

REPUBLIC OF SOUTH AFRICA

FUND-RAISING AMENDMENT BILL, 2020

—————
*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. 43801 of 13 October 2020)*
(The English text is the official text of the Bill)
—————

(MINISTER OF SOCIAL DEVELOPMENT)

[B — 2020]

221115ce

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.
-

BILL

To amend the Fund-raising Act, 1978, so as to amend a definition; to effect certain textual amendments to provide greater clarity; to provide for the discontinuation of certain funds and for the dissolution of any boards responsible for those funds; to establish the Disaster Relief and National Social Development Fund and to the transfer of any amounts remaining in the discontinued funds to the Disaster Relief and National Social Development Fund; to empower the Minister to make regulations in respect of the financial year of a fund; 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 107 of 1978, as amended by section 1 of Act 41 of 1980

1. Section 1 of the Fund-raising Act, 1978, is hereby amended by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister **[of Social Welfare and Pensions]** responsible for social development and, for the purposes of Chapter II, **[includes] means** the Minister **[of Defence]** responsible for defence in so far as that Chapter applies in relation to the South African Defence Force Fund;".

Substitution of section 17 of Act 107 of 1978

2. Section 17 of the Fund-raising Act, 1978, is hereby amended by—
(a) the substitution for subsection (3) of the following subsection:

"(3) A board shall consist of not more than **[fifteen]** nine members, of whom at least one half shall be appointed on a full-time basis."

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

"(4) At least half of the members of a board shall be persons who are not officers in the public service or the security services referred to in section 199(1) of the Constitution of the Republic of South Africa, 1996."; and

(c) the substitution for subsection (11) of the following subsection:

"(11) A member who is not an officer of the public service or the security services shall be paid such allowances from the Fund **[in question]** as the Minister may with the concurrence of the Minister of Finance determine."

Amendment of section 18 of Act 107 of 1978, as amended by section 4 of Act 41 of 1980, section 1 of Act 19 of 1981, section 2 of Act 82 of 1983, section 4 of Act 115 of 1991 and section 2 of Act 43 of 1994

3. Section 18 of the Fund-raising Act, 1978, is hereby amended by—

(a) the substitution for paragraph (a) of the following paragraph:

"(a) the board of the Disaster Relief and National Social Development Fund shall be, with due regard to the financial position of that Fund and the requirements of each case [,]—

(i) to render to persons, organizations and bodies who or which suffer damage or loss caused by a disaster;

(ii) to identify social development activities or empowerment projects and to provide,

such assistance, in cash or otherwise, as the board may deem fair and reasonable;"

(b) the substitution for paragraph (b) of the following paragraph:

"(b) the board of the South African Defence Force Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such aid as the board may deem fair and reasonable to—

- (i) **[members and]** former members of the South African Defence Force and of auxiliary services established and designated in accordance with section 80(1) of the Defence Act, 1957 (Act No. 44 of 1957), and their dependants;
- (ii) members and former members of the South African National Defence Force and auxiliary services established and designated under section 199 of the Constitution of the Republic of South Africa, 1996, and sections 11, 16, and 17 of the Defence Act, 2002 (Act No. 42 of 2002), and their dependants,

who suffer financial hardship or financial distress arising, directly or indirectly, out of any service or duties contemplated in section 3(2) of the Defence Act, 1957, section 201(2) of the Constitution of the Republic of South Africa, 1996, and sections 18 and 19 of the Defence Act, 2002, performed by such members, and to provide facilities to or for such members and former members who perform or performed such service or duties;" and

- (c) the deletion of paragraphs (c) to (e).

Amendment of section 20 of Act 107 of 1978

4. Section 20 of the Fund-raising Act, 1978, is hereby amended by the addition of the following subsection:

"(3) A board must ensure the disbursement of funds or provision of assistance is done in accordance with any written directions of the Minister and with due adherence to ethical principles."

