

REPUBLIC OF SOUTH AFRICA

NATIONAL YOUTH DEVELOPMENT AGENCY AMENDMENT BILL, 2022

*(As introduced in the National Assembly (proposed section 75 Bill); explanatory summary of Bill published in Government Gazette No. of 2022)
(The English text is the official text of the Bill)*

**MINISTER IN THE PRESIDENCY RESPONSIBLE FOR WOMEN, YOUTH AND
PERSONS WITH DISABILITIES**

[B —2022]

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 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 disclosure; to amend matters pertaining to the meetings of the Board; to amend the funding of the Board; to authorise the Minister to make regulations; 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 54 of 2008

1. Section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008) (hereinafter referred to as the "principal Act"), is hereby amended—

(a) by the insertion after the definition of "Board" of the following definitions:

'chairperson' means a member designated as such in terms of section 9(5)(a);

'Chief Executive Officer' means a person appointed in terms of section 13(1);

'civil society organisation' means a civil society organisation, as defined in section 1 of the National Development Agency Act, 1998 (Act No. 108 of 1998);"

(b) by the insertion after the definition of "members" of the following definitions:

'Minister' means the Minister responsible for youth;

'National Youth Policy' means the cross-sectoral policy aimed at effecting positive youth development outcomes amongst young people at local, provincial and national spheres of government;

'Non-executive director' means a member of the Board of Directors who is not part of the executive team of the Agency;" and

(c) by the insertion after the definition of "youth" of the following definition:

'youth development programmes' means interventions outlined in the National Youth Policy targeting youth, which seek to improve their lives by meeting their basic physical, developmental and social needs

and helping them build their competencies needed to become successful adults.”

Amendment of section 3 of Act 54 of 2008

2. Section 3 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“Objects of Agency

3. (1) The objects of the Agency are to—
- (a) initiate, design and pilot youth development programmes to be implemented by the Agency, in collaboration with organs of state, private sector and civil society organisations;
 - (b) report to the Minister on implementation of the annual youth development priorities;
 - (c) 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);
 - (d) contribute to development of the National Youth Policy and an Integrated Youth Development Strategy for South Africa; and
 - (e) lobby private, public and civil society organisations towards achieving the national youth development priorities.”

Amendment of section 5 of Act 54 of 2008

3. Section 5 of the principal Act is hereby amended—

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

“(a) establish competencies and capabilities on its operations including the following functional areas—

(i) **[National Youth Service and Social Cohesion]**

national youth service;

(ii) **[Economic Participation]** economic transformation, job

creation and entrepreneurial support;

(iii) **[Policy, Research and Development]** research and

development;

(iv) **[Governance, Training and Development]** governance,

skills development and training;

(v) **[Youth Advisory and Information Services]** youth

advisory and information services; [and]

(vi) **[National Youth Fund]** national youth fund; and

(vii) management of interventions needed to assist the youth

to find employment;”

(b) by the deletion in subsection (2) of paragraph (a);

(c) by the substitution for subsection (4) of the following subsection:

“(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 skills training to youth including personal development and life skills;
- (c) support youth work, education and training;
- (d) 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;
- (e) support and mentor young entrepreneurs;
- (f) design and support youth employment programmes;
- (g) assist in promoting healthy lifestyles amongst the youth;
- (h) assist in designing and implementing programmes that reduce risky behaviours;
- (i) assist in promoting mental health amongst the youth;
- (j) coordinate and implement the national youth service;
- (k) assist in developing norms and standards, as well as implementation guidelines;
- (l) assist by providing technical support in legislation, policy and strategy development; and
- (m) conduct research that impacts on youth;" and

(d) by the addition of the following subsection:

“(5) The Agency must perform any other function as determined by the Minister.”

Substitution of section 6 of Act 54 of 2008

4. The following section is hereby substituted for section 6 of the principal Act:

"Reporting by Agency

6. (1) The Agency must, at least once every two years, in the prescribed manner, prepare and submit to the Minister, a report on the status of youth in the Republic.

