

REPUBLIC OF SOUTH AFRICA

STANDARDS BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 30351 of 8 October 2007)
(The English text is the official text of the Bill)*

(MINISTER OF TRADE AND INDUSTRY)

[B46—2007]

ISBN 978-1-77037-043-2

No. of copies printed 1 800

BILL

To provide for the development, promotion and maintenance of standardisation and quality in connection with commodities and the rendering of related conformity assessment services; and for that purpose to provide for the continued existence of the SABS, as the peak national institution; to provide for the establishment of the Board of the SABS; to provide for the repeal of the Standards Act, 1993; to provide for transitional provisions; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is desirable to—

- provide for the continuation of the SABS as the peak national standardisation institution in South Africa responsible for the development, maintenance and promotion of South African National Standards;
- ensure provision of an internationally recognised standardisation system that continue to support the needs of South African enterprises competing in a fast-paced global economy; and
- promote South African National Standards as a means to facilitate international trade and enhancing South Africa's economic performance and transformation,

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

TABLE OF CONTENTS

Sections

PART 1 5

DEFINITIONS AND PURPOSE

1. Definitions
2. Purpose of Act

PART 2

CONTINUATION OF SOUTH AFRICAN BUREAU OF STANDARDS 10

3. Continuation of SABS
4. Objects of SABS
5. Functions of SABS

BOARD OF SOUTH AFRICAN BUREAU OF STANDARDS

6. Establishment and composition of Board of SABS 15
7. Term of office of members of Board

8.	Disqualification from membership	
9.	Removal from and vacation of office	
10.	Remuneration and terms and conditions of appointment of members of Board	
11.	Meetings of Board	
12.	Conflict of interest of members of Board	5
13.	Committees of Board	
14.	Advisory Forum	
15.	Government Consultative Forum	

EXECUTIVE MANAGEMENT

16.	Appointment of Chief Executive Officer	10
17.	Employment contract and performance agreement	
18.	Appointment of staff	
19.	Services of non-employees	
20.	Delegation	

PART 3 15

FINANCIAL MANAGEMENT

21.	Funding and investments
22.	Financial year and accounting

PART 4

SOUTH AFRICAN NATIONAL STANDARD 20

23.	South African National Standard	
24.	Issuing of South African National Standard	
25.	Recognised Standards Development Organisations	
26.	Copyright in South African National Standards and publications of SABS	
27.	Limitations on certain claims pertaining to compliance with South African National Standard	25

PART 5

GENERAL PROVISIONS

28.	Certain acts not interpreted as assurances or guarantees	
29.	Breach of confidence	30
30.	Limitation of liability	
31.	Offences and penalties	
32.	Regulations	
33.	Transitional provisions	
34.	Repeal of law	35
35.	Short title and commencement	

PART 1

DEFINITION AND PURPOSE

Definitions

1.	(1) In this Act, unless the context indicates otherwise—	40
	“ amendment ”, with regard to a standard, includes complete or partial substitution or alteration of one or more of the provisions of the standard;	
	“ Board ” means the Board of the SABS established in terms of section 6;	
	“ commodity ” includes an element or characteristic, or a category or system, of some commodity;	45
	“ conformity assessment ” means the procedure used to determine, directly or indirectly, that the relevant requirement in technical regulations, standards or any other relevant and validated documentation has been fulfilled;	

“consensus” means general agreement, characterised by the absence of sustained opposition to substantial issues by an important part of the concerned interests, arrived at by a process that involves seeking to take into account the views of the parties concerned and to reconcile any conflicting arguments;

“issue”, with regard to a South African National Standard, a standard or a publication, includes making available by means of electronic, photographic or another medium; 5

“manufacture” means produce, assemble, alter, modify, adapt, convert, process or treat;

“Minister” means the Minister responsible for trade and industry in the Republic; 10

“product” means any commodity that is manufactured and any agricultural product, including fish and fish products;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“recognised standards development organisation” means an organisation recognised by the SABS under section 25 for the development of standards to be approved by the SABS as South African National Standards; 15

“service” means any service normally provided for remuneration, and at the individual request of a recipient of services;

“SABS” means the South African Bureau of Standards; 20

“South African National Standard” means a standard approved by the SABS under this Act;

“standard” means a document that provides for common and repeated use, rules, guidelines or characteristics for products, services, or processes and production methods, including terminology, symbols, packaging, marking or labelling requirements as they apply to a product, service, process or production method; 25

“system”, with regard to a commodity, means a system which is designed to achieve a particular purpose or to perform a specific function;

“this Act” includes a regulation made in terms of this Act.

