

Report of the Portfolio Committee on Women, Youth and Persons with Disabilities on the National Youth Development Agency Amendment Bill [B13-2022], dated 28 November 2023

The Portfolio Committee on Women, Youth and Persons with Disabilities (the Committee), having considered the National Youth Development Agency Amendment Bill [B13-2022] (National Assembly – section 75), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports the Bill with amendments [B13B-2022] as follows:

1. Context and background

The National Youth Development Agency (NYDA) Amendment Bill [B13-2022] was tabled in Parliament and referred on 9 June 2022 to the Committee and to the JTM in terms of Joint Rule 159 for tagging. It was subsequently tagged as a section 75 bill.

The Bill seeks to amend the National Youth Development Agency Act, 2008, so as to insert new definitions; to amend the provisions relating to the objects of the Agency; to amend the functions of the Agency; to amend provisions relating to reporting by the Agency; to provide for organs of state to assist the Agency; to provide for the governance responsibilities of the Board; to provide for additional Board members; to provide that a Board member may not be reappointed for more than two consecutive terms; to provide that Board members must submit their financial disclosures; to amend matters pertaining to the meetings of the Board; to amend the funding of the Agency; to authorise the Minister to make regulations; and to provide for matters connected therewith.

2. Parliamentary process

2.1 The Committee received its first briefing on the NYDA Amendment Bill [B13-2022] from the Department of Women, Youth and Persons with Disabilities on 22 November 2022.

2.2 In facilitating effective public participation on the NYDA Amendment Bill [B13-2022], the Committee conducted in-person and virtual public hearings on 24 October 2023. A total of 6 oral submissions were heard by the Committee during these hearings.

2.3 The Committee received oral submissions from individuals, various groups and organisations such as civil society organisations, non-governmental organisations and the NYDA.

2.4 In addition to the public hearings, the Committee received 14 written submissions from the public. The written submissions were submitted electronically (via email) and online. One of the organisations had submitted online, sent an email and did an oral presentation but these were all the same.

2.5 The Department of Women, Youth and Persons with Disabilities responded to the issues raised during the public hearings on the 31 October, 3, 7, 10 and 14 November 2023.

2.6 The Committee was briefed by the Department of Women, Youth and Persons with Disabilities on 7, 10 and 14 November 2023 on the revised Bill as a working document with further inputs received from the Members of the Committee at every meeting. The Committee also deliberated on the working document - the A-list with amendments - on 21 November 2023.

2.7 Given the inputs received from members of the public, insights from further deliberations as well as advice from the Parliamentary Legal Adviser, the Committee has realised that it was necessary to amend a provision of the Principal Act which was not included in the Bill as introduced. The proposed amendment sought to align the National Youth Development Agency Act, 2008 [Act No. 54 of 2008] (“NYDA Act”) to the Public Finance Management Act, 1999 [Act No. 1 of 1999] to reflect that the National Youth Development Agency is listed in Part A of Schedule 3 of the latter Act. The National Assembly Rule 286(4)(c) that guides the legislative process of bills in the committee provides as follows:

“The committee if the Bill amends provision of legislation, must, if it intends to propose amendments to other provisions, of that legislation, seek the permission of the Assembly to do so”.

2.8 In light of the above, the Committee hereby requested permission from the Assembly to amend Section 2 of the NYDA Act by insertion of a new clause in the Bill which will read as follows:

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

“(2) The Agency is a national public entity as **[defined in section 1]** listed in Part A of Schedule 3 of the Public Finance Management Act.”.

2.9 Permission was granted by the National Assembly to amend provisions of the Principal Act which were not included in the Bill on 28 November 2023.

3. Consideration and adoption of the A-list and B-Bill

On 28 November 2023, the Committee deliberated clause-by-clause on the A-list and the B-Bill. Both the A-list and B-Bill were adopted by the Committee. Members of the Committee present:

- ANC; (Ms CN Ndaba, Ms FA Masiko, Ms TS Masondo, Ms CM Phiri, Ms AS Hlongo and Ms TZ Makata),
- EFF (Ms MS Khawula)
- DA (Ms NK Sharif, Ms G Opperman)

*Alternate members

- Ms GP Marekwa* (ANC)
- Ms NP Sonti* (EFF)

4. The amendments agreed to by the Committee are as follows:

LONG TITLE

1. On page 2, in line 7 of the long title, to omit “consecutive”.
2. On page 2, in the seventh line, to omit “to provide that Board members must submit their financial disclosures” and to substitute “to provide for additional grounds for disqualification; to provide for filling of vacancy during terms;”.

