

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**NATIONAL HEALTH  
AMENDMENT BILL**

**[B 24—2011]**

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*(As agreed to by the Portfolio Committee on Health)  
(National Assembly)*

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**[B 24A—2011]**

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## AMENDMENTS AGREED TO

### NATIONAL HEALTH AMENDMENT BILL

[B 24—2011]

#### CLAUSE 1

1. On page 2, after line 5, to insert:
  - (a) by the insertion after the definition of “blood product” of the following definition:
 

**“Board” means the Health Standards Complaints Board contemplated in section 79A;**
2. On page 2, in line 6, to omit “(a)” and to substitute “(b)”.
3. On page 2, in line 9, to omit “79A (1)” and to substitute “79H (1)”.
4. On page 2, after line 9, to insert:
  - (c) by the insertion after the definition of “embryo” of the following definition:
 

**“environmental health practitioner”** means, subject to the provisions of the Health Professions Act, 1974 (Act No. 56 of 1974), any person registered as such with the Health Professions Council of South Africa, and includes any—

    - (a) environmental health practitioner;
    - (b) environmental health assistant;
    - (c) student environmental health practitioner;
    - (d) environmental health practitioner doing compulsory community service; and
    - (e) health officer;
5. On page 2, in line 10, to omit “(b)” and to substitute “(d)”.
6. On page 2, in line 14, to omit “(c)” and to substitute “(e)”.
7. On page 2, in line 17, to omit “(d)” and to substitute “(f)”.
8. On page 2, in line 18, to omit “(e)” and to substitute “(g)”.
9. On page 2, in line 23, to omit “(f)” and to substitute “(h)”.

#### CLAUSE 2

1. Clause rejected.

#### CLAUSE 3

1. Clause rejected.

## NEW CLAUSES

**Amendment of section 21 of Act 61 of 2003**

2. Section 21 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (f) of the following paragraph:

“(f) facilitate and promote the provision of port health service and participate in intersectoral and interdepartmental collaboration;”.

**Amendment of section 25 of Act 61 of 2003**

3. Section 25 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (l) of the following paragraph:

“(l) facilitate and promote the provision of **[port health services,]** comprehensive primary health services and community hospital services;”.

**Amendment of section 47 of Act 61 of 2003**

4. Section 47 of the principal Act is hereby amended—

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

“(1) All health establishments must comply with the quality requirements and standards prescribed by the Minister after consultation with the **[National Health Council] Office.**”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The Office **[of Standards Compliance and the Inspectorate for Health Establishments]** must monitor and enforce compliance with the quality requirements and standards contemplated in subsection (1).”.

## CLAUSE 4

1. On page 3, in line 13, to omit “4” and to substitute “5”.
2. On page 3, in line 15, after “COMPLIANCE,” to insert “BOARD,”.
3. On page 3, in line 30, after “monitoring” to insert “and enforcing”.
4. On page 3, in line 44, to omit “the national health system” and to substitute “breaches of prescribed norms and standards”.
5. On page 3, in line 49, after the first “health” to omit “or” and to substitute “,”.
6. On page 4, in line 1, after “municipality” to insert “or health establishment”.
7. On page 4, after line 2, to insert the following paragraph:
 

(f) publish information relating to prescribed norms and standards through the media and, where appropriate, to specific communities;
8. On page 4, in line 3, to omit “(f)” and to substitute “(g)”.
9. On page 4, in line 5, to omit “(g)” and to substitute “(h)”.

10. On page 4, in line 6, to omit “(h)” and to substitute “(i)”.
11. On page 4, from line 10, to omit paragraph (b).
12. On page 4, in line 12, to omit “(c)” and to substitute “(b)”.
13. On page 4, in line 14, to omit “(d)” and to substitute “(c)”.
14. On page 4, in line 20, to omit “(e)” and to substitute “(d)”.
15. On page 4, after line 26, to insert the following:

#### **Control of Office**

- 79A.** (1) The Office functions under the control of the Board.  
 (2) The Board must—
- (a) determine the policy of the Office;
  - (b) do the necessary planning in connection with the functions of the Office; and
  - (c) perform such other functions as may be assigned to it by this Act.

