
GENERAL NOTICE

NOTICE 33 OF 2011

MINISTRY OF TRADE AND INDUSTRY

PUBLICATION OF CO-OPERATIVES AMENDMENT BILLS FOR PUBLIC COMMENTS

1. Interested parties are invited to submit comments on two Co-operative Amendment Bills (Section 75 and Section 76), within a period of sixty (60) days from the date of this publication.
2. Comments and enquiries can be directed to:

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DR. ROB DAVIES

MINISTER OF TRADE AND INDUSTRY

DATE: 11/11/2010

REPUBLIC OF SOUTH AFRICA

CO-OPERATIVES SECOND AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76); explanatory summary of
Bill published in Government Gazette No. of) (The English text is the official
text of the Bill)*

(MINISTER OF TRADE AND INDUSTRY)

[B - 2010]

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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.

BILL

To amend the Co-operatives Act, 2005, so as to ensure compliance with the principles for intergovernmental relations and to provide for the intergovernmental relations within the co-operatives sector; and to provide for matters connected therewith.

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

Insertion of section 91D in Act 14 of 2005

1. The following section is hereby inserted in the principal Act after section 91C:

“Functions of Agency in respect of satellite offices of Agency

91D. The Agency, in order to achieve its objectives in respect of satellite offices of the Agency—

- (a) must appoint the personnel as required to every satellite office after consultation with the provincial Department of Economic Development, the metropolitan municipality or the district municipality, as the case may be;
or
(b) in consultation with the Member of the Executive Council responsible for economic development or the Municipal Council whichever the case may be, may, delegate all or some of the functions of the satellite offices to a provincial Department of Economic Development, a metropolitan municipality or a district municipality, as the case may be, subject to any conditions the Agency may impose in respect of such delegation.”

Insertion of Chapters 12D in Act 14 of 2005

2. The following Chapter is hereby inserted in the principal Act after Chapter 12C:

**"CHAPTER 12D
INTERGOVERNMENTAL RELATIONS**

Applicability of intergovernmental relations framework policies and legislation

91WW. Intergovernmental relations between the three spheres of government and specifically—

- (a) the Department;
- (b) provincial government departments responsible for economic development;
- (c) municipalities;
- (d) provincial public entities;
- (e) municipal public entities;
- (f) the Agency;
- (g) the Tribunal;
- (i) the Co-operative Dispute Resolution Commission;
- (j) structures established in accordance with a provision of this Act;
- (k) structures established in accordance with a provision of any other national law; and
- (l) structures established in accordance with provincial law,

must be interpreted in accordance with national and the applicable provincial transversal, policies and legislation regulating intergovernmental relations.

Intergovernmental structures

91XX. (1) All intergovernmental structures contemplated in subsection (2)—

- (a) functioning at the commencement of this Act; or
- (b) established or recognised as contemplated in national or provincial legislation,

will continue to function as contemplated in the relevant enabling legislation.

(2) The following intergovernmental local government structures are recognised for purposes of this Act:

- (a) intergovernmental local government structures as provided for in national legislation; and
- (b) any other intergovernmental local government structure established by the Minister after consultation with the Minister responsible for co-operative government and traditional affairs as contemplated in—
 - (i) this Act; and
 - (ii) any other national legislation.

(3) The Minister, after consultation with the Minister responsible for co-operative government and traditional affairs may, by notice in the Gazette, declare provisions of this Act applicable to any structure contemplated in this section.

(4) Intergovernmental structures established as contemplated in this Act, must, in addition to their functions contemplated in this Act, comply with the national framework contemplated in section 91CCC, and the applicable provincial, transversal policies and legislation regulating intergovernmental structures.

Functions of intergovernmental structures

91YY. An intergovernmental structure established as contemplated in this Act, must—

- (a) promote co-operative governance;
- (b) ensure the co-ordination of planning, budgeting, provisioning of services and support to, and monitoring and evaluation in respect of, co-operatives;
- (c) advise the Minister and the various Members of the Executive Council responsible for economic development on any matter contemplated;
- (d) submit copies of the approved minutes of all meetings to the Minister, various Members of the Executive Council responsible for economic development and the entities contemplated in section 91UU, represented in such structure; and
- (e) perform any functions and duties as may be determined by the Minister by notice in the Gazette.

Administrative and procedural arrangements

91ZZ. Every structure established as contemplated in this section must comply with the framework for administrative and procedural arrangements contemplated in section 91CCC.

Establishment of National Interdepartmental Co-ordination Committee on Co-operatives and Inter-Provincial Co-ordination Committee on Co-operatives

91AAA. (1) The National Interdepartmental Co-ordination Committee on Co-operatives and the Inter-Provincial Co-ordination Committee on Co-operatives are hereby established.

(2) The National Interdepartmental Co-ordination Committee on Co-operatives must co-ordinate all co-operatives development programmes developed by sectoral national departments.

(3) The Inter-Provincial Co-ordination Committee on Co-operatives must co-ordinate all co-operatives development programmes developed at provincial level.

(4) The National Interdepartmental Co-ordination Committee on Co-operatives and the Inter-Provincial Co-ordination Committee on Co-operatives must meet on a quarterly basis to discuss matters of mutual interest.

Establishment of Provincial Interdepartmental and Municipal Co-ordinating Structure

91BBB. (1) A Provincial Interdepartmental and Municipal Co-ordinating Structure must be established in every province by the provincial Department of Economic Development concerned.

(2) The Provincial Interdepartmental and Municipal Co-ordinating Structure must—

- (a) develop provincial co-operatives strategies in consultation with all relevant stakeholders: Provided that the strategies must be guided by this Act, the national co-operative policy, the national co-operative strategy and the provincial growth and development strategy concerned;
- (b) co-ordinate the co-operative development and support activities of all provincial government departments dealing with co-operatives;
- (c) co-ordinate the provision of support of co-operatives across departments aligned with provincial priorities and the priorities of the Department;
- (d) report to the Provincial Legislature concerned and the Department;
- (e) report on the activities of the provincial Departments of Economic Development to the Department;
- (f) support the provincial chapters of the Agency and the Provincial Co-operative Training Academies; and
- (g) co-ordinate with all municipalities as regards the promotion of, and the provision of support for, co-operatives, and submit reports in this regard as contemplated in this section.

Dispute and conflict resolution

91CCC. Any dispute or conflict in respect of the exercise, performance and carrying out by an entity contemplated in section 91UU of its powers, functions and duties, as contemplated in this Act or any other law, must be resolved in accordance with the framework contemplated in section 91CCC.

Framework for intergovernmental relations

- 91DDD.** (1) The Minister must—
- (a) after consultation with the various Members of the Executive Council responsible for economic development and the entities contemplated in section 91UU, develop a framework for intergovernmental relations; and
 - (b) publish the framework contemplated in paragraph (a) by notice in the Gazette within six months after commencement of the Co-operatives Amendment Act.

(2) Every intergovernmental structure recognised or established in accordance with this Act must comply with the framework contemplated in subsection 1."

Short title and commencement

3. This Act is called the Co-operatives Second Amendment Act, 2010 and comes into operation on a date fixed by the President by proclamation in the *Gazette*.
