such person to perform a duty assigned by or under this Act to the accounting officer.

(b) A delegation under paragraph (a) does not prevent the exercise of the power in question or the performance of the duty in question by the accounting officer.

Staff and conditions of service of employees

10. (1) (a) The Academy may, subject to paragraph (b) and on such conditions as it may determine, appoint such employees as it deems necessary to enable the Academy to perform its functions. 5

(b) The Academy must out of its own funds pay to its employees such remuneration, allowances, subsidies and other benefits as the Council may determine.

(c) The Academy may, on such conditions as it may deem fit and if the employee consents thereto, second an employee, either for a particular task or for a period of time, to the service of a department of State, an organisation or institute in the Republic on condition that such employee's rights, privileges and benefits by virtue of his or her conditions of service as an employee of the Academy are not adversely affected by such secondment. 10

(2) The Academy may, on such conditions and against such security as may be determined by the Academy— 15

(a) lend money to an employee, or provide collateral security, including guarantees, to a registered financial institution in respect of a loan granted to an employee by that financial institution, to enable such employee to acquire, improve or enlarge immovable property for his or her residential purposes; 20

(b) lend money to an employee to enable him or her to become a member of a pension fund approved by the Academy or to have a break in service on account of approved leave without full pay reckoned as pensionable service.

Financing

11. (1) The funds of the Academy consist of— 25

(a) money paid to the Academy by users of its services;

(b) donations or contributions lawfully received from any source;

(c) interest on investments; and

(d) income derived under this Act from any other source.

(2) The Academy must utilise any donations or contributions contemplated in subsection (1)(b) in accordance with the conditions, if any, imposed by the donor or contributor concerned. 30

(3) The Academy may, in respect of any work completed or service rendered by it under this Act, charge such fees or make such other financial arrangements as it may deem fit. 35

(4) The Academy may invest any unexpended portion of its funds with the Corporation for Public Deposits.

Audit, annual and financial report

12. (1) The accounts and balance sheet of the Academy are audited externally on an annual basis. 40

(2) The financial statements must be submitted to members within six months of the end of the financial year.

Functions of Academy

13. (1) In order to achieve its objects the Academy may—

(a) at the request of any person or on its own initiative, investigate matters of public interest concerning science and on the strength of the findings act in an opinion-forming and advisory manner; 45

(b) publish scientific reports and other publications;

(c) promote and inspire outstanding achievements in the different fields of South African science and grant recognition for excellence; 50

(d) generally promote interest in science education;

(e) establish reciprocal arrangements with organisations with similar objects locally and, subject to international legislation regarding international cooperation, in other countries in order to promote the exchange of information and ideas; 55

- (f) acquire any rights and privileges which it considers necessary or appropriate;
 - (g) receive or make donations, grants and endowments, purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property, and erect any building;
 - (h) invest its funds on such security as it may from time to time determine; 5
 - (i) raise or borrow money in such manner as it deems fit, including by mortgage bonds or by the issue of debentures secured by mortgage bonds upon all or any part of its property, but against no other security than the assets of the Academy;
 - (j) sell, improve, lease, dispose of or alienate or otherwise deal with all or any of the property of the Academy; 10
 - (k) appoint, fix the remuneration of and discharge officers of the Academy; and
 - (l) do all such things as are conducive to the attainment of its objects.
- (2) The Academy must—
- (a) advise the Minister on matters concerning science; 15
 - (b) undertake or cause to be undertaken such investigations and research concerning its objects as the Minister may assign to it;
 - (c) perform such duties in respect of its objects as the Minister may assign to it;
 - (d) from time to time review its structure, organisation and programmes.

Performance of functions outside Republic 20

14. (1) The Academy may, subject to legislation regarding international cooperation and in order to achieve its objects, render support relevant thereto to any South African citizen in any territory outside the Republic.

(2) This Act must, as far as it can be applied with the necessary changes, apply in connection with the performance by the Academy of its functions under subsection (1) 25 as if the territory in which it so performs its functions were part of the Republic.

Meetings of Academy

15. (1) The first meeting of the Academy is held at the time and place determined by the Minister, and thereafter meetings are held at such times and places as the president determines. 30

(2) The Academy must meet at least once a year.

(3) The president may at any time convene a special meeting of the Academy, which must be held at such time and place as the president determines.

(4) All members of the Academy must be notified in writing of every meeting of the Academy except meetings of its committees. 35

(5) A quorum for a meeting of the Academy is one quarter of its members.

(6) Any decision of the Academy is taken by resolution of a simple majority of the members of the Academy present at any meeting of the Academy, and, in the event of an equality of votes on any matter, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote as a member of the Academy. 40

(7) A member of the Academy may not vote or in any manner participate in the proceedings at any meeting of the Academy nor be present at the venue where such a meeting is held, if, in relation to any matter before the Academy, he or she has any interest which precludes him or her from performing his or her functions as a member of the Academy in a fair, unbiased and proper manner. 45

Regulations

16. The Minister may in consultation with the Academy make regulations regarding—

- (a) any matter required to be prescribed in terms of this Act;
- (b) the code of conduct for members of the Academy; and 50
- (c) any matter which it is necessary or expedient to prescribe in order to implement and administer this Act.