CLAUSE 1

1. On page 2, after line 5, to add the following paragraph:
“(a) by the omission of the definitions of “organ of state” and “Integrated Youth Development Strategy”;
2. On page 2, after line 13, to insert the following definitions:
“**Department**” means the department responsible for youth;
“**femicide**” means the killing of a female person or any person on the basis of gender identity as identified as female, whether committed by a person within a domestic relationship, interpersonal relationship or by any other person.”;
3. On page 2, to follow after paragraph 2 above, to insert the following paragraphs:
“(b) by the insertion after the definition of “financial year” of the following definitions:
“**gender-based violence**” means violence associated with gender, which includes physical, sexual, domestic, emotional, economic, or psychological abuse or threats of such acts of abuse in public or private life;
“**Integrated Youth Development Strategy**” means the strategy developed to ensure implementation of the National Youth Policy.”; and
4. On page 2, after line 20, to insert the following definition:
“**organ of state**” has the meaning assigned in section 239 of the Constitution of the Republic of South Africa, 1996”.

NEW CLAUSE

1. That the following be a new clause to follow after clause 1:

“Amendment of section 2 of Act 54 of 2008

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

“(2) The Agency is a national public entity as **[defined in section 1]** listed in Part A of Schedule 3 of the Public Finance Management Act.”.

CLAUSE 2

1. On page 3, from line 4, to omit subsection (1) and substitute:
“(1) The objects of the Agency are to—
(a) initiate, design, coordinate, monitor, and evaluate youth development programmes at provincial and local levels;
(b) establish annual youth development priorities and report to the Minister on implementation;
(c) lobby organs of state, the private sector and civil society organisations towards implementation of the national youth development priorities;

- (d) broadly promote the interests of the youth, particularly youth who fall within the designated groups contemplated in the Employment Equity Act, 1998 (Act No. 55 of 1998);
- (e) contribute to development of the National Youth Policy and an Integrated Youth Development Strategy for South Africa;
- and
- (f) develop guidelines for implementation of the Integrated Youth Development Strategy; and
- (g) promote a uniform approach in youth development across organs of state, the private sector and civil society.”.

CLAUSE 3

1. On page 3, from line 38, to omit subsection (4) and substitute:
“(4) The Agency must, for purposes of subsection (3) and within its available resources, amongst others—

- (a) provide youth advisory and information services including information on the products and services of the Agency;
- (b) provide career guidance services in collaboration with relevant partners;
- (c) provide skills training to youth including personal development and life skills;
- (d) contribute to the development of youth policy in the country;
- (e) support youth work, education and training;
- (f) provide funding in the prescribed manner and capacity building to small, micro and medium enterprises, youth owned cooperatives, individual youth, youth serving and youth led organisations that advance the Agency’s mandate;
- (g) support and mentor young entrepreneurs;
- (h) design and implement youth employment programmes, including developing a database of unemployed youth and employment opportunities;
- (i) assist in promoting healthy lifestyles amongst the youth;
- (j) assist in designing and implementing programmes that reduce risky behaviour;
- (k) assist in promoting mental health amongst the youth;
- (l) coordinate and implement the national youth service;
- (m) assist in developing norms and standards, as well as implementation guidelines;
- (n) assist by providing technical support in legislation and strategy development; and
- (o) conduct research that impacts on youth.”.

CLAUSE 5

1. On page 4, from line 26, to omit section 7 and substitute:
“7. Subject to the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), organs of state must assist the Agency as may reasonably be required for the effective exercise of its powers and the performance of its functions.”.

CLAUSE 6

1. On page 4, in line 40, to omit paragraph (iv) and substitute:
“(iv) an Agency charter that outlines the rights and responsibilities of the Agency including a governance checklist;”.

CLAUSE 7

1. On page 5, from line 2, to omit subsection (1) and substitute: “(1) The Board consists of—
- (a) seven members, two **[(2)]** of whom are executive directors appointed by the President on recommendation of the National Assembly;
 - (aA) two ex-officio members, without voting rights, designated by the Minister from the Department and acting in an advisory capacity; and
 - (b) the Chief Executive Officer, who is an *ex-officio* member of the Board without voting rights.”.

2. On page 5, from line 12, to omit paragraph (4) and substitute:

“(4) Members must broadly reflect the demographics and geographical spread of the Republic and must—

 - (a) be a South African Citizen between the ages of 18 and 35 years;
 - (b) have relevant knowledge, expertise, experience or qualifications in youth development, social development, financial field, legal field or any other field considered necessary for advancement of the Agency’s mandate;
 - (c) be allowed to finish their term of office, if they turn 35 years whilst in office; and
 - (d) be committed to advance the vision, mission, goal, objectives, values and principles as enunciated in the National Youth Policy.”.
3. On page 5, from line 24, to omit paragraph (a) and substitute:

“(a) The President must designate one of the members as the chairperson and another member as a deputy chairperson and both are executive directors referred to in subsection 1(a).”.
4. On page 5, from line 29, to omit subsection (6) and substitute:

“(6) Members hold office for a term of three **[(3)]** years and may not be reappointed for more than two terms.”.
5. On page 5, after line 37, to insert:

“(h) by the deletion of subsection (9);”;
6. On page 5, from line 42, to omit subsection (11) and substitute:

“(11) Members who are employed by an organ of state are not entitled to remuneration, **[or any allowance,]** but must be reimbursed for out-of-pocket expenses by the **[Board]** Agency.”.

