

REPUBLIC OF SOUTH AFRICA

SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 36881 of 27 September 2013)
(The English text is the official text of the Bill)*

(MINISTER OF SCIENCE AND TECHNOLOGY)

[B 36—2013]

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[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicates insertions in existing enactments.

To amend the Scientific Research Council Act, 1988, the National Research Foundation Act, 1998, the Academy of Science of South Africa Act, 2001, the Natural Scientific Professions Act, 2003, the Human Sciences Research Council Act, 2008, the Technology Innovation Agency Act, 2008, and the South African National Space Agency Act, 2008, so as to harmonise the processes for the appointment of the chairpersons of Boards of the entities reporting to the Minister; to streamline the processes for the appointment of members of the Boards and of the chief executive officers of the entities; to provide for the filling of vacancies of members of the Boards; to provide for the requirements for qualification of members of the Boards and the disqualification of members of the Boards; to provide for the extension of the term of office of members of the Boards; to provide for the dissolution and reconstitution of the Boards; and to provide for matters connected therewith.

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

Amendment of section 7 of Act 46 of 1988, as amended by section 4 of Act 71 of 1990 and section 5 of Act 16 of 2011

1. Section 7 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:
- “(a) a chairperson, appointed by the Minister **[after consultation with the Board]**.”;
- (b) by the substitution for subsection (2A) of the following subsection:
- “(2A) Before appointing members of the Board referred to in **[subsections]** subsection 2(a) and (b), the Minister must—
- (a) publish a notice in the *Gazette* and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsection (2)(a) and (b); and
- (b) appoint an independent panel which must compile a shortlist of **[candidates, after following a transparent nomination process]** not more than 20 persons from the nominees referred to in paragraph (a).”;

(c) by the insertion after subsection (3A) of the following subsection:

“(3B) Despite subsection (3A), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”; and

(d) by the addition of the following subsections:

“(8) A member of the Board must vacate his or her office if—

- (a) he or she resigns;
- (b) the Minister terminates his or her period of office due to misconduct, incapacity or incompetence;
- (c) he or she is absent from three consecutive meetings of the Board without the permission of the Board;
- (d) he or she is in terms of the Electoral Act, 1998, (Act No. 73 of 1998), or the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), nominated as a candidate for election as a member of Parliament, a provincial legislature or a municipal council; or
- (e) he or she ceases to meet the requirements for appointment as a member of the Board in terms of this Act.

(9) (a) Subject to subsection (5), the Minister may appoint any person to fill a vacancy which occurs as a result of a member who has vacated his or her office.

(b) A person appointed under paragraph (a) must occupy his or her office for the unexpired portion of the term of office of his or her predecessor.

(10) A person may not be appointed as a member of the Board if that person—

- (a) is not a citizen or permanent resident of the Republic;
- (b) is an unrehabilitated insolvent;
- (c) has, after the commencement of the Constitution of the Republic of South Africa, 1996, been convicted of an offence whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine; or
- (d) has, as a result of improper conduct, been removed from an office of trust.”.

Insertion of section 7A in Act 46 of 1988

2. The following section is hereby inserted in the Scientific Research Council Act, 1988, after section 7:

“Dissolution of Board

7A. (1) The Minister may dissolve the Board if—

- (a) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister; or
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

(2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board consisting of a minimum of three persons to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 7.

(4) A new Board must be constituted within 180 days of the dissolution of the previous Board.

(5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.”.

Amendment of section 10 of Act 46 of 1988

3. Section 10 of the Scientific Research Council Act, 1988, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Board shall appoint a suitably skilled and qualified person as the chief executive officer of the CSIR, **[who shall occupy the post of chief executive officer of the CSIR]** after following a transparent and competitive selection process.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The chief executive officer shall be appointed for a period of not more than five years and shall be eligible for reappointment, on the conditions, including conditions relating to the payment of remuneration and allowances, that the Board, subject to section 11(2), may determine.”.