Purpose of Act 30

2. The purpose of the Act is to provide—

- (a) a legal framework for the development, promotion and maintenance of South African National Standards in the Republic and the rendering of conformity assessment services and related activities;
- (b) for the continuation of the SABS as the peak national institution for the development, promotion and maintenance of South African National Standards; and 35
- (c) for the establishment of the Board of the SABS.

PART 2

CONTINUATION OF THE SOUTH AFRICAN BUREAU OF STANDARDS 40

Continuation of SABS

3. (1) The SABS established by section 2 of the Standards Act, 1945 (Act No. 24 of 1945), continues to exist as a public entity, notwithstanding the repeal of the Standards Act, 1993 (Act No. 29 of 1993).

(2) The SABS is a juristic person, and must operate and perform its functions in accordance with this Act. 45

(3) The continuation of the SABS does not affect the validity of any action taken prior to the commencement of this Act.

(4) The Public Finance Management Act applies to the SABS.

Objects of SABS 50

4. (1) The objects of the SABS are to—

- (a) develop, promote and maintain South African National Standards;
- (b) promote quality in connection with commodities, products and services; and
- (c) render conformity assessment services and matters connected therewith.

- (2) In order to achieve its objects, the SABS may—
- (a) develop, issue, promote, maintain, amend or withdraw South African National Standards and related normative publications serving the standardisation needs of the South African community;
 - (b) provide reference materials, conformity assessment services, and related training services in relation to standards, including a voluntary SABS Mark Scheme proving assurance of product conformity; 5
 - (c) obtain membership in international and foreign bodies having any objects similar to an object of the SABS;
 - (d) review involvement in international standards committees regularly to ensure resources are targeted where they are of most relevance to South Africa; 10
 - (e) establish and maintain the necessary expertise at internationally acceptable level;
 - (f) co-ordinate, interact and manage the international and bilateral interaction with other national standards bodies from other countries; 15
 - (g) provide information services to deal with enquiries about standards, handle the sale and distribution of South African National Standards and related publications, as well as similar publications from international and foreign bodies;
 - (h) provide the South African enquiry point to maintain the South African notification system in terms of the Technical Barriers to Trade Agreement of the World Trade Organisation; 20
 - (i) provide a research and development programme in terms of the need for new standards, improvement of existing standards, standardisation of test methodology and the sketching of future scenarios that might affect the standards environment; 25
 - (j) develop a procedure through which other bodies with sectoral expertise can be recognised as Standards Development Organisations and through which the standards of such organisations can be published by the SABS as South African National Standards; 30
 - (k) perform, in so far as it is not repugnant to or inconsistent with the provisions of any Act of Parliament, such functions as the Minister may assign to the SABS;
 - (l) use technical committees to develop and amend South African National Standards. 35

Functions of SABS

5. (1) The SABS may—
- (a) acquire or dispose of property or any right in respect thereof, but ownership in significant immovable property may be acquired or disposed of only with the consent of the Minister; 40
 - (b) open and operate banking accounts in the name of the SABS;
 - (c) invest any of its funds not immediately required;
 - (d) insure the SABS—
 - (i) against any loss, damage or risk; and
 - (ii) against any liability it may incur in the application of this Act; 45
 - (e) conclude agreements with organs of state and other persons;
 - (f) institute or defend any legal action; or
 - (g) generally deal with any matter that is necessary or incidental to the performance of its functions in terms of this Act.
- (2) An agreement concluded in terms of subsection (1)(f) may not conflict with any international requirement binding on the SABS. 50
- (3) The SABS may charge fees—
- (a) in respect of the setting and issuing of a South African National Standard;
 - (b) in respect of training services rendered in connection with standardisation or with any standards; and 55
 - (c) in regard to the provision of any service or product provided by the SABS.
- (4) The SABS may charge interest in respect of money payable to it but which has not yet been paid, from a date on which such money became payable, except in respect of money payable by the State.