CLAUSE 8

1. On page 5, after line 46, to insert:

“(a) by the substitution for the heading of the following heading:
“Disqualification, removal from office [and], resignation of members and filling vacancy during term”;
 2. On page 5, from line 47, to omit paragraph (a) and substitute:

“(a) by the substitution for subsection (1) of the following subsection:
 “(1) A person may not be appointed or continue to serve as a member if he or she—

 - (a) is an unrehabilitated insolvent
 - (b) has been—
 - (i) convicted of any criminal offence and sentenced to imprisonment without the option of a fine; or
 - (ii) convicted and fined more than the prescribed amount, for theft, fraud, forgery, perjury, an offence in connection with the promotion, formation or management of a company, any violation of the Public Finance Management Act or any offence involving dishonesty or
 - (iii) convicted of a gender-based violence and femicide-related offence;
 - (c) has been removed from an office of trust as a result of improper conduct, including sexual harassment, corruption, theft or fraud;
 - (d) has been declared to be of unsound mind by a court;
 - (e) is placed under curatorship; or
 - (f) fails to submit his or her annual financial disclosure in the prescribed form and manner without good cause on more than one occasion.”.
3. On page 5, in line 53, to remove “Minister” and substitute with “National Assembly”.
4. On page 6, from line 12, to omit subsection (6) and substitute:

“(6) When a vacancy arises as contemplated in subsection (5), the President, on the recommendation of the Minister, may appoint a person from the recent list of persons recommended by the National Assembly in terms of section 9(1)(a).”.

5. On page 6, after line 15, to insert the following subsection:
“(7) A person appointed in terms of subsection (6) holds office for the unexpired portion of the term of the member he or she replaces.”.
6. On page 6, from line 22, to omit paragraph (c) and substitute:
“(c) recommend candidates to the President for appointment to the interim Board.”.
7. On page 6, in line 26, to omit “non-executive” and to and substitute “executive”.

CLAUSE 14

1. On page 7, after line 30, to insert:
“(h) by the substitution for the item relating to section 10 of the following item:
“10. Disqualification, removal from office **[and]**, resignation of **[director]** member and filling vacancy during term”.

5. Expression of minority views

In its current format, the Democratic Alliance (DA) does not support this Bill and provides a minority view herewith which sets out the reason for the rejection.

Amendment to Section 3 of the Principal Act

The Bill intends to amend the objects of the Agency. In the principal Act, one of the objects is to “endeavour to promote the interest generally of the youth, particularly young people with disabilities”. This has now been removed and replaced with the phrase “*particularly youth who fall within the designated groups contemplated in the Employment Equity Act*”. The DA rejects any particular preference or favour being given to one person over another in terms or any other form of discrimination. Unemployment knows no skin colour, sex or ailment. The DA is a party that believes in, and stands for, non-racialism.

Amendment to Section 5 of the Principal Act

Section 5(1) intends to be amended to remove the focus away from “*economic participation*” of the youth to rather “*economic transformation*”.

6. Acknowledgement

The Committee gives due thanks to the Minister of Women, Youth and Persons with Disabilities Dr N Dlamini-Zuma, Deputy Minister of Women, Youth and Persons with Disabilities Ms NG Tolashe; the Director-General, Adv. Maluleke; Ms B Hlagala, Mr E Kganakga and Ms N Ngqulunga from the Department of Women, Youth and Persons with Disabilities for participating in the entire process of consideration of the NYDA Amendment Bill [B13B-2022]. The Committee also thanked the NYDA Board Members (Ms A Luwaca, Ms K Mohale, Mr T Ndlela, Ms L Mulaisi, Ms P Pillay, Ms A Procter) and the NYDA CEO Mr W Carrim who participated during the entire legislative process. Appreciation was also extended to the State Law Adviser (Ms L Naidoo, Ms H Mekwa), the Parliamentary Legal Adviser (Ms S Isaac), OISD (Dr H Tembe) and the Parliamentary support staff (Ms N Nobatana, Mr M Dumezweni, Ms K Abrahams, Ms C Levendale, Ms T Matthews) for the support provided to the Committee. Furthermore, the Committee thanked the Members of the Committee for attending and participating in the meeting of 28 November 2023 which considered and adopted the Committee report on the National Youth Development Agency Amendment Bill.

7. Committee Recommendation

The Portfolio Committee on Women, Youth and Persons with Disabilities, having considered the subject of the National Youth Development Agency Amendment Bill [B13 – 2022] (National Assembly – sec 75), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, recommends that the House adopts the Bill with amendments [B13B-2022].

Report to be considered.