Amendment of section 6 of Act 23 of 1998, as amended by section 21 of Act 16 of 2011

4. Section 6 of the National Research Foundation Act, 1998, is hereby amended—

(a) by the substitution in subsection (1)(a) for subparagraph (ii) of the following subparagraph:

“(ii) not fewer than nine and not more than **[eleven]** 11 other members[,] nominated by the public and appointed by the Minister, after consultation with the Minister responsible for higher education and training; and”;

(b) by the addition to paragraph (a) of subsection (1) of the following subparagraph:

“(iii) two other members nominated by the National Advisory Council on Innovation and the Council on Higher Education and appointed by the Minister.”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) For purposes of appointing the members of the Board referred to in subsection (1)(a), the Minister must—

(a) publish a notice in the *Gazette* and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsection (1)(a)(i) and (ii);

(b) by written notice, call upon the National Advisory Council and the Council for Higher Education to nominate persons contemplated in subsection (1)(a)(iii); and

(c) appoint a panel which must compile a short-list of persons from the nominees referred to in paragraph (a) and (b).”;

(d) by the substitution for subsection (3) of the following subsection:

“(3) The members of the Board must all be persons who have achieved distinction in the field of research and technology, **[research and]** technology management, business [,] or public affairs **[or civil society]**.”;

(e) by the substitution for subsection (4) of the following subsection:

“(4) The members referred to in subsection (1)(a) are appointed in their personal capacities, but the Minister must ensure that they are broadly representative of **[the following sectors:**

(a) **Higher education;**

(b) **business;**

(c) **agricultural and environment sciences;**

(d) **health sciences;**

(e) **natural sciences and engineering;**

(f) **social sciences and humanities;**

(g) **civil society]** higher education, broad scientific disciplines, the business sector and civil society.”;

(f) by the deletion of subsection (5A);

(g) by the insertion after subsection (5B) of the following subsection:

“(5C) Despite subsection (5), the Minister may, after consultation with the Board, extend the period of office of any or all of the members

- of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”;
- (h) by the substitution in subsection (6) for paragraph (b) of the following paragraph: 5
 “(b) the Minister terminates his or her period of office [**whenever sufficient reason exists therefor**] due to misconduct, incapacity or incompetence;”;
- (i) by the substitution in subsection (6) for paragraph (d) of the following paragraph: 10
 “(d) he or she is in terms of the Electoral Act, [**1993 (Act No. 202 of 1993)**] 1998, (Act No. 73 of 1998), or the Local Government: Municipal Electoral Act, 2000 (Act No. 27 of 2000), nominated as a candidate for election as a member of Parliament, [**or**] a provincial legislature or a municipal council.”;
- (j) by the substitution in subsection (6) for the full stop at the end of paragraph (d) 15
 of the expression “; or” and by the addition of the following paragraph:
 “(e) he or she ceases to meet the requirements for appointment as a member of the Board in terms of this Act.”; and
- (k) by the substitution in subsection (9) for the full stop at the end of paragraph (c) 20
 of the expression “; or” and by the addition of the following paragraph:
 “(d) has, as a result of improper conduct, been removed from an office of trust.”.

Insertion of section 6A in Act 23 of 1998

5. The following section is hereby inserted in the National Research Foundation Act, 1998, after section 6: 25

“Dissolution of Board

- 6A.** (1) The Minister may dissolve the Board if—
- (a) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister; or
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible. 30
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 35
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 6. 40
- (4) A new Board must be constituted within 180 days of the dissolution of the previous Board.
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.”. 45

Amendment of section 10 of Act 23 of 1998, as amended by section 22 of Act 16 of 2011

6. Section 10 of the National Research Foundation Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection: 50
 “(1) The Board must appoint a suitably skilled and qualified person as the chief executive officer [**for**] of the Foundation, after following a transparent and competitive [**nomination**] selection process.”.

Amendment of section 23 of Act 23 of 1998

7. Section 23 of the National Research Foundation Act, 1998, is hereby amended by the deletion of paragraph (a). 55

Amendment of section 7 of Act 67 of 2001, as amended by section 29 of Act 16 of 2011

8. Section 7 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the insertion after subsection (2A) of the following subsection: 5
“(2B) Despite subsection (2A), the Minister may, after consultation with the Council, extend the period of office of any or all of the members of the Council for a period of not more than six months or until a new Council has been appointed, whichever comes first.”; and
- (b) by the deletion of subsection (5A). 10

Amendment of section 3 of Act 27 of 2003, as amended by section 53 of Act 16 of 2011

9. Section 3 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution in subsection (1)(b) for the words preceding the proviso of the following words: 15

“not fewer than four and not more than six must be **[professional natural scientists or certified natural scientists who are]** in the service of the state, each nominated by his or her Director-General or chief executive officer of the organ of state concerned”.

