

## Procedure and requirements in appointing members of the Aviation Safety

### Investigation Board, filling of vacancies and term of office

15. (1) The Aviation Safety Investigation Board consists of a Chairperson, Deputy Chairperson and three other members appointed in accordance with the following principles, namely-

(a) participation by the public in the nomination and evaluation process;  
and

(b) transparency and openness taking into account the objects and principles of this Act.

(2) (a) Before the members of the Board are appointed, the Minister must, through the media, invite members of the public to nominate persons who comply with the criteria contemplated in subsection (3).

(b) The Minister may after receipt of the nominations contemplated in paragraph (a) invite any number of aviation experts to assist in the selection and evaluation of members nominated for appointment to the Aviation Safety Investigation Board.

(c) The Minister must after the evaluation as contemplated in subsection (b) appoint the members as referred to subsection (1) from a list compiled by the aviation experts after the evaluation of members nominated for appointment to the Aviation Safety Investigation Board.

(d) The Minister must, within 30 days from the date of appointment of the members of the Board, notify Parliament of such appointment and publish a notice in the *Gazette*.

(e) The aviation experts contemplated in paragraph (b) may include:

(i) a person with knowledge of and experience in the aviation industry;

(ii) a person with knowledge of and experience in aviation accident and incident investigations;

(iii) a person with a legal background; and

(iv) a representative from the labour sector.

(f) An aviation expert contemplated in subsection (b) receives such remuneration or allowances as may be determined by the Minister in consultation with the Minister of Finance.

(3) Members appointed to the Aviation Safety Investigation Board must be persons who-

(a) are committed to fairness, freedom of expression, openness and accountability on the part of those entrusted with the governance of a public service; and

(b) when viewed collectively-

(i) be knowledgeable of aviation transportation having regard to the following factors:

(ii) technical knowledge in matters relating to civil aviation;

(iii) special skills, professional standing, expertise or experience in matters concerning civil aviation; and

(iv) possess suitable qualifications, expertise and experience in the field of aviation accident and incident investigation or any other relevant expertise or qualifications.

(c) have proven knowledge in accident reconstruction, safety engineering, civil aviation safety or transportation regulations; and

(4) In fixing a term of appointment or reappointment, the Minister must endeavour to ensure, to the extent that it is practical to do so, that, notwithstanding periodic changes in the membership of the Aviation Safety Investigation Board, it remains constituted of persons who have had previous experience as members of the Board.

(5) Any vacancy on the Aviation Safety Investigation Board arising by virtue of the provisions of section 16(3) or caused by the death of a member, or for any other reason must, be filled by the appointment by the Minister in terms of subsection (7)(b) of another person for the unexpired portion of the period for which the vacating member was appointed.

(6) The Minister may appoint from the list contemplated in subsection (2) any eligible person to act—

(a) in any member's stead; or

(b) in a temporary capacity in any vacancy in the Aviation Safety Investigation Board, for such period as the Minister may determine.

(7) The Chairperson and Deputy Chairperson are full time members and are appointed by the Minister for a term of five years and must on the expiration of such term be eligible for one further term only.

(8) A member of the Aviation Safety Investigation Board must hold office for a term not exceeding three years and is on expiration of such member's term of office eligible for reappointment.

#### **Disqualification and removal of members of the Aviation Safety Investigation Board**

16. (1) A person may not be appointed as a member of the Aviation Safety Investigation Board if he or she-

- (a) is not permanently resident in the Republic;
- (b) is a public servant or the holder of any other remunerated position under the State;
- (c) is a member of Parliament, any provincial legislature or any municipal council;
- (d) is an office-bearer or employee of any party, movement or organisation of a party-political nature;
- (e) or his or her family member has a direct or indirect financial interest in the aviation industry;
- (f) or his or her business partner or associate holds an office in or with, or is employed by, any person or body, whether corporate or unincorporated, which has an interest contemplated in paragraph (f);
- (g) is an unrehabilitated insolvent;
- (h) has been declared by a court to be mentally ill or disordered;
- (i) has at any time been convicted, whether in the Republic or elsewhere, of-
  - (i) theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Prevention of Corruption Act, 1958 (Act 6 of 1958), the Corruption Act, 1992 (Act 94 of 1992), Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, or any other offence involving dishonesty; or
  - (ii) an offence under this Act or the underlying statutes;
- (j) has been sentenced, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), to a period of imprisonment of not less than one year without the option of a fine; or



(k) has at any time been removed from an office of trust on account of misconduct.

(2) A person who is subject to a disqualification contemplated in subsection (1) (b) to (h) may be nominated for appointment as a member of the Aviation Safety Investigation Board, but may only be appointed if at the time of such appointment he or she is no longer subject to that disqualification.

(3) Subject to subsection (4), a member of the Aviation Safety Investigation Board may be removed from office on account of-

- (a) misconduct;
- (b) inability to perform the duties of his or her office efficiently;
- (c) absence from three consecutive meetings of the Aviation Safety Investigation Board without the permission of the Chairperson of the Aviation Safety Investigation Board, except on good cause shown;
- (d) his or her failure to disclose an interest in terms of section 16(1)(f) or (g);
- (e) him or her becoming disqualified as contemplated in section 16 (1)(b) to (e); or
- (f) his or her refusal to sign a performance agreement.

(4) A member of the Aviation Safety Investigation Board may be removed from office only on-

- (a) a finding to that effect by the National Assembly; and
- (b) the adoption by the National Assembly of a resolution calling for that member's removal from office.

(5) The Minister-

(a) may suspend a member of the Aviation Safety Investigation Board from office at any time after the start of the proceedings of the National Assembly for the removal of that member;

(b) must remove a member from office upon adoption by the National Assembly of the resolution calling for that member's removal;

(c) must suspend a member from office at any time after the start of the proceedings of the National Assembly for the removal of that member upon the request of the National Assembly.

### **Performance management system**

**16A.** (1) The Minister must, in consultation with the National Assembly, establish a performance management system to monitor and evaluate the performance of the members of the Aviation Safety Investigation Board.

(2) The performance management system must-

(a) set appropriate key performance indicators as a yardstick for measuring performance;

(b) set measurable performance targets; and

(c) set a procedure to measure and review performance at least once a year.

(3) As soon as is practicable after the appointment of the members of the Aviation Safety Investigation Board a performance agreement must be concluded between the members of the Aviation Safety Investigation Board and the Minister.

(4) The evaluation of the performance of the members of the Aviation Safety Investigation Board must be conducted by a panel constituted by the Minister, in consultation with the National Assembly for that purpose.

(5) The panel contemplated in subsection (4) must, after an evaluation of the members of the Aviation Safety Investigation Board, submit a report to the National Assembly for consideration.

### **Remuneration, fees and expenses of members of the Aviation Safety Investigation Board**

17. (1) The members of the Aviation Safety Investigation Board must be paid the remuneration, and other allowances that are determined by the Minister as determined in consultation with the Minister of Finance.

(2) The members and the staff of the Aviation Safety Investigation Board are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties as may be prescribed by rule from time to time.

### **Duties of Chairperson**

18. The Chairperson of the Aviation Safety Investigation Board has exclusive responsibility for managing personnel matters, financial matters, property matters and for all other aspects of the internal management of the Aviation Safety Investigation Board, including—

- (a) directing the staff and apportioning the work of the Aviation Safety Investigation Board;
- (b) directing the members and apportioning their work, subject to section 24; and
- (c) convening meetings in accordance with section 20 and presiding at meetings in accordance with any rules made under section 30(4).