Amendment of section 22 of Act 107 of 1978

5. Section 22 of the Fund-raising Act, 1978, is hereby amended by—

(a) the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The Funds referred to in section 16, read with section 25A (2)(b), shall consist of—";

(b) the substitution for subsections (4) to (8) of the following subsections, respectively:

"(4) A board shall deposit all the moneys received by it in an account which it shall open with a banking institution registered in terms of the Banks Act, **[1965 (Act No. 23 of 1965)]** 1990 (Act No. 94 of 1990).

(5) A board shall from time to time invest with the **[Public Debt Commissioners]** Public Investment Corporation Limited established by section 2(1) of the Public Investment Corporation Act, 2004 (Act No. 23 of 2004), or in such other manner as the Minister may, with the concurrence of the Minister of Finance, determine, all moneys which are not required for immediate use or as a reasonable working balance.

(6) The financial year of a fund shall terminate on 31 March in each year or as prescribed by the Minister.

(7) Each Fund is, subject to the directions of the Minister, under the control of the Director-General, who—

(a) is the accounting officer of the Fund; and

(b) must keep full and proper records of the financial affairs of the Fund and must prepare financial statements for each financial year,

in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(8) The records and financial statements contemplated in subsection (7) must be audited by the Auditor-General and must—

(a) be included as part of the annual report and audited financial statements of the Department of Social Development or the Department of Defence and Military Veterans, as the case may be, referred in section 40 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

(b) be submitted to the relevant Minister to enable compliance with section 65 of the Public Finance Management Act, 1999 (Act No. 1 of 1999)."

Substitution of section 25 of Act 107 of 1978

6. The following section is hereby substituted for section 25 of the Fund-raising Act, 1978:

"Performance of administrative work of boards

25. (1) The administrative work, including receipt and disbursement of money incidental to the performance of the functions or the exercise of the powers of a board or of any committee of the board must—

(a) in the case of the Disaster Relief and National Social Development Board, be performed by officers in the public service designated by the Director-General of the Department of Social Development and who must be under his or her control;

(b) in the case of the Defence Fund Board, be performed by members of the South African National Defence Force designated by the Secretary for Defence and who must be under his or her control.

(2) The disbursement of funds or provision of assistance as contemplated—

(a) in section 18(a) must be carried out by the South African Social Security Agency established by section 2 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

(b) in section 18(b) must be carried out by the Board referred to in that section."

Insertion of section 25A in Act 107 of 1978

7. The following section is inserted after section 25 of the Fund-raising Act, 1978:

"Discontinuation and transfer of certain funds"

25A. (1) In this section "effective date" means the date of commencement of section 7 of the Fund-raising Amendment Act, 2020.

(2) As from the effective date—

- (a)** the following funds established under section 16 cease to exist:
- (i)** The Refugee Relief Fund;
 - (ii)** the State President's Fund; and
 - (iii)** the Social Relief Fund;
- (b)** the Disaster Relief Fund established under section 16(a) continues to exist under the name of the Disaster Relief and National Social Development Fund;
- (c)** all amounts credited to any fund referred to in paragraph (a) immediately before the effective date vest in the Disaster Relief and National Social Development Fund;
- (d)** any board established by the Minister in terms of section 17 and responsible for managing a fund referred to in paragraph (a) is dissolved; and

(e) subject to paragraph (c), all liabilities, assets and rights existing as well as accruing of the funds referred to in paragraph (a) must devolve upon the Department of Social Development."

Amendment of section 36 of Act 107 of 1978

8. Section 36 of the Fund-raising Act, 1978, is hereby amended by the substitution for paragraph (c) of the following paragraph:

"(c) the financial year of the Fund as contemplated in section 22(6);"

Short title and commencement

9. (1) This Act is called the Fund-raising Amendment Act, 2020, and takes effect on a date fixed by the President by Proclamation in the *Gazette*.

(2) Different dates may, under subsection (1), be so fixed in respect of different provisions of this Act.