(2) The Agency must—

(a) in accordance with the Public Finance Management Act, submit to the Minister, a report on the financial status of the Agency; and

(b) supply the Minister with information in connection with the activities of the Agency as the Minister may request, in writing.

(3) The Minister must table the reports contemplated in subsections (1) and (2) in Parliament within 90 days of receipt thereof.

(4) The Agency must, by notice in the *Gazette*, publish the reports contemplated in subsections (1) and (2) within a reasonable time after it has been tabled in Parliament."

Substitution of section 7 of Act 54 of 2008

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

“Role of organs of state in supporting Agency

7. 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, and all other obligations outlined in the Intergovernmental Relations Framework Act of 2005 (Act No. 13 of 2005).”

Substitution of section 8 of Act 54 of 2008

6. The following section is hereby substituted for section 8 of the principal Act:

“Governance responsibilities of Board

8. (1) The control and management of the affairs of the Agency is managed by the Board, and the Board must—

(a) determine within 12 months of this section coming into operation —

- (i) a strategic plan;
- (ii) an operational plan;
- (iii) a succession plan; and
- (iv) an Agency charter including a Governance checklist.

(b) monitor and evaluate compliance by the Agency with this Act and any other functions that the Minister may determine;

(c) manage the financial and other resources in accordance with the PFMA and any other applicable law.”

Amendment of section 9 of Act 54 of 2008

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

(a) by the substitution for the heading of the following heading:

“Composition, appointment and conditions of service of [the] Board;”

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

“(1) The Board consists of—

(a) seven **[members, two (2) of whom are executive]** non-executive directors appointed by the President on the recommendation of the National Assembly; [and]

(aA) two members designated by the Minister as ex-officio members without voting rights; and

(b) the Chief Executive Officer, who is an *ex-officio* member of the Board without voting rights.”

(c) by the deletion of subsection (2);

(d) by the substitution for subsection (4) of the following subsection:

“(4) Members must 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 qualifications, knowledge, expertise or experience in the field of youth development, policy development, social development, business, economics, public management, or law;

(c) be allowed to finish their term of office, if they go beyond the age of 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.”

- (e) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

“(a) The President must from the members contemplated in subsection (1)(a) designate one of the members as the chairperson and another member as **[a]** the deputy chairperson and both are **[executive]** non-executive directors **[referred in subsection (1)].”**

- (f) by the substitution for subsection (6) of the following subsection:

“(6) Members hold office for a period of three **[(3)]** years and shall not be reappointed for more than two consecutive terms.”

- (g) by the addition to subsection (7) of the following paragraph, the existing subsection becoming paragraph (a):

“(b) Should both the chairperson and deputy chairperson not be able to fulfil their responsibilities, the Minister may appoint any of the members contemplated in subsection (1)(a) to temporarily act as the chairperson or the deputy chairperson for a period not exceeding six months.”

- (h) by the substitution for subsection (10) of the following subsection:

“(10) The conditions of service of members are determined by the **[President]** Minister in consultation with the Minister of Finance.”

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

“(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.”

Amendment of section 10 of Act 54 of 2008

8. Section 10 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (a) of the following paragraph:

“has not submitted their financial disclosure in the prescribed form and manner.”

(b) by the substitution for subsection (2) of the following subsection:

“(2) The President may, on recommendation **[of]** by the **[Parliament]** Minister, remove a member from office if the member—

- (a) **[commits a]** is found guilty of misconduct;
- (b) is unable to perform his or her duties efficiently;
- (c) is **[absence]** absent from three **[(3)]** consecutive meetings of the Board without permission of the Board or good cause;
- (d) **[becomes]** is disqualified as contemplated in subsection (1).”