(5) The SABS may establish one or more companies to perform any of the functions of the SABS in terms of this Act, except the setting of a South African National Standard in terms of sections 23 and 24.

(6) The members of the Board of the SABS appointed in terms of section 6 must be appointed as the members of the Board of any company established in terms of subsection (5). 5

BOARD OF SOUTH AFRICAN BUREAU OF STANDARDS

Establishment and composition of Board of SABS

- 6.** (1) There is hereby established a board of the SABS.
- (2) The Board consists of not less than 10 and not more than 13 members, of whom— 10
- (a) one is the Chief Executive Officer of the SABS by virtue of his or her office; and
 - (b) the rest are persons appointed by the Minister and who meet the criteria contemplated in subsection (3)(b).
- (3) When appointing the members of the Board, the Minister must ensure that such 15 members—
- (a) are broadly representative of the population of the Republic; and
 - (b) have sufficient knowledge, experience or qualifications relating to the functions of the SABS and the responsibilities of the Board, including in particular business management, finance, marketing, international or foreign 20 standardisation and technical infrastructure matters.
- (4) The Minister must designate one member of the Board as chairperson.

Term of office of members of Board

- 7.** (1) The members of the Board contemplated in section 6(2)(b) hold office for a period not exceeding five years and are eligible for reappointment. 25
- (2) Members of the Board may not serve more than two consecutive terms.

Disqualification from membership

- 8.** A person may not be appointed or continue to serve as a member of the Board if he or she—
- (a) is an unrehabilitated insolvent; 30
 - (b) has at any time been convicted of an offence involving dishonesty;
 - (c) has, as a result of improper conduct, been removed from an office of trust; or
 - (d) has been declared by a court to be mentally ill or unfit.

Removal from and vacation of office

- 9.** (1) Subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the Minister may at any time after consulting the Board terminate the term of office of any member of the Board if there are good reasons for doing so.
- (2) A member of the Board must vacate his or her office if such member is absent from three consecutive meetings of the Board without the consent of the chairperson.
- (3) A member of the Board may resign by giving at least three months' written notice. 40
- (4) If a member of the Board dies or vacates his or her office, the Minister may appoint any person who meets the criteria contemplated in section 6(3)(b) for the said member's unexpired term of office.

Remuneration and terms and conditions of employment of members of Board

- 10.** (1) The Minister must, after consultation with the Minister of Finance, determine 45 the remuneration, allowances and terms and conditions of appointment of members of the Board who are not in the employ of an organ of state.
- (2) Members of the Board who are employed by an organ of state must be reimbursed for out-of-pocket expenses.

Meetings of Board

- 11.** (1) The Board must meet at least four times a year.
- (2) The chairperson of the Board decides when and where the Board must meet, but a majority of the members of the Board may request the chairperson in writing to convene a meeting at a time set out in the request. 5
- (3) The chairperson presides at all meetings of the Board.
- (4) If the chairperson is absent from a meeting of the Board, the members present at such a meeting must elect from among their number a member to preside at that meeting.
- (5) A majority of the members of the Board constitutes a quorum for a meeting of the Board. 10
- (6) Decisions of the Board require the supporting vote of a majority of members present at a meeting.
- (7) The Board must keep minutes of its proceedings and decisions.
- (8) The Board may, by resolution, make rules to further regulate its proceedings. 15

Conflict of interest of members of Board

- 12.** (1) A member of the Board may not have a conflict of interest with the SABS.
- (2) A member of the Board who has a direct or indirect financial, personal or other interest in any matter which is to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest must, before or during such meeting, declare the interest. 20
- (3) Any person may, in writing, inform the chairperson of a meeting, before a meeting, of a conflict or possible conflict of interest of a member of the Board of which such person may be aware.
- (4) A Board member referred to in subsections (2) and (3) is obliged to recuse himself or herself from the meeting during the discussion of the matter and the voting thereon. 25

Committees of Board

- 13.** (1) The Board may establish committees to assist it to perform its functions.
- (2) The Board must determine the composition, rules and procedures of such committees. 30
- (3) The Board may from time to time dissolve or reconstitute a committee.
- (4) The Board must ratify any resolution of a committee.

