

REPUBLIC OF SOUTH AFRICA

**PREVENTION AND TREATMENT
OF DRUG DEPENDENCY
AMENDMENT BILL**

(As amended by the Portfolio Committee on Welfare (National Assembly))

(MINISTER FOR WELFARE AND POPULATION DEVELOPMENT)

[B 12B—99]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP
DIE VOORKOMING EN
BEHANDELING VAN
DWELMAFHANKLIKHEID**

(Soos gewysig deur die Portefeuljekomitee oor Welsyn (Nasionale Vergadering))

(MINISTER VIR WELSYN EN BEVOLKINGSONTWIKKELING)

[W 12B—99]

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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,
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BILL

To amend the Prevention and Treatment of Drug Dependency Act, 1992, so as to delete a definition and define certain expressions; to establish the Central Drug Authority; and to provide for the assistance of the Drug Authority by a secretariat; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 20 of 1992, as amended by section 3 of Act 106 of 1996

1. Section 1 of the Prevention and Treatment of Drug Dependence Act, 1992 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the deletion of the definition of **“Board”**;

(b) by the insertion after the definition of **“Director-General”** of the following definition:

“**Drug Authority**” means the Central Drug Authority, established by section 1 (2); and

(c) by the insertion after the definition of **“Minister”** of the following definition: “**‘National Drug Master Plan’** means the national drug strategy setting out the policy and strategies against the abuse of drugs as adopted by Cabinet;”.

Substitution of section 2 of Act 20 of 1992

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2. The following section is hereby substituted for section 2 of the principal Act:

“Establishment and functions of Central Drug Authority

2. (1) There is hereby established a body to be known as the Central Drug Authority, which may exercise the powers and shall perform the duties conferred or imposed upon the Drug Authority by or in terms of this Act,

(2) The members of the Drug Authority shall be appointed by the Minister and shall consist of—

(a) an officer of the Department of Welfare nominated by that Department with the concurrence of the Minister;

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- (b) an officer of the Department of Justice nominated by that Department
 - (c) a member of the South African Police Service nominated by the South African Police Service:
 - (d) an officer of the Department of Health nominated by that Department
 - (e) an officer of the Department of Education nominated by that Department: 5
 - (f) an officer of the Department of Home Affairs nominated by that Department:
 - (g) an officer of the Department of Foreign Affairs nominated by that Department: 10
 - (h) an officer of the Department of Trade and Industry nominated by that Department:
 - (i) a person in the service of the South African Revenue Service nominated by the South African Revenue Service:
 - (j) an officer of the Department of Correctional Services nominated by that Department: 15
 - (k) an officer of the Department of Labour nominated by that Department:
 - (l) a member of the Secretariat for Safety and Security nominated by that Secretariat:
 - (m) a representative of the National Youth Commission nominated by that Commission: 20
 - (n) a representative of the Medicines Control Council nominated by that Council:
 - (o) not more than 12 other members, who shall be persons who have special knowledge of or experience in the problem relating to the abuse of drugs or who are able to make a substantial contribution to the combating of such problem, 25
- (3) The members contemplated in subsection (2)(o) shall be appointed only after—
- (a) the Minister has through the media and by notice in the *Gazette* invited nominations of persons as members of the Drug Authority; and 30
 - (b) the parliamentary committees for welfare of the National Assembly and the National Council of Provinces have made recommendations to the Minister in relation thereto after a transparent and open process of considering persons so nominated. 35
- (4)(a) A member of the Drug Authority shall be appointed for a period not exceeding five years, and upon such conditions as the Minister may determine at the time of making the appointment: Provided that the period of office of a member may at any time be terminated by the Minister for reasons which are just and fair. 40
- (b) A member of the Drug Authority may on the expiration of any period for which he or she was appointed, be reappointed, 45
- (5) If the office of any member of the Drug Authority becomes vacant before the expiration of the period for which he or she was appointed, the Minister shall, subject to the applicable provisions of subsections (2) and (3), appoint another person to hold office for the unexpired portion of the period for which his or her predecessor was appointed, 50
- (6) Any member of the Drug Authority who is not an officer in the public service, may be paid such fees or traveling and subsistence allowance, while engaged upon the business of the Drug Authority, as the Minister may, with the concurrence of the Minister of Finance, determine. 55
- (7)(a) One of the members of the Drug Authority shall be designated by the Minister as chairperson of the Drug Authority, and at the first meeting of every newly constituted Drug Authority the members of the Drug Authority shall elect a vice-chairperson from their number. 60
- (b) The vice-chairperson shall, when acting in the place of the chairperson, in all respects have all the powers and perform all the duties of the chairperson.
- (8) In the event of the absence of both the chairperson and the vice-chairperson from any meeting of the Drug Authority, the members present at that meeting shall elect one of their number to preside at that meeting.

(9) The first meeting of the Drug Authority shall be held at a time and place to be determined by the Minister, and subsequent meetings shall be held at least twice a year and at such times and places as the chairperson with the approval of the Minister may determine.

(10)(a) The Drug Authority shall, as soon as may be practicable after it has been established, frame rules governing its quorum, the procedure at meetings and, generally, the conduct of its functions, and may from time to time alter or revoke any such rules.

(b) Such rules shall have no force and effect unless they have been approved by the Minister.

