

Proposed Amendments

10. Subsection 9(1)(a)

Amend to read: “not more than seven directors, at least three of whom must be non-executive directors;”

RATIONALE: It is recognised that it may be necessary to have executive directors in addition to the Chairperson and the current phrasing does not allow this.

Proposed Amendments

11. Subsection 14(1)

Amend to read:

“The Board must, in consultation with the President, appoint a suitably qualified person as the Chief Executive Officer.”

RATIONALE: For practical reasons it does not make sense for the President to appoint the CEO who must account administratively to the Board. The CEO is an employee of the Agency and must be subject to its authority, hence it is prudent to locate this power to appoint to the Board, rather than the President. However, as an executive authority of the Agency, the President’s concurrence will be sought for such appointment in the interest of promoting transparency and to balance whatever vested interests members of the Board may have in such appointment.

Proposed Amendments

12. Subsection 17(1)

Remove reference to the Public Finance Management Act

RATIONALE: These delegations relate to the power to delegate powers and functions in terms of this Act, rather than the PFMA. This is an incorrect cross-reference as section 56 of the PFMA only deals with delegations in terms of that Act.

Proposed Amendments

13. Section 19

Delete in its entirety

RATIONALE: This section does not add any value whatsoever to this legislation. The provisions of the PFMA in relation to public entities are very clear in terms of that Act and do not need to be replicated in this Act. If we reproduce sections of the PFMA that are applicable to the Agency, then we must reproduce all other sections, which would create an unwieldy situation.

Proposed Amendments

14. Subsection 20(5)

Amend to read:

“Local Co-ordinators envisaged in 21(1) within the jurisdiction of a district municipality must elect one among their number to represent them on the management board in an ex-officio capacity, who may participate in its deliberations but have no voting rights.”

RATIONALE: The existing provision may prove unworkable in situations where a Province has a large number of municipalities. Representation based on district is seen as a more reasonable approach in order to ensure an effective management board.

Proposed Amendments

15. Subsection 22(3): NEW

Insert a new subsection to read:

“Notwithstanding the provisions of subsection (2), the regulations may provide for penalties which may be imposed by the Agency, and may provide that the Agency may publish details of such non-compliance in the manner prescribed.”

RATIONALE: Reliance on the criminal justice system to ensure compliance can prove cumbersome, expensive, time consuming and impractical as an instrument to enforce compliance and such route must only be reserved for serious violations of the law. The Agency must be empowered to impose penalties (which may not always be monetary) in order to maximise compliance with its directives and other legal obligations on designated entities. It must similarly be able to enforce such compliance through civil action.

Proposed Amendments

The Bill is silent on the following issues, which we believe should be covered:

a) Powers of the Agency

The Agency needs to have powers to compel the designated entities to undertake certain things in advancing youth development. An instrument to enable this may be a power to issue instructions and guidelines to designated entities in the implementation of the Integrated Youth Development Strategy and any youth policy determined by the President in terms of the Act.

b) Removal of the CEO

Provision should be made for circumstances under which the Board may be able to remove the CEO.

Proposed Amendments

Functions of the Board

Functions of the Board may need to be spelt out in the Act. Originating policy, development of the Strategy may be among some of the functions of the Board, which it may then have discretion to delegate to the CEO or any other functionary.

d) Banking Account

A provision may need to be included to empower the Agency to open a banking account with a registered financial institution in its own name.