

DEPARTMENT OF HEALTH

NO. 1093

11 NOVEMBER 2015

REPUBLIC OF SOUTH AFRICA

NATIONAL HEALTH LABORATORY SERVICE AMENDMENT BILL

[As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette 39392 of 11 November 2015. The English text is the official text of the Bill]

(MINISTER OF HEALTH)

[B —2015]

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 National Health Laboratory Service Act, 2000, so as to define certain expressions and to delete a definition; to make the Preferential Procurement Policy Framework Act, 2000, applicable to the National Health Laboratory Service; to adjust the objects and duties of the Service; and to strengthen the governance and funding mechanism of the National Health Laboratory Service; 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 37 of 2000

1. Section 1 of the National Health Laboratory Service Act, 2000 (hereinafter referred to as "the principal Act"), is hereby amended—

- (a) by the deletion of the definition of "teaching environment"; and
- (b) by the insertion after the definition of "operational research" of the following definitions:

" 'prescribed' means prescribed by regulation made in terms of this Act;

'private health sector' means that part of the health sector that is not owned or controlled by an organ of state;"

Amendment of section 3 of Act 37 of 2000

2. Section 3 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Public Finance Management Act, 1999 (Act No. 1 of 1999), **[applies]** and the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), apply, with the necessary changes, to the Service."

Amendment of section 4 of Act 37 of 2000

3. Section 4 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of the following paragraph:
- "(a) provide cost-effective and efficient diagnostic health laboratory services to—"; and
- (b) by the substitution for paragraph (c) of the following paragraph:
- "(c) **[provide]** support training for health science education."

Amendment of section 5 of Act 37 of 2000

4. Section 5 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:
- "(b) promote the training of its laboratory and associated personnel;"

Substitution of section 7 of Act 37 of 2000

5. The following section is hereby substituted for section 7 of the principal Act:

"Composition of Board

7. (1) The Board consists of not less than seven and not more than 11 members who are appointed by the Minister.

(2) (a) The Chief Executive Officer and Chief Financial Officer of the Service are the executive members of the Board.

(b) The non-executive members of the Board must be persons who have skills and experience in the following areas:

(i) Commerce, finance, auditing and economic matters;

(ii) corporate management;

(iii) health research;

(vi) diagnostic laboratory services; or

(v) legal matters.

(c) In addition to the members contemplated in paragraph (b), the Board must also have one representative each of—

(i) the national Department of Health;

(ii) the public health sector; and

(iii) the higher education sector.

(3) The Board is accountable to the Minister."

Amendment of section 8 of Act 37 of 2000

6. Section 8 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) The Minister must appoint the members contemplated in **[section 7(b), (c), (e), (f) and (g)]** section 7(2)(c)(i) to (iii) after consultation with the relevant bodies and institutions **[and must ensure that appropriate laboratory professionals are appointed]**.

(2) The Minister must, before appointing the members contemplated in **[section 7(d)]** section 7(2)(b)(i) to (v), by notice in the *Gazette* and in a national newspaper circulating in every province of the Republic invite all interested persons to nominate, within the period specified in the notice, persons who in the opinion of such interested persons are fit to be so appointed, stating the grounds upon which such opinion is based".

Amendment of section 9 of Act 37 of 2000

7. Section 9 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) The Minister must appoint a chairperson and a vice-chairperson from amongst the members of the Board other than the executive members.

(2) Whenever the chairperson of the Board is absent or unable to perform his or her functions as chairperson, the vice-chairperson must act as chairperson and, if the vice-chairperson is absent or unable to act as chairperson the members [Minister] must designate another member of the Board to act as chairperson until the chairperson or vice-chairperson is available."

Insertion of section 10A in Act 37 of 2000

8. The following section is hereby inserted in the principal Act after section 10:

"Removal of members, dissolution of Board and Interim Board

10A. (1) The Minister may remove a Board member from the office on account of misconduct or inability to perform his or her duties efficiently after due inquiry.

(2) The Minister may dissolve the Board for failure to perform its duties in terms of the Act after due inquiry.

(3) The Minister may appoint suitably qualified persons to an Interim Board on a temporary basis for such period that will be required for the Minister to appoint a new Board in terms of the provisions of this Act, provided the period does not exceed six months.

Amendment of section 11 of Act 37 of 2000

9. Section 11 of the principal Act is hereby amended by the substitution of subsection (3) for of the following subsection:

“(3) A decision of the majority of the members of the Board present at any meeting constitutes a decision of the Board and, in the event of an equality of votes, the member presiding at the meeting must have a casting vote **[in addition to his or her deliberative vote]**.”.

Amendment of section 18 of Act 37 of 2000

10. Section 18 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) **[income earned from fees for services rendered]** funds collected in terms of section 20;”.

Substitution of section 20 of Act 37 of 2000

11. The following section is hereby substituted for section 20 of the principal Act of the following section:

“Charges for services

20. The Service may charge its customers a prescribed fee for the services rendered.” .

Repeal of section 25 of Act 37 of 2000

12. Section 25 of the principal Act is hereby repealed.

Repeal of section 28 of Act 37 of 2000

13. Section 28 of the principal Act is hereby repealed.

Short title and commencement

14. This Act is called the National Health Laboratory Service Amendment Act, 2015, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.