Advisory Forum

- 14.** (1) The Board must establish an Advisory Forum with a balance of interests consisting of representatives of organisations who have an interest in the matters contemplated in this Act. 35
- (2) The Advisory Forum must advise the Board on—
- (a) matters in respect of which the SABS could play a role; and
- (b) any other matter on which the Board requests advice.
- (3) The Board must establish a constitution and, if necessary, rules for the Advisory Forum. 40

Government Consultative Forum

- 15.** (1) The Board must establish a Government Consultative Forum consisting of relevant government departments who have an interest in the matters contemplated in this Act. 45
- (2) The Government Consultative Forum must advise the Board on—
- (a) matters contemplated in this Act in respect of which the SABS could play a role;
- (b) any other matter on which the Board requests advice.
- (3) The Board must establish a constitution and, if necessary, rules for the Government Consultative Forum. 50

EXECUTIVE MANAGEMENT

Appointment of Chief Executive Officer

- 16.** (1) The Board must, in concurrence with the Minister, appoint a suitably qualified person as the Chief Executive Officer.
- (2) The Chief Executive Officer holds office for a period not exceeding five years and may be reappointed upon the expiry of his or her term of office. 5
- (3) The Chief Executive Officer is responsible for the efficient management of the SABS and must perform any duty assigned or delegated to him or her by the Board.
- (4) The Chief Executive Officer is accountable to the Board.
- (5) If the Chief Executive Officer is unable to fulfil his or her functions, the Board may appoint a person who meets the criteria contemplated in subsection (1) as an acting Chief Executive Officer to exercise the powers and perform the functions of the Chief Executive Officer, for the unexpired term of office of the Chief Executive Officer or until the Chief Executive Officer is able to perform his or her functions. 10

Employment contract and performance agreement 15

- 17.** (1) The employment contract of the Chief Executive Officer must be in writing and must incorporate in an appropriate form the provisions of section 57 of the Public Finance Management Act.
- (2) The Board and the Chief Executive Officer must conclude a performance agreement for the Chief Executive Officer— 20
- (a) within a reasonable time after the appointment of the Chief Executive Officer; and
- (b) thereafter, annually within one month of the commencement of each financial year.
- (3) The performance agreement must include— 25
- (a) measurable performance objectives and targets that must be met and the time frames within which those performance objectives and targets must be met;
- (b) standards and procedures for evaluating performance and intervals for evaluation; and
- (c) the consequence of substandard performance. 30

Appointment of staff

- 18.** (1) The Chief Executive Officer must, after consulting the Board, appoint staff in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), to assist the SABS in carrying out its functions.
- (2) The remuneration, allowances, benefits and other terms and conditions of employment of such staff must be determined in terms of the Public Service Act, 1994. 35

Services of non-employees

- 19.** (1) The SABS may, for a specified period, acquire the services of any person to perform any task or function assigned to him or her by the SABS in terms of this Act.
- (2) The remuneration of such person must be determined in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994). 40

Delegation

- 20.** (1) The Board may delegate any of its functions to the Chief Executive Officer in accordance with this section.
- (2) The Chief Executive Officer may delegate any function conferred or imposed upon him or her by or under this Act to any employee of the SABS with the appropriate knowledge and experience. 45
- (3) A delegation under subsections (1) and (2) must be in writing and—
- (a) may be subject to any conditions or restrictions determined by the Board or the Chief Executive Officer; 50
- (b) does not prevent the exercise of that power by the Board or the Chief Executive Officer; and

- (c) may be withdrawn or amended in writing by the Board or the Chief Executive Officer.