(11)(a) The Drug Authority shall annually, not later than the first day of June, submit to the Minister a report on all its functions as well as a comprehensive description of the national effort to reduce and eliminate the abuse of drugs during the previous year.

(b) The report referred to in paragraph (a) shall be laid upon the table in Parliament within 14 days after it is submitted to the Minister, if Parliament is then sitting, or, if Parliament is not then sitting, within 14 days after its next sitting day.

Insertion of section 2A in Act 20 of 1992

3. The following section is hereby inserted in the principal Act after section 2:

“Secretariat of Central Drug Authority

2A. (1) Work **incidental** to the performance of the functions of the Drug Authority shall, subject to the control and directions of the Drug Authority, be performed by a secretariat consisting of the Director: Secretariat of the Central Drug Authority and two or more assistants.

(2)(a) The Director and assistants referred to in subsection (1) shall be suitably qualified and experienced persons appointed by the Minister on such terms and conditions as the Minister with the concurrence of the Minister of Finance may determine.

(b) If the Director or any assistant appointed in terms of paragraph (a) is an officer in the public service, such appointment shall be in terms of the laws governing the public service and by arrangement with the Department or institution in question.

(3) The Secretariat shall be assisted by—

(a) officers of the Department of Welfare designated for that purpose by the Director-General: Welfare;

(b) officers of any other Department seconded to the service of the Secretariat in terms of the laws governing the public service;

(c) persons in the service of any public or other body, by arrangement with the body concerned and seconded to the service of the Secretariat;

(d) such other staff as may be reasonably necessary to assist the Secretariat, appointed by the Minister after consultation with the Minister of Finance.

Substitution of section 3 of Act 20 of 1992

4. The following section is hereby substituted for section 3 of the principal Act:

“Powers and duties of Drug Authority

3. The [Board] Drug Authority—

(a) shall give effect to the National Drug Master Plan in accordance with the guidelines set out therein;

(aA) shall advise the Minister on any matter affecting the abuse of drugs referred to the [Board] Drug Authority by the Minister for advice, and may advise the Minister on any matter on which the [Board] Drug Authority considers it necessary to advise the Minister;

(b) may plan, co-ordinate and promote measures relating to the prevention and combating of the abuse of drugs and the treatment of persons

dependent on drugs in accordance with the National Drug Master Plan;

- (c) **[may plan and recommend to the Minister any research relating to drugs or the abuse thereof and may give guidance to other bodies conducting such research]** shall review the National Drug Master Plan every five years, amend it where necessary, and submit it to Cabinet for approval: 5
- (d) may **[with the approval of the Minister]** arrange conferences relating to matters concerning the functions of the **[Board] Drug Authority**: 10
- (e) may exercise such powers and shall perform such duties as may be determined by the Minister from time to time, .. 10

Amendment of section 4 of Act 20 of 1992

5. Section 4 of the principal Act is hereby amended by the substitution for the word “Board”.. wherever it occurs, of the expression “Drug Authority”..

Substitution of section 5 of Act 20 of 1992

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6. The following section is hereby substituted for section 5 of the principal Act:

“Other committees

5. (1) The **[Board] Drug Authority** may **[subject to the approval of the Minister]** from time to time establish such other committees as it may deem necessary to **[investigate and report to it on any matter relating to the functions of the Board]** give effect to the National Drug Master Plan. 20

(2) Each such committee shall consist of such number of persons, appointed by the **[Board] Drug Authority**, as may be determines by the **[Board, and may include persons who are not members of the Board]** Drug Authority. 25

(3) The **[Board] Drug Authority** shall designate a member of a committee, who shall also be a member of the **[Board] Drug Authority**, as **[chairman] chairperson** of that committee;

(4) Any member of a committee who is not an officer in the public service, may be paid such fees or traveling and subsistence allowance, while he or she is engaged upon the business of the committee, as the Minister may, with the concurrence of the Minister of **[State Expenditure]** Finance, determine. 30

(5) Any committee may make rules in relation to the holding of, and procedure at, its meetings 35

Short title

7. This Act is called the Prevention and Treatment of Drug Dependent} Amendment Act. 1999.

MEMORANDUM ON THE OBJECTS OF THE PREVENTION AND TREATMENT OF DRUG DEPENDENCE}’ AMENDMENT BILL, 1999

In terms of the Prevention and Treatment of Drug Dependency Act, 1992 (Act No. 20 of 1992) (“the Act”), a Drug Advisory Board was appointed during 1993 to *inter alia* advise the Minister for Welfare and Population Development on issues relating to drug abuse. The Drug Advisory Board has during its term of office developed a Drug Master Plan for South Africa. This Bill seeks to amend the Act suitably in order to implement the Drug Master Plan. The main objects proposed in the Bill are to provide for—

- (a) the establishment of a Central Drug Authority (the CDA);
- (b) the powers and duties of the CDA;
- (c) committees of the CDA; and
- (d) the Secretariat of the CDA.

Consultation

All the national Departments.

The South African National Council on Alcoholism and Drug Dependency.

Parliamentary procedure

The State Law Advisers and the Department of Welfare are of the view that this Bill must be dealt with in accordance with the procedure established by section 76 of the constitution since it contains no provision to which the procedure set out in section 74 or 75 of the Constitution applies.