#### **Composition of Board**

- 79B.** (1) The Board consists of no less than 7 members and no more than 12 members appointed by the Minister, as follows:
- (a) five members who have expertise in, among others, medicine, pharmacy, reproductive and maternal health, pediatrics, surgery, clinical governance and clinical risk management, occupational health and safety, infection control, and public health, nominated by institutions of higher learning or any other institution;
  - (b) one member appointed on account of his or her knowledge of the law;
  - (c) one member appointed on account of his or her knowledge of economics and financial matters or accounting;
  - (d) one member appointed on account of his or her knowledge of private healthcare sector;
  - (e) one member appointed on account of his or her knowledge of public healthcare and public administration;
  - (f) one member appointed on account of his or her knowledge of quality assurance
  - (g) one representative from organised labour; and
  - (h) one representative from civil society or the community.
- (2) The Chief Executive Officer and the Chief Financial Officer of the Office are *ex officio* members of the Board.

#### **Appointment of members of Board**

- 79C.** (1) The Minister must appoint the members contemplated in section 79B(1)(a) after consultation with the relevant bodies and institutions.
- (2) The Minister must, before appointing the members contemplated in section 79B(1)(b) to (h), by notice in the *Gazette* and in two or more nationally circulating newspapers in 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.
- (3) If a suitable person or the required number of persons is not nominated in terms of subsection (2), the Minister must appoint an appropriate person or persons who qualify to be appointed in terms of this Act.

(4) The members of the Board hold office for a period of at least three years, as the Minister may determine at the time of appointment, but are eligible for re-appointment for one additional term.

(5) A member of the Board, excluding a member who is in the full-time employment of the State or the Service, must be appointed on such conditions as the Minister may, with the concurrence of the Minister of Finance, determine.

(6) If the number of members of the Board is reduced to such an extent that a quorum cannot be obtained, the Minister may appoint any suitably qualified persons on a temporary basis to serve on the Board until new members are appointed in terms of this section.

### **Chairperson and vice-chairperson of Board**

**79D.** (1) The Minister must appoint a chairperson and vice-chairperson of the Board from the members contemplated in section 79B(1).

(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 Minister must designate another member of the Board to act as chairperson until the chairperson or vice-chairperson is available.

(3) Any person acting as chairperson of the Board in terms of subsection (2), must exercise all the powers and perform all the duties of the chairperson.

### **Disqualification from membership of Board and vacation of office**

**79E.** (1) A person may not be appointed as a member of the Board if that person—

- (a) is not a South African citizen and ordinarily resident in the Republic;
- (b) is an unrehabilitated insolvent;
- (c) has at any time been convicted of an offence involving dishonesty, whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine; or
- (d) has been removed from an office of trust.

(2) A member of the Board must vacate his or her office if—

- (a) he or she becomes disqualified in terms of subsection (1) from being appointed as a member of the Board;
- (b) he or she submits his or her resignation to the Minister in writing;
- (c) he or she is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act No. 18 of 1973);
- (d) he or she has, without the leave of the Board, been absent from more than two consecutive meetings of the Board;
- (e) the Minister withdraws the appointment because in the opinion of the Minister, and after consultation with the Board, the member is incompetent or unfit to fulfil his or her duties; or
- (f) he or she ceases to be ordinarily resident in the Republic.

(3) If a member of the Board dies or vacates his or her office in terms of subsection (2), the Minister may, subject to section 79C, appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.

### **Meetings of Board**

**79F.** (1) The meetings of the Board and the conduct of business at meetings must be prescribed by the rules.

(2) A quorum for a meeting of the Board is the majority of its members.

(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 has a casting vote in addition to his or her deliberative vote.

(4) A decision taken by the Board or an act performed under the authority of the Board is not invalid by reason only of a vacancy on the Board, or that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Board who were present at the time and entitled to sit as members.