PART 3

FINANCIAL MANAGEMENT

Funding and investments 5

21. (1) The funds of the SABS consist of—
- (a) moneys appropriated by Parliament for that purpose;
 - (b) income derived from fees charged in accordance with section 5(3);
 - (c) interest charged in accordance with section 5(4);
 - (d) income derived by the SABS from its investment; and 10
 - (e) money received from any other source.
- (2) The SABS may invest any of its funds not immediately required—
- (a) subject to any investment policy that may be prescribed in terms of section 7(4) of the Public Finance Management Act; and
 - (b) in such manner as may be prescribed by the Minister. 15

Financial year and accounting

22. The financial year of the SABS is from 1 April in any year to 31 March in the following year, except that the first financial year of the SABS begins on the date that this Act comes into operation, and ends on 31 March following the date of coming into operation of this Act. 20

PART 4

SOUTH AFRICAN NATIONAL STANDARD

South African National Standard

23. (1) The SABS must—
- (a) develop and maintain a South African National Standard; and 25
 - (b) detail the process to be used to set or amend such South African National Standard.
- (2) The SABS must as far as possible ensure that, in setting or amending a South African National Standard in terms of subsection (1)—
- (a) the processes contemplated in subsection (1) are complied with; 30
 - (b) the latest technological developments are considered;
 - (c) the interests of all parties concerned, including manufacturers, suppliers and consumers, are considered;
 - (d) the South African National Standard is harmonised with international standards, if applicable; and 35
 - (e) there has been an appropriate national consensus-building process in developing the South African National Standard.
- (3) The South African National Standard must contain an appeal procedure for resolving disputes and deadlocks.
- (4) The SABS may set and issue a South African National Standard based on one or more provisions of standards issued by a foreign or international body having objects similar to those of the SABS. 40
- (5) The SABS may develop, issue, amend and withdraw normative and informative documents other than South African National Standards.
- (6) The documents issued in terms of subsection (5) do not have the status of the South African National Standard. 45

Issuing of South African National Standard

24. (1) The SABS must, by notice in the *Gazette*—
- (a) set and issue as a South African National Standard a standard developed through its own processes, and amend and issue amendments to such a standard; 50

- (b) approve and issue as a South African National Standard, a standard developed and set by a recognised standards development organisation and issue amendments to such a standard; or
 - (c) withdraw any South African National Standard issued in terms of paragraph (a) or (b); 5
- (2) The notice contemplated in subsection (1) must—
- (a) state the title and number of the South African National Standard; and
 - (b) contain a summary of the scope and purport of that South African National Standard or the amendment thereof.
- (3) Subject to the provisions of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), or the Liquor Products Act, 1989 (Act No. 60 of 1989), no person may issue a document which creates or may create the impression that it contains a South African National Standard as contemplated in this Act, unless it is issued in terms of this Act. 10
- (4) A South African National Standard in respect of a commodity, product or service to which the Agricultural Product Standards Act, 1990, or the Liquor Products Act, 1989, apply, may be set or amended in accordance with the terms and conditions of an agreement entered into by the Board and the director-general of the department responsible for agriculture. 15

Recognised Standards Development Organisations 20

25. (1) The SABS must appoint an organisation as a recognised standards development organisation for a specified scope of activity, in accordance with criteria developed in terms of subsection (3).
- (2) The SABS must develop and maintain a South African National Standard setting out the criteria to be met and maintained by the organisation contemplated in subsection (1). 25
- (3) The recognised standards development organisation must develop and maintain standards within its specified scope of activity for approval and issue by the SABS as a South African National Standard.
- (4) The SABS must maintain and make available to the public a register of recognised standards development organisations and their specified scope of activity. 30

Copyright in South African National Standards and publications of SABS

26. (1) Notwithstanding the provisions of any other law, the copyright in a South African National Standard or a publication issued by the Board vests in the SABS.
- (2) No person may, without the authorisation of the SABS in any manner or form, publish, reproduce or record any document or part thereof. 35
- (3) Subsection (2) does not prevent any person from making a copy of such a document for his or her own use.

Limitations on certain claims pertaining to compliance with South African National Standard 40

27. (1) No person may falsely claim, declare or conduct his or her affairs or businesses or carry out an occupation or trade under a name or in a manner likely to create the impression that any commodity, product or service complies with a South African National Standard or other publication of the SABS.
- (2) No person may falsely claim or declare that any commodity, product or service complies with a South African National Standard or other publication of the SABS. 45
- (3) The SABS may institute legal proceedings to restrain or claim for damages in relation to subsection (1) or (2).

