

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL YOUTH DEVELOPMENT AGENCY AMENDMENT BILL, 2021**

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*(As introduced in the National Assembly; explanatory summary of Bill published in  
Government Gazette No. .... of ..... 2021)  
(The English text is the official text of the Bill)*

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

**[B —2021]**

**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.

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**BILL**

**To amend the National Youth Development Agency Act, 2008, so as to insert new definitions; to amend certain sections that provide for the administration of the Act by the Executive Authority; to amend the provisions relating to the objects of the Agency; to amend provisions relating to reporting by Agency; to amend provisions relating to roles of organs of state in supporting the Agency; to provide for additional board members; to provide for extension of the term of office for board members; to provide for establishment of the Agency at provincial and local levels; 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 by—

(a) 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, (Act No. 108 of 1998);

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

**'designated group'** in line with Employment Equity Act (Act No. 55 of 1998), means naturalised young citizens who are within the ages of 14-35, blacks (inclusive of Africans, Coloured, Indians), females, and those who