(c) by the substitution for subsection (4) of the following subsection:

“(4) The President, on recommendation by the Minister, may suspend a member from office any time after the start of

the proceedings **[of Parliament]** for the removal of a member on any of the grounds contemplated in subsection (2)." and

(d) by the addition of the following subsections:

"(5) A vacancy in the Board occurs if a member—

(a) is subject to a disqualification contemplated in subsection (1);

(b) is removed from office in terms of subsection (2);

(c) resigns from office; or

(d) dies.

(6) (a) When a vacancy arises as contemplated in subsection (5), the Minister may make a recommendation to the President on a nominee to fill the vacancy, from the recent previous shortlist of the Board candidates. A member of the Board appointed to fill a vacancy must hold office for the unexpired portion of the period for which the vacating member was appointed.

(7) Where the Board no longer quorates due to vacancies resulting from mass resignations or there are unanticipated delays in filling the vacancies of the Board, the Minister shall—

(a) make recommendation to the President to dissolve the Board;

(b) manage the appointment process of an interim Board in the prescribed manner;

(b) make recommendations of candidates to the President for appointment; and

(c) make recommendations to the President for consideration to reappoint the remaining Board members to form part of an Interim Board.

(d) The President must designate one of the members of the interim Board as the chairperson and another member as the deputy chairperson, both of whom shall be non-executive members of the interim Board.

(5) A quorum for any meeting of the interim Board shall be the same as that of prescribed for the Board, as contemplated in Section 9 above.

(8) The interim Board shall perform the functions of the Board until such period when the new Board is appointed.”

Amendment of section 11 of Act 54 of 2008

9. Section 11 of the principal Act is hereby amended by the insertion after subsection (7) of the following subsection:

“(7A) If a Board member fails to disclose any interest as required by subsection (7) and where he or she is present at the venue where the meeting of the Board is held or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board shall be null and void.”

Amendment of section 12 of Act 54 of 2008

10. Section 12 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board may establish Committees, to assist in the performance of its functions, including the [:]—

- (a) Executive **[Management]** Committee;
- [(b) Credit Risk Committee];**
- (c) Human Resource and Remuneration Committee;
- (d) Audit and Risk Committee **[in accordance with Treasury guidelines regarding the formation of Audit Committees as provided for in section 77 of the PFMA; and]**
- (e) Development Committee;
- (f) Social and Ethics Committee;
- (g) Information Communication Technology Committee; and
- (h) any other Committee;

Amendment of section 17 of Act 54 of 2008

11. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board may delegate any of its powers or assign any of its duties to the Chief Executive Officer or **[any employee of the Agency]** a Committee referred to in section 12."

Amendment of section 18 of Act 54 of 2008

12. Section 18 of the principal Act is hereby amended by the deletion of paragraph (a) in subsection (1).

Amendment of section 19 of Act 54 of 2008

13. Section 19 of the principal Act is hereby amended by substitution of the words preceding paragraph (a) of the following words:

"The [**President**] Minister may, after consultation with the Board, make Regulations regarding—."

Amendment of Arrangement of sections of Act 54 of 2008

- 14.** The Arrangement of sections of the principal Act is hereby amended—
- (a) by the substitution for the item relating to section 2 of the following item:

“2 Establishment of **[the]** Agency”;
 - (b) by the substitution for the item relating to section 3 of the following item:

“3 Objects of **[the]** Agency;”
 - (c) by the substitution for the item relating to section 5 of the following item:

“5 Functions of **[the]** Agency;”
 - (d) by the substitution for the item relating to section 6 of the following item:

“6 Reporting by **[the]** Agency;”
 - (e) by the substitution for the item relating to section 7 of the following item:

“7 Roles of organ of state in supporting Agency.”
 - (f) by the substitution for the item relating to section 8 of the following item:

“8 Governance responsibilities of Board”; and
 - (g) by the substitution for the item relating to section 9 of the following item:

‘9. Composition, appointment and conditions of service of **[the]** Board.”

Short title and commencement

15. This Act is called the National Youth Development Agency Amendment Act, 2022, and takes effect on a date determined by the President by proclamation in the *Gazette*.