

REPUBLIC OF SOUTH AFRICA

AFRICAN RENAISSANCE AND INTERNATIONAL CO-OPERATION FUND
AMENDMENT BILL, 2022

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

(MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION)

[Bill - 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.

B I L L

To amend the African Renaissance and International Co-operation Fund Act 51 of 2000 so as to amend and insert certain definitions; to rename the African Renaissance Fund to the South African Development Partnership Agency; to provide for the management, support and facilitation of South Africa's outgoing development cooperation and assistance 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 51 of 2000

1. Section 1 of the African Renaissance and International Co-operation Fund Act, 2000 ("hereinafter referred to as the Principal Act") is hereby amended by-

(a) the insertion of the following definitions before the definition of "Department":

"Agency" means the South African Development Partnership Agency;";

"agreement" means a memorandum of understanding, service level agreement, contract or international agreement;

"Chief Executive Officer" means the Chief Executive Officer of the Agency referred to in section 5;

"Committee" means the Advisory Committee referred to in section 5(1);";

- (b) the substitution for the definition of “Department” of the following definition:
“**Department**’ means the Department of [**Foreign Affairs**] International Relations and Cooperation”;
- (c) the insertion after the definition of “Director-General” of the following definition:
“**development partner**’ means an entity that includes, but is not limited to, organs of state, private enterprises, foreign governments, foreign agencies, individuals, foundations or charitable organisations”;
- (d) the substitution for the definition of “Fund” of the following definition:
“**Fund**’ means the African Renaissance and International Co-operation Fund [**established by section 2**];”;
- (e) the substitution for the definition of “Minister” of the following definition:
“**Minister**’ means the [**Minister of Foreign Affairs**] Minister of International Relations and Cooperation”;
- (f) the deletion of the definition of “**officer**”;
- (g) the insertion after the definition of “previous Fund” of the following definition:
“**PFMA**’ means the Public Finance Management Act, 1999 (Act No. 1 of 1999)”;
- (h) the insertion before the definition of “repealed Act” of the following definition:
“**Public Service Act**’ means the Public Service Act, 1994 (Proclamation No. 103 of 1994)”.

Substitution of section 2 of Act 51 of 2000

2. The following section is hereby substituted for section 2 of the Principal Act:

“Renaming of Fund to South African Development Partnership Agency

2. (1) The Fund is hereby renamed as the South African Development Agency, which is a juristic person and substitutes the Fund listed as an entity in

Schedule 3 to the PFMA .

- (2) The money allocated to the Agency consists of –
- (a) money appropriated by Parliament to the Agency;
 - (b) money received by way of repayment of any loan made from the funds of the Agency;
 - (c) interest received on any loan made from the funds of the Agency, including interest derived from any investment of money standing to the credit of the funds of the Agency;
 - (d) interest or dividends accruing to the money;
 - (e) money donated, loaned and invested by Development Partners;
 - (f) donations or contributions received by the Agency;
 - (g) the amount appropriated for the operational budget of the Agency”; and
 - (h) money accruing to the Agency from any other source.;
- (3) Any unexpended money held or standing to the credit of the Fund prior to its renaming is hereby ceded, assigned and transferred to the Agency.”.

Amendment of section 4 of Act 51 of 2000

4. Section 4 of the Principal Act is hereby amended by-

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

“Objects of Agency”;

(b) the substitution for the words preceding paragraph (a) of the following:

“The Agency must ensure the efficient and effective management, administration, utilisation and disbursement of the money referred to in section 2(2) in order to advance and enhance South Africa’s national interest through –

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

(a) co-operation between the Republic and other countries **[in particular African countries];”.**

Amendment of section 5 of Act 51 of 2000

5. Section 5 of the Principal Act is hereby amended by-

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

“ Utilisation of money”;

(b) the substitution in subsection (1) for paragraphs (a) to (c) of the following paragraphs:

“(a) the Chief Executive Officer or his or her representative;

(b) the Director-General of the Department or his or her representative;

(c) two additional representatives of the Department;”; and

(c) the addition after paragraph (c) of the following paragraph:

“(d) two representatives of National Treasury.”;

(d) the substitution for subsection (2) of the following subsection:

“(2)(a) The Minister must appoint a Chairperson from amongst the members of the Committee.

(b) The Chief Executive Officer may, on an *ad hoc* basis, invite a person who has the relevant expertise or experience in such areas as he or she may determine, to advise the Committee in its consideration of a particular matter.

(c) The Committee must make recommendations to the Minister and the Minister of Finance on the disbursement of funds through loans or other financial assistance as contemplated in subsections (3) and (4).”.