Amendment of section 4 of Act 27 of 2003 20

10. Section 4 of the Natural Scientific Professions Act, 2003, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
“(2) When any nomination in terms of section 3(1)(c) becomes necessary, the Minister must—
- (a) invite the public by notice in the *Gazette* and in at least one leading newspaper in each province, to nominate persons within a period of 30 days from the date of the notice; and 25
- (b) appoint a panel of experts to compile a short-list of not more than 10 persons from the nominees, referred to in paragraph (a).”; and
- (b) by the deletion of subsections (3) and (4). 30

Amendment of section 5 of Act 27 of 2003

11. Section 5 of the Natural Scientific Professions Act, 2003, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
“(1) The term of office for members of the Council is four years [, but members continue in office until the succeeding Council is properly constituted].”; 35
- (b) by the substitution for subsection (3) of the following subsection:
“(3) Despite subsection (1), the Minister may, by notice in the *Gazette* after consultation with the Council [—
- (a)]₂ extend the period of office of any **[member]** or all of the members of the Council for a period of not more than six months **[, but he or she may only extend the period of office twice; and** 40
- (b) terminate the period of office of any member of the Council]** or until a new Board has been appointed, whichever comes first.”; and
- (c) by the deletion of subsection (4). 45

Amendment of section 6 of Act 27 of 2003, as amended by section 54 of Act 16 of 2011

12. Section 6 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution in subsection (4) for paragraph (a) of the following paragraph: 50

“(a) If a member of the Council dies or vacates his or her office before the expiration of his or her term of office, the Minister may, **[after consultation with the Council and]** subject to subsection (1), appoint a person who meets the requirements for appointment in the relevant category in terms of section 3 to fill

the vacancy for the unexpired portion of the period for which that member was appointed.”.

Insertion of section 7A in Act 27 of 2003

13. The following section is hereby inserted in the Natural Scientific Professions Act, 2003, after section 7:

“Dissolution of Council

7A. (1) The Minister may dissolve the Council if—

- (a) the Council is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
 - (b) there is a total breakdown in the relationship between the Council and the Minister; or
 - (c) there is a breakdown in the relationship amongst the members of the Council, which renders the continued effective functioning of the Council impossible.
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Council, the Minister must appoint an interim Council consisting of a minimum of three persons who are professional or certificated natural scientists, to assume the responsibilities of the Council, until a new Council is constituted in accordance with the procedure referred to in section 4.
- (4) A new Council must be constituted within 180 days of the dissolution of the previous Council.
- (5) Any person who was a member of the Council that was dissolved in terms of this section may be reappointed to a new Council.”.

Amendment of section 8 of Act 27 of 2003

14. Section 8 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Council **[may]** must appoint a suitably skilled and qualified person as the chief executive officer and such other officials as it may deem necessary to carry out its functions, on such conditions, including the payment of remuneration and **[a]** honorarium, as it may determine.”.

Amendment of section 5 of Act 17 of 2008

15. Section 5 of the Human Sciences Research Council Act, 2008, is hereby amended—

- (a) by the insertion in subsection (3) of the word “and” at the end of paragraph (b) and by the substitution for paragraph (c) of the following paragraph:
“(c) the chairperson of the panel has submitted a short-list of candidates together with their curriculum vitae to the Minister **[who must submit it to the National Assembly for approval; and]**.”;
- (b) by the deletion in subsection (3) of paragraph (d);
- (c) by the deletion of subsection (8);
- (d) by the substitution for subsection (9) of the following subsection:
“(9) If a member of the Board ceases to hold office or is removed from office in terms of subsection (7), the Minister may **[, subject to subsection (3),]** appoint, from a short-list of candidates referred to in subsection (3)(b), a person who meets the requirements set out in section 4 in that member’s place for the remaining part of the term of office.”;
- (e) by the substitution for subsection (11) of the following subsection:
“(11) No member may serve for more than two consecutive terms **[except that if all the members’ term lapse at the same time the Minister may extend the terms of two members for one more term to ensure continuity].**”; and

(f) by the addition of the following subsections:

“(12) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the notice referred to in subsection (3)(a), the Minister may appoint the required number of persons who qualify to be appointed in terms of this Act in a transparent manner.”