(5) Minutes of the proceedings of every meeting of the Board must be prepared and entered in a book kept for that purpose.

(6) Minutes of the proceedings of each meeting must be submitted at the next meeting of the Board and, if passed as correct, must be confirmed by the signature of the chairperson or other member presiding thereat and may, when so confirmed, be evidence in a court of law of the proceedings of the first-mentioned meeting.

(7) In the absence of the chairperson or the person acting as the chairperson from a particular meeting of the Board, the members present at that meeting may elect one of their number to preside at that meeting.

### **Committees of Board**

**79G.** (1) The Board may appoint one or more committees from among its members to assist it with the performance of its functions and exercise of its powers.

(2) The Board may appoint one or more specialist advisory committees consisting of members other than members of the Board, to assist it with the performance of its functions and exercise of its powers.

13. On page 4, in line 28, to omit “A” and to substitute “H”.
14. On page 4, in line 28, after “must,” to insert “after consultation with the Board,”.
15. On page 4, in line 35, after “Minister to insert “after consultation with the Board”.
16. On page 4, in line 36, after “Minister” to insert “, after consultation with the Board,”.
17. On page 4, in line 38, after “may” to insert “, after consultation with the Board,”.
18. On page 4, in line 39, to omit “—” and to substitute “serious misconduct, incapacity or incompetence, after affording him or her reasonable opportunity to be heard and subject to applicable legislation.”.
19. On page 4, from line 40, to omit paragraphs (a), (b) and (c).

20. On page 4, in line 45, after “may” to insert “, after consultation with the Board,”.
21. On page 4, in line 53, to omit “B” and to substitute “I”.
22. On page 4, in line 58, after “by” to insert “the Board in consultation with”.
23. On page 5, in line 6, after “may” to insert “, after consultation with the Board,”.
24. On page 5, in line 12, to omit “C” and to substitute “J”.
25. On page 5, in line 26, to omit “D” and to substitute “K”.
26. On page 5, in line 29, before “prepare” to insert “ in consultation with the Board,”.
27. On page 5, in line 39, to omit “ensuring” and to substitute “ensuing”.
28. On page 5, in line 42, to omit “publish” and to substitute “make”.
29. On page 5, from line 43, to omit “in the media” and to substitute “accessible to the public”.
30. On page 5, in line 45, after “the” to insert “Board or”.
31. On page 5, in line 45, after “Chief Executive Officer” to insert “, as the case may be,”.
32. On page 5, in line 49, after the second “the” to insert “Board,”.
33. On page 5, in line 55, to omit “79B (1)(c)” and to substitute “79I (1)(c)”.
34. On page 5, in line 56, after “appropriate” to insert “prescribed”.
35. On page 6, in line 14, after “must” to insert “, after consultation with the Board,”.
36. On page 6, in line 15, to omit “person” and to substitute “South African citizen”.
37. On page 6, after line 15, to insert the following subsection:
 

“(2) The Minister must, before appointing the Ombud in terms of subsection (1), by notice in the *Gazette* and in two or more nationally circulating newspapers in the Republic, invite applications from suitable persons.”
38. On page 6, in line 16, to omit “(2)” and to substitute “(3)”.
39. On page 6, in line 17, to omit “five” and to substitute “seven”.
40. On page 6, in line 21, to omit “(3)” and to substitute “(4)”.
41. On page 6, in line 24, to omit “(4)” and to substitute “(5)”.
42. On page 6, in line 27, to omit “(5)” and to substitute “(6)”.
43. On page 6, in line 31, to omit “(6)” and to substitute “(7)”.
44. On page 6, in line 34, after “person” to insert “is”.