(e) the substitution for subsection (3) of the following subsection:

“(3) The money must be made available or disbursed upon the recommendation of the Committee and approved by the Minister in consultation with the Minister of Finance.”.

Substitution of section 6 of Act 51 of 2000

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

“Chief Executive Officer

6. (1) The Minister must appoint a fit and proper and suitably qualified South African citizen as the Chief Executive Officer and accounting authority of the Agency.

(2) The Chief Executive Officer is appointed for a term of five years and may be reappointed for one additional term of five years.

(3) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Minister.

(4) The Minister must determine the remuneration and conditions of service of the Chief Executive Officer.

(5) The Minister may terminate the employment of the Chief Executive Officer in accordance with applicable labour law.

(6) The Chief Executive Officer is entitled to the pension and retirement benefits calculated on the same basis as those of a head of a department in the public service.

Insertion of sections 6A, 6B and 6C in Act 51 of 2000

7. The following sections are hereby inserted after section 6 of the Principal Act:

“Functions of Chief Executive Officer

6A.(1) The Chief Executive Officer is responsible for the-

- (a) management of the Agency subject to the direction of the Minister;
- (b) performance of functions, including the provision of secretarial services to the Committee in order to give effect to the objects of the Agency as provided for in section 4;
- (c) compilation of a business and financial plan, including the procedures for the mobilisation of funding, receipt of donations and investments for approval by the Minister;
- (d) preparation of internal rules and directives in respect of the management of the Agency and making recommendations in this respect to the Minister;
- (e) development of a human resource policy for the Agency for approval by the Minister; and
- (f) management of the members of staff of the Agency.

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(2) The Chief Executive Officer is accountable for the management and utilisation of the appropriated operational budget of the Agency, as well as for the disbursement of the money referred to in section 2.

(3) The Chief Executive Officer is accountable to the Minister and must report to him or her on the activities of the Agency.

(4) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Minister must, in writing, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

(5) The Chief Executive Officer may, in writing and on such conditions as he or she may determine, delegate any power or duty of the Chief Executive Officer to a senior member of the staff of the Agency.

Staff of Agency

6B.(1) The Chief Executive Officer must appoint members of staff of the Agency in accordance with the human resource policy of the Agency referred to in section 6A(1)(e).

(2) The Minister must, after consultation with the Chief Executive Officer, determine a code of conduct applicable to members of staff of the Agency to ensure compliance with the applicable law and for the promotion and maintenance of a high standard of professional ethics.

(3) A person employed by the Agency becomes a member of the Government Employees' Pension Fund mentioned in section 2 of the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996) and is entitled to a pension and retirement benefits as if that person were employed in a post in terms of the Public Service Act.

(4) The Agency may utilise persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act.

Conflict of interest

6C.(1) A member of staff of the Agency, including the Chief Financial Officer, must on appointment, submit to the Agency a written statement in which he or she declares whether or not he or she has any direct or indirect interest, financially or otherwise, which-

(a) may constitute a conflict of interest in respect of his or her functions as a member of staff of the Agency; or

(b) may reasonably be expected to compromise the Agency in the performance of its functions.

(2) If a member of staff of the Agency, including the Chief Executive Officer, acquires an interest contemplated in subsection (1), he or she must immediately in writing declare that fact to the Minister.

(3) A member of staff of the Agency, including the Chief Executive Officer, may not be present at, or take part in, the discussion of or the taking of a decision on any matter before the Agency in which that member has an interest contemplated in subsection (1).

(4) A member of staff of the Agency, including the Chief Executive Officer, may not use his or her position or privileges, or confidential information obtained as a member of staff of the Agency, for personal gain or to improperly benefit another person.

(5) A member of staff of the Agency, including the Chief Executive Officer, who fails or refuses to comply with subsections (1), (2), (3) or (4) may be subjected to disciplinary measures provided for in the applicable employment and labour laws and the PFMA.

(6) The Agency must keep a register of the interests of members of staff disclosed in terms of subsection (1) and must update that register from time to time.”.

Substitution of section 7 of Act 51 of 2000

8. The following section is hereby substituted for section 7 of the Principal Act:

“Unexpended money

7.(1) Any money referred to in section 2 which is not required for immediate use, must be invested by the Chief Executive Officer and may be withdrawn when required.

(2) Any unexpended money at the close of any financial year must be carried forward as a credit to the next succeeding financial year.”.

Short Title and commencement

9. This Act is called the African Renaissance and International Co-operation Fund Amendment Act, 2022 and takes effect on a date determined by the

President by proclamation in the *Gazette*.

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