PART 5

GENERAL PROVISIONS

Certain acts not interpreted as assurances or guarantees

28. Any function performed under this Act by the Minister, the SABS, the Board, a member of the Board, a committee referred to in section 13 or a member of such committee, the Chief Executive Officer or an employee of the SABS in connection with any commodity, product, material, substance, service, act or matter, shall not be interpreted as an assurance or a guarantee of any nature in respect of that commodity, product, service, material, substance, act or matter. 5

Breach of confidence 10

29. (1) Any person who is or was involved in the performance of any function in terms of this Act, must not disclose any information which he or she obtained in the performance of such a function.

(2) Subsection (1) does not apply to information disclosed—

- (a) to the Minister, the chairperson of the Board or the Chief Executive Officer; 15
- (b) for the purposes of proper administration or enforcement of this Act;
- (c) in terms of any law or as evidence in any court of law; or
- (d) for the purpose of the administration of justice.

Limitation of liability

30. (1) The State Liability Act, 1957 (Act No. 20 of 1957), applies in respect of the SABS, and in such application a reference in that Act to a Minister of a department must be construed as a reference to the Chief Executive Officer of the SABS. 20

(2) No person is liable for anything done or omitted in good faith when performing a function or exercising a power in terms of this Act.

Offences and penalties 25

31. (1) Any person who falsely represents any material or substance to be reference material supplied by the SABS is guilty of an offence.

(2) Any person who is convicted of an offence in terms of this Act is liable to a fine or to imprisonment for a period not exceeding two years.

(3) A court convicting any person of an offence in terms of this Act may, in addition to any penalty imposed in respect of that offence— 30

- (a) and subject to subsection (4), order that a commodity, a consignment or batch of a commodity or product, any other article or any material or substance in respect of which that offence was committed, be forfeited to the State; and
- (b) summarily enquire into and assess the monetary value of any advantage 35 gained or likely to be gained by such person in consequence of that offence and impose on that person a fine to a maximum equal to the amount so assessed and, in default of payment of such amount, imprisonment for a period not exceeding one year.

(4) The Minister must, subject to subsection (3)(b), generally or in a particular case, determine the manner in which the forfeited goods referred to in subsection (3)(a) may be dealt with. 40

(5) Section 35(4) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in the case of a forfeiture referred to in subsection (3)(a).

(6) Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall be competent to impose any penalty provided for in this Act. 45

Regulations

32. The Minister may make regulations regarding any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act. 50

Transitional provisions

33. (1) For purposes of this section “effective date” means the date on which this Act comes into effect.

(2) As from the effective date—

- (a) all notices, designations and certificates issued in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in that Act, are deemed to have been issued in terms of this Act; 5
- (b) all regulations made in terms of the Standards Act, 1993 (Act No. 29 of 1993), in respect of any matter dealt with in that Act, are deemed to have been made in terms of this Act; 10
- (c) the employees of the SABS, except the employees employed in the regulatory department of the SABS, remain employees of the SABS;
- (d) the President of the SABS appointed in terms of section 10 of the Standards Act, 1993, is deemed to be the Chief Executive Officer of the SABS and remains in office for the unexpired term of his or her office; 15
- (e) all assets, liabilities, rights and obligations of the SABS, except assets, liabilities, rights and obligations of the regulatory department of the SABS, remain the assets, liabilities, rights and obligations of the SABS;
- (f) the members of the Council of the SABS appointed in terms of section 7(1) of the Standards Act, 1993 (Act No. 29 of 1993), are deemed to be members of the Board of the SABS established in terms of this Act; and 20
- (g) a specification, code of practice, standard or document referred to in section 16 of the Standards Act, 1993 (Act 29 of 1993), which is in force in terms of that Act, is deemed to be a South Africa National Standard which has been set and issued in terms of this Act. 25

(3) Any action taken by the SABS prior to the commencement of this Act is deemed to have been taken in terms of this Act.