45. On page 7, after line 37, to add the following subsection:
- “(12) The Ombud must, after the conclusion of an investigation, inform the complainant or the respondent or both, as the case may be, of his or her findings and recommendations.”
46. On page 7, in line 47, to omit “Department” and to substitute “national department”.
47. On page 8, in line 24, to omit all the words following “and” up to and including “notice” in line 25 and to substitute “a compliance certificate has been issued by the relevant authority”.
48. On page 8, after line 34, to add the following subsection:
- “(7) A compliance certificate issued by the Office shall be valid for a period of no more than four years and must be renewed before or on the expiry date in a manner prescribed.”
49. On page 8, in line 36, to omit “notice of non-compliance” and to substitute “compliance notice”.
50. On page 8, in line 47, to omit “notice of non-compliance” and to substitute “compliance notice”.
51. On page 8, from line 51, to omit “notice of non-compliance” and to substitute “compliance notice”.
52. On page 8, in line 53, after “may” insert “as appropriate and taking into account the nature, extent, gravity and severity of the contravention”.
53. On page 8, after line 53, to insert the following paragraphs:
- |  |
|--|
| <p>(a) issue a written warning to achieve compliance within a set period of time in a manner prescribed;</p> <p>(b) require a written response from the health establishment regarding the continued non-compliance;</p> <p>(c) recommend to the relevant authority any appropriate and suitable action to be undertaken, including the institution of disciplinary proceedings against persons responsible for the non-compliance or continued non-compliance;</p> <p>(d) revoke the compliance certificate and recommend to the Minister the temporary or permanent closure of the health establishment or part thereof that constitutes a serious risk to public health or to health service users;</p> |
|--|
54. On page 8, in line 54, to omit “(a)” and to substitute “(e)”.
55. On page 8, in line 54, to omit “in respect of that non-compliance,”.
56. On page 8, in line 56, to omit “(b)” and to substitute “(f)”.
57. On page 8, in line 57, to omit all the words following “the” up to and including “section 36(6)(a)” in line 58 and to substitute “the head of a national or provincial department, the municipal manager or the head of a health establishment of any persistent non-compliance”.
58. On page 9, from line 21, to omit subsection (5).
59. On page 11, in line 23, after the first “department” to insert “, the municipal manager”.



60. On page 11, in line 23 to omit “department of a municipality” and to substitute “establishment”.
61. On page 12, in line 24, to omit “hinder” and to substitute “hinders”.

#### CLAUSE 5

1. On page 12, in line 12, before “establishment” to insert “health”.
2. On page 12, in line 31, to omit “5” and to substitute “6”.
3. On page 12, in line 35, to omit “and”.
4. On page 12, in line 36, to omit “paragraph (b) and to substitute “paragraphs (b) and (c)”.
5. On page 12, in line 37, to omit “paragraph” and to substitute “paragraphs, respectively”.
6. On page 12, after line 40, to insert the following paragraphs:
  - (c) the norms and standards for—
    - (i) the national health systems; or
    - (ii) specified types of protective clothing and the use, cleaning and disposal of such clothing;”.
  - (c) by the insertion in subsection (1) after paragraph (c) of the following paragraph:
 

(cA) the performance of the functions of the Board and the Office;”; and
  - (d) by the substitution in subsection (1) for paragraph (n) of the following paragraph:
 

(n) environmental health, including health nuisances and medical waste;”.

#### CLAUSE 6

1. On page 12, in line 42, to omit “6” and to substitute “7”.
2. On page 12, in line 45, after “COMPLIANCE,” to insert “BOARD,”.
3. On page 13, from line 1, to omit paragraph (e) and to substitute:
  - (e) by the insertion after item 79 of the following items:
 

**79A. Control of Office**

**79B. Composition of Board**

**79C. Appointment of members of Board**

**79D. Chairperson and vice-chairperson of Board**

**79E. Disqualification from membership of Board and vacancy of office**

**79F. Meetings of Board**

**79G. Committees of Board**

**79H. Appointment of Chief Executive Office**

**79I. Functions of Chief Executive Officer**

**79J. Delegation of powers and assignment of duties by Chief Executive Officer**

**79K. Accountability and reporting by Chief Executive Officer”**.

CLAUSE 7

1. On page 13, in line 36, to omit “7” and to substitute “8”.

CLAUSE 8

1. On page 13, in line 42, to omit “8” and to substitute “9”.



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