

REPUBLIC OF SOUTH AFRICA

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# NATIONAL DEVELOPMENT AGENCY AMENDMENT BILL

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*(As amended by the Portfolio Committee on Social Development  
(National Assembly)) (The English text is the official text of the Bill)*

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(MINISTER OF SOCIAL DEVELOPMENT)

[B 70B—2002]

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REPUBLIEK VAN SUID-AFRIKA

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# WYSIGINGSWETSONTWERP OP DIE NASIONALE ONTWIKKELINGSAGENTSAP

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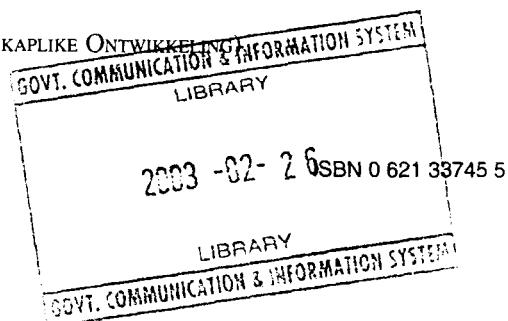
*(Soos gewysig deur die Portefeuljekomitee oor Maatskaplike Ontwikkeling  
(Nasionale Vergadering)) (Die Afrikaanse teks is die amptelike vertaling van die  
Wetsontwerp)*

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(MINISTER VAN MAATSKAPLIKE ONTWIKKELING)

[W 70B—2002]

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

“(4) (a) In appointing members to the Board and in establishing the panel, the Minister must ensure that the Board and the panel represent a broad cross-section of the population of South Africa and comprise persons who reflect South African society with special attention to race,

gender, disability, geographical spread, organisations based in rural areas and faith-based organisations;

(b) The Minister must, by notice in the *Gazette* and, within 30 days after the appointment of the members of the Board, publish the names of such members and the date of commencement of their term of office.”;

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

“(b) At that meeting the [members of the Board] Minister must [elect] appoint—

(i) a chairperson from among the members referred to in subsection (1)(b); and

(ii) a deputy chairperson from among the members referred to in subsection (1)(a) and (b).”;

(d) by the substitution for subsection (7) of the following subsection:

“(7) If the office of chairperson or deputy chairperson of the Board becomes vacant, a chairperson or deputy chairperson, as the case may be, must be [elected] appointed in accordance with subsection (5).”; and

(e) by the substitution for subsection (11) of the following subsection:

“(11) A member of the Board who is not in the full-time employment of the State is paid such remuneration and allowances as the Minister, in consultation with the Minister of Finance, determines.”.

#### Amendment of section 7 of Act 108 of 1998

3. Section 7 of the principal Act is hereby amended—

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

“(3) The quorum for a meeting of the Board is at least [eight] six members of the Board.”;

(b) by the addition of the following subsection:

“(9) (a) If, during the course of any proceedings of the Board, there is reason to believe that a member has any interest contemplated in subsection (8), that member must immediately fully disclose the nature of his or her interest and leave the meeting in question so as to enable the remaining members to discuss the matter and determine whether or not that member should be allowed to participate in the proceedings.

(b) The disclosure, and the decision taken by the remaining members, must be recorded in the minutes of the proceedings in question.”.

#### Amendment of section 9 of Act 108 of 1998

4. Section 9 of the principal Act is hereby amended—

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

“(1) The [Board] Minister must, on the recommendation of the Board, appoint a chief executive officer for the NDA, who is also the accounting officer of the NDA.”;

(b) by the substitution for subsection (6) of the following subsection:

“(6) The chief executive officer is appointed—

(a) for such period, but not exceeding five years, as the [Board] Minister determines; and

(b) subject to such conditions as the [Board] Minister, subject to subsection (8), determines.”;

(c) by the substitution for subsection (7) of the following subsection:

“(7) On such conditions as the Board, in consultation with the Director-General: Social Development and subject to subsection (8), determines, the chief executive officer may appoint such employees as are necessary to enable the NDA to perform its duties and exercise its powers.”; and

(d) by the substitution for subsection (8) of the following subsection:

“(8) The NDA must pay to its chief executive officer and employees out of its funds such remuneration, allowances, subsidies and other benefits as the Minister, in consultation with the Minister of Finance, determines.”.

#### **Amendment of section 10 of Act 108 of 1998**

5. Section 10 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) The NDA may establish such reserve funds, and deposit therein such amounts, as the Minister, in consultation with the Minister of Finance, approves.”. 5

#### **Amendment of section 12 of Act 108 of 1998**

6. Section 12 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“The Minister may delegate to the Director-General: **[Finance]** Social Development—”. 10

#### **Short title and commencement**

7. This Act is called the National Development Agency Amendment Act, 2003, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.

## **MEMORANDUM ON THE OBJECTS OF THE NATIONAL DEVELOPMENT AGENCY AMENDMENT BILL**

### **OBJECTS**

This Bill seeks to give effect to the transfer by Presidential Proclamation of the National Development Agency (NDA) from the Ministry of Finance to the Ministry of Social Development by amending the National Development Agency Act, 1998 (Act No. 108 of 1998), hereinafter referred to as “the Act”, by—

- (a) amending the definition of “Minister” in order to provide that the NDA is administered by the Minister of Social Development;
- (b) changing the composition of the Board of the NDA by reducing the members of the Board from 15 to 11;
- (c) providing that the Minister and not the Board appoints the chief executive officer of the NDA.

### **CONSULTATION**

The amendments to the Act were discussed with the Department of Finance.

### **FINANCIAL IMPLICATIONS FOR STATE**

- (a) The effect which the revenue and expenditure flowing from the approval of the Bill will have on the State in the current financial year will be minimal as it is envisaged that only nominations will be invited through the media for the appointment of the six Board members representing civil society.
- (b) It is envisaged that the amendment of the Act will result in an overall reduction in personnel expenditure with effect from the 2003/04 financial year. However, due to the establishment of permanent provincial offices there may be an initial need for an investment for infrastructure.
- (c) All approved operational costs will be funded from the existing funds available in the account of the NDA, grant allocations by the State and donations and contributions received from other sources.

### **PARLIAMENTARY PROCEDURE**

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