Repeal of law

34. The Standards Act, 1993 (Act No. 29 of 1993), is hereby repealed.

Short title and commencement

30

35. This Act is called the Standards Act, 2007, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE STANDARDS BILL, 2007

1. BACKGROUND

- 1.1 This Bill emanates from the Department of Trade and Industry (the dti) project to restructure the South African Technical Regulatory Infrastructure and to optimise the South African Standards, Quality Assurance, Accreditation and Metrology System (SQAM).
- 1.2 The aim of the restructuring of the South African Technical Infrastructure is to align the infrastructure with international best practice.
- 1.3 Part of this restructuring is the proposed legislative reform of the Standards Act (Act 29 of 1993), which is also being repealed by the Bill.
- 1.4 The dti seeks to ensure that the SABS operates optionally in pursuit of the national interest in that it has strategic direction and is co-ordinated.

2. OBJECTS OF BILL

The objects of the Bill are—

- 2.1 to provide for the repeal of the Standards Act, 1993;
- 2.2 to provide for the continuation of the South African Bureau of Standards (SABS) as the peak national standardisation institution in South Africa, and as such provide for the development, promotion and maintenance of standardisation and quality in connection with commodities and the rendering of related conformity assessment services. (The current Regulatory Division of the South African Bureau of Standards will be transferred into a separate public entity, namely the National Regulator for Compulsory Specifications, through the introduction of the National Regulator for Compulsory Specifications Bill.);
- 2.3 to provide for the maintenance of the SABS as an internationally recognised standards body as a crucial element of a well-functioning technical infrastructure;
- 2.4 to provide for the establishment of the Board of the SABS and the appointment of its members.

The Bill has been revised following comments received from a wide range of organisations, interest groups and individuals.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

- 3.1 The Standards Bill provides for transitional arrangements, including—
 - 3.1.1 that the President of the Council and all other employees of the SABS, except the employees employed in the regulatory department of the SABS, remain employees of the reconstituted SABS;
 - 3.1.2 that all assets, liabilities, rights and obligations remain the responsibility of the SABS, in line with its responsibility for standards and conformity assessment;
 - 3.1.3 the continuation of all notices, designations, certificates and regulations issued in terms of the Standards Act, 1993 (Act No. 29 of 1993).
- 3.2 The President and the members of the Council of the SABS remain in office until the end of their term of office.

4. FINANCIAL IMPLICATIONS FOR STATE

The dti has made and will continue to make budget allocations to the SABS. The current baseline of R139.508 million for 2008/9 and R143.731 million for 2009/10 will be proportionally reduced to reflect the new mandate of the SABS, which excludes its previous regulatory responsibility. This regulatory portion of R20.6 million for 2008/9 and R21.4 million for 2009/2010 will be transferred to the National Regulator for Compulsory Specifications. The allocation to the SABS will be reviewed at the end of the first financial year of its existence as a reconstituted public entity to ensure that appropriate levels of funding are available to the SABS to implement its mandate.

5. COMMUNICATION IMPLICATIONS

The dti will implement a communication strategy to ensure that all affected parties are aware of the continuation of the SABS as the peak national standardisation body and its provision of related conformity assessment services.

6. CONSTITUTIONAL IMPLICATIONS

None.

7. OTHER DEPARTMENTS/COMMITTEES/BODIES CONSULTED

National Treasury and the Department of Public Service and Administration have been formally consulted in line with the PFMA on the continuation of the SABS as a public entity.

Other stakeholders consulted:

- Department of Labour;
- Department of Transport;
- Department of Agriculture;
- Department of Housing;
- Department of Health;
- Department of Environmental Affairs and Tourism;
- Department of Minerals and Energy;
- Department of Science and Technology;
- Department of Provincial and Local Government;
- The Presidency;
- National Metrology Institute of South Africa (NMISA); and
- South African National Accreditation System (SANAS).

Industry and other interested parties

- Nedlac

The Bill has been revised following comments received from the above stakeholders, and from interest groups and individuals.

8. PARLIAMENTARY PROCEDURE

- 8.1 The State Law Advisers and the Department of Trade and Industry are of the opinion 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.
- 8.2 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.

Printed by Creda Communications

ISBN 978-1-77037-043-2