(13) Despite subsection (11), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”.

Insertion of section 9A in Act 17 of 2008

16. The following section is hereby inserted in the Human Sciences Research Council Act, 2008, after section 9:

“Dissolution of Board

9A. (1) The Minister may dissolve the Board if—

- (a) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister; or
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

(2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 5(3).

(4) A new Board must be constituted within 180 days of the dissolution of the previous Board.

(5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.”.

Amendment of section 10 of Act 17 of 2008

17. Section 10 of the Human Sciences Research Council Act, 2008, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) The Board must **[with the approval of the Minister]** appoint a suitably skilled and qualified person as the chief executive officer.”; and

- (b) by the substitution for subsection (4) of the following subsection:

“(4) The chief executive officer holds office for a term not exceeding five years and is eligible for reappointment, on such conditions relating to payment of remuneration and allowances as the Board, subject to section 11(2), may determine.”.

Amendment of section 17 of Act 17 of 2008

18. Section 17 of the Human Sciences Research Council Act, 2008, is hereby amended by the insertion of the word “and” at the end of paragraph (a) and by the deletion of paragraph (b).

Amendment of section 5 of Act 26 of 2008

19. Section 5 of the Technology Innovation Agency Act, 2008, is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

“(4) **[The]** Before appointing members of the Board referred to in subsection (1)(a) and (b), the Minister must—

(a) publish a notice in the *Gazette* and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsection (1)(a) and (b); and
(b) appoint a panel which must compile a shortlist of **[candidates for members of the Board, and such shortlist must be compiled after a transparent and competitive nomination process]** not more than 20 persons from the nominees referred to in paragraph (a).”;

(b) by the substitution for subsection (5) of the following subsection:

“(5) The members of the Board contemplated in subsection (1)(a) and (b) are appointed by the Minister **[, in consultation with the National Assembly,]** on the grounds of their knowledge and experience in technological innovation, technology management, intellectual property and commercialisation thereof and business skills which, when considered collectively, should enable them to attain the objects of the Agency.”;

(c) by the deletion of subsections (6) and (7); and

(d) by the addition of the following subsections:

“(8) The Board must be constituted in a manner that is broadly representative of the demographics of the country.

(9) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the notice referred to in subsection (4)(a), the Minister may appoint the required number of persons who qualify to be appointed in terms of this Act in a transparent manner.”.

Amendment of section 7 of Act 26 of 2008

20. Section 7 of the Technology Innovation Agency Act, 2008, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Minister may, after consultation with **[the members of]** the Board, remove a member of the Board from office on account of—”.

Amendment of section 8 of Act 26 of 2008

21. Section 8 of the Technology Innovation Agency Act, 2008, is hereby amended by the addition of the following subsection:

“(4) **Despite subsection (1), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.**”.

Insertion of section 10A in Act 26 of 2008

22. The following section is hereby inserted in the Technology Innovation Agency Act, 2008, after section 10:

“Dissolution of Board

10A. (1) The Minister may dissolve the Board if—

(a) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
(b) there is a total breakdown in the relationship between the Board and the Minister; or

- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 5
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 5(4). 10
- (4) A new Board must be constituted within 180 days of the dissolution of the previous Board.
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.”.

Amendment of section 11 of Act 26 of 2008

15

23. Section 11 of the Technology Innovation Agency Act, 2008, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The **[Minister] Board** must **[, on the recommendation of the Board,]** appoint a suitably skilled and qualified person as the Chief Executive Officer who must be responsible for the management of the affairs of the Agency.”; and 20
- (b) by the substitution for subsection (7) of the following subsection:
- “(7) The Chief Executive Officer holds office on such terms and conditions, including those relating to remuneration and allowances, as the **[Minister, after considering the recommendations of the] Board [and]**, in consultation with the Minister **[of Finance]**, may determine **[in writing]**.”. 25

Amendment of section 7 of Act 36 of 2008

24. Section 7 of the South African National Space Agency Act, 2008, is hereby amended— 30

- (a) by the insertion in subsection (1) of the word “and” at the end of paragraph (b) and by the substitution for paragraph (c) of the following paragraph:
- “(c) the chairperson of the panel has submitted **[a] the** short-list of candidates together with their curriculum vitae to the Minister **[who must submit it to the National Assembly for approval; and]**.”; 35
- (b) by the deletion of paragraph (d); and
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) If the **[shortlist] short-list** compiled in terms of subsection (2) does not contain suitable persons or the required number of suitable persons, the Minister may **[call for further nominations in the manner set out in subsection (1)]** appoint the required number of persons who qualify to be appointed in terms of this Act in a transparent manner.”. 40

Amendment of section 8 of Act 36 of 2008

25. Section 8 of the South African National Space Agency Act, 2008, is hereby amended— 45

- (a) by the deletion of subsection (4);
- (b) by the insertion after subsection (5) of the following subsection:
- “(5A) Despite subsection (5), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”; and 50
- (c) by the substitution for subsection (7) of the following subsection:
- “(7) If a member of the Board dies, resigns by written notice to the Minister or is removed from office, the Minister may **[, having followed the procedure contemplated in section 7,]** appoint a person who meets the requirements set out in subsection 7(4) in that vacancy for the remaining part of the term of office.”. 55

Insertion of section 13A in Act 36 of 2008

26. The following section is hereby inserted in the South African National Space Agency Act, 2008, after section 13:

“Dissolution of Board

- 13A.** (1) The Minister may dissolve the Board if— 5
- (a) the Board is unable to perform its duties in terms of this Act;
 - (b) there is a total breakdown in the relationship between the Board and the Minister; or
 - (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible. 10
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). 15
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 7(1). 15
- (4) A new Board must be constituted within 180 days of the dissolution of the previous Board. 20
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.”.

Amendment of section 14 of Act 36 of 2008

27. Section 14 of the South African National Space Agency Act, 2008, is hereby amended— 25

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The Board must [, **with the approval of the Minister,**] appoint a suitably skilled and qualified person as the Chief Executive Officer.”;

and
- (b) by the substitution for subsection (3) of the following subsection: 30

“(3) The Chief Executive Officer is appointed for a term not exceeding five years and is eligible for reappointment, subject to such conditions relating to remuneration and allowances as the Board may, in consultation with the Minister, determine.”.

Short title 35

28. This Act is called the Science and Technology Laws Amendment Act, 2013.

MEMORANDUM ON THE OBJECTS OF THE SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL, 2013

1. BACKGROUND

The Department of Science and Technology administers a number of laws which regulate the operation and governance of public entities that report to the Minister. In order to enhance efficiency in the process of constituting the governing Boards for those entities, the Department has recognised a need to streamline the process for the appointment of members of the Boards and the filling of vacancies that are occasioned by the vacation of office of their members.

2. OBJECTS OF BILL

- 2.1 The Bill seeks to streamline the process for the nomination and appointment of members of the Board or Council of the entities. It also seeks to harmonise the process for the appointment of chairpersons of the boards or councils of such entities, as well as their chief executive officers.
- 2.2 The Bill provides for the grounds and the processes for the dissolution and reconstitution of a Board or Council of an entity, as well as interim governance arrangements. The purpose of this streamlining process is to, amongst others, improve efficiency in the appointment processes and to ensure consistency in the governance of all public entities reporting to the Minister.
- 2.3 It further provides for the extension of the term of a Board or Council and includes requirements to ensure broad representativity in relation to, amongst others, technical expertise, race, gender and disability.

3. KEY PROVISIONS OF BILL

3.1 Scientific Research Council Act, 1988 (Act No. 46 of 1988)

- 3.1.1 Clause 1 of the Bill seeks to amend section 7 of the Scientific Research Council Act, 1988, in order to harmonise the process for the appointment of the Chairperson to ensure consistency with other public entities reporting to the Minister. It also seeks to streamline the process for the appointment of members of the board to enhance efficiency. The clause seeks to make provision for the extension of the term of office of Board members, when necessary, and seeks to set out the grounds for the disqualification of members of the Board.
- 3.1.2 Clause 2 seeks to provide for the dissolution and reconstitution of the Board as well as interim governance arrangements.
- 3.1.3 Clause 3 seeks to harmonise the process for the appointment of the chief executive officer of the Foundation to ensure consistency with other public entities reporting to the Minister. It also seeks to streamline the process for the appointment of members of the Board.

3.2 National Research Foundation Act, 1998 (Act No. 23 of 1998)

- 3.2.1 Clause 4 of the Bill seeks to amend section 6 of the National Research Foundation Act, 1998, so as to provide for the appointment by the Minister of two members of the Board nominated by the National Advisory Council on Innovation and the Council on Higher Education.
- 3.2.2 The clause also seeks to regulate the process for the appointment of members of the Board and makes provision for the extension of the term of office of Board members, when necessary.

- 3.2.3 Clause 5 seeks to provide for the dissolution and reconstitution of the Board as well as interim governance arrangements for the Board.

3.3 Academy of Science of South Africa Act, 2001 (Act No. 67 of 2001)

Clause 8 of the Bill seeks to amend section 7 of the Academy of Science of South Africa Act, 2001, so as to provide for the Minister to extend the period of office of members of the Board, when necessary.

3.4 Natural Scientific Professions Act, 2003 (Act No. 27 of 2003)

- 3.4.1 Clause 10 of the Bill seeks to amend section 4 of the Natural Scientific Professions Act, 2003, so as to streamline the process for the appointment of members of the Council.
- 3.4.2 Clause 13 of the Bill seeks to insert section 7A in the Natural Scientific Professions Act, 2003, so as to regulate the process for the dissolution and reconstitution of the Council as well as interim governance arrangements.
- 3.4.3 Clause 14 seeks to amend section 8 of the Natural Scientific Professions Act, 2003, in order to harmonise the process for the appointment of the chief executive officer to ensure consistency with other public entities reporting to the Minister.

3.5 Human Sciences Research Council Act, 2008 (Act No. 17 of 2008)

- 3.5.1 Clause 15 of the Bill seeks to amend section 5 of the Human Sciences Research Council Act, 2008, so as to streamline the process for the appointment of members of the Board. The clause also seeks to make provision for the extension of the term of office of Board members, when necessary.
- 3.5.2 Clause 16 seeks to insert section 9A in the Human Sciences Research Council Act, 2008, in order to regulate the process for the dissolution and reconstitution of the Board as well as interim governance arrangements.

3.6 Technology Innovation Agency Act, 2008 (Act No. 26 of 2008)

- 3.6.1 Clause 19 of the Bill seeks to amend section 5 of the Technology Innovation Agency Act, 2008, so as to harmonise the process for the appointment of members of the Board to ensure consistency with other public entities reporting to the Minister.
- 3.6.2 Clause 21 seeks to amend section 8 of the Technology Innovation Agency Act, 2008, in order to make provision for the extension of the term of office of Board members, when necessary.
- 3.6.3 Clause 22 seeks to insert section 10A in the Technology Innovation Agency Act, 2008, so as to regulate the process for the dissolution and reconstitution of the board, as well as interim governance arrangements.
- 3.6.4 Clause 23 seeks to amend section 11 of that Act to provide afresh for the determination of the terms and conditions of appointment of the Chief Executive Officer to ensure consistency with other public entities reporting to the Minister.

3.7 South African National Space Agency Act, 2008 (Act No. 36 of 2008)

- 3.7.1 Clause 24 seeks to amend section 7 of the South African National Space Agency Act, 2008, so as to provide further for the process of appointment of members of the Board.
- 3.7.2 Clause 25 of the Bill seeks to amend section 8 of the South African National Space Agency Act, 2008, so as to make provision for the extension of the term of office of Board members, when necessary.
- 3.7.3 Clause 26 seeks to insert section 13A in that Act in order to regulate the process for the dissolution and reconstitution of the Board, as well as interim governance arrangements.
- 3.7.4 Clause 27 seeks to amend the Act to provide anew for the appointment of the chief executive officer of the South African National Space Agency by the Board.

4. PARTIES CONSULTED

The proposed amendments were published in the *Gazette* for public comments, and all affected stakeholders (relevant science councils), were consulted.

5. FINANCIAL IMPLICATIONS FOR STATE

There will be no cost implications to the state in relation to the implementation of the Bill. The proposed amendments are purely of an administrative or technical nature.

6. PARLIAMENTARY PROCEDURE

- 6.1 The State Law Advisers and the Department of Science and Technology are of the opinion that this Bill should be dealt with in terms of the procedure established by section 75 of the Constitution, since it does not contain provisions to which the procedure set out in section 76 of the Constitution applies.
- 6.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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