Repeal of law

17. The Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act 1959 (Act No. 54 of 1959), is hereby repealed. 55

Dissolution of council

18. The council of “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” contemplated in section 1 of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959 (Act No. 54 of 1959), is hereby dissolved subject to section 19.

Transitional provisions

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19. (1) The council of “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” may form a company in terms of section 21 of the Companies Act, 1973 (Act No. 61 of 1973), or establish any other legal entity.

(2) All assets, rights and obligations of the council of “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” shall, upon its dissolution, devolve upon the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity contemplated in subsection (1) without formal transfer and without payment of any fees, duties, taxes or other charges. 10

(3) Every employee of “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” immediately prior to the date of commencement of this Act becomes an employee of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity contemplated in subsection (1) upon the commencement of this Act, on the same conditions of service as before. 15

(4) All the rights and obligations existing between “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” and each of its employees immediately prior to the date of commencement of this Act continue in force as if they were rights and obligations between the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity and each such employee. 20

(5) The change of the name of the employer from “Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns” to the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity does not interrupt the continuity of service of any employee and must, for all purposes, be regarded as not being a change of employer. 25

(6) The Council of a voluntary association known as the Academy of Science of South Africa immediately prior to the date of commencement of this Act becomes the first Council of the Academy for a period not exceeding three years from the date of commencement of this Act. 30

(7) All persons who immediately before the date of commencement of this Act were members of the Academy of Science of South Africa referred to in subsection (6) are regarded as having been duly elected to the Academy in accordance with section 5.

Short title and commencement

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20. This Act is called the Academy of Science of South Africa Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE ACADEMY OF SCIENCE OF SOUTH AFRICA BILL, 2001

Background

1. In October 1989, a need was identified for the establishment of an Academy that is truly representative of all scientific disciplines (natural science, social science, humanities, economic science, engineering, health science and agricultural sciences) within all cultural communities. As a result thereof the Academy of Science of South Africa (ASSAF) has now been established with support and representation from a wide variety of scientists from all scientific disciplines and communities.
2. ASSAF currently functions as a voluntary association under its own constitution that was accepted and approved by its founding members at an inaugural meeting held on 22 February 1996. ASSAF differs from the Academies that existed prior to 1996 in that the opinions it provides will be truly representative of the broad scientific community of this country. ASSAF enjoys the support of both the "Suid-Afrikaanse Akademie vir Wetenskap en Kuns" and the Royal Society of South Africa.

Contents of Bill

3. The Bill provides for the establishment of ASSAF as an autonomous body corporate with perpetual succession and legal personality. The Minister of Arts, Culture, Science and Technology will utilise ASSAF to provide the Department with advice and perform specific functions like entering into agreements with peer organisations in other countries. ASSAF will be the only science academy recognised by Government. The Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959 which established the "Suid-Afrikaanse Akademie vir Wetenskap en Kuns" is repealed.
4. It is regarded as prudent that ASSAF be established under separate legislation in order to promote openness and transparency. In so doing ASSAF will become known to the public at large. The legislative process will provide an opportunity for public debate on the desirability and future course of ASSAF. As a body corporate with perpetual succession and legal personality sanctioned by an Act of Parliament, ASSAF will enjoy international acceptance and credibility, as its constitution and objects cannot be changed at will. The objects of ASSAF are aimed at ensuring that individuals who have made significant contributions to science, act in concert and across all disciplines in providing direction to the scientific community and at the facilitation of appropriate action in relation to the collective needs, threats, opportunities and challenges of all South Africans.
5. ASSAF differs from existing bodies such as the "Suid-Afrikaanse Akademie vir Wetenskap en Kuns", the Royal Society of South Africa and the Engineering Academy of South Africa in that it serves all language and cultural groups in all disciplines of science (natural science, social science, humanities, economic science, engineering, health science and agricultural sciences). The "Suid-Afrikaanse Akademie vir Wetenskap en Kuns" is the only similar body that is currently recognised by law. It is intended to recognise only one science academy, which has an overarching scope of activity.
6. ASSAF acts as an autonomous body, while its members are elected on the basis of the highest level of scientific thinking and knowledge and of a significant contribution in the service of the nation as a whole. ASSAF acts as an independent instrument enabling the scientific community to make sufficient contributions to policy advisory or implementation bodies, in a coordinated and representative manner. ASSAF establishes national and international links with similar organisations in order to foster the exchange of information and ideas in the interest of the country and all its people.

Departments consulted

Department of Education
 Department of Home Affairs
 Department of Housing

Department of Public Service and Administration
Department of Justice and Constitutional Development
Department of Agriculture
Department of Land Affairs
The Presidency

Other institutions or bodies consulted

National Science Technology Forum;
Suid-Afrikaanse Akademie vir Wetenskap en Kuns;
Royal Society of South Africa; and
Academy of Science of South Africa (currently a voluntary association).

Financial implications for State

None

Parliamentary procedure

The Department and the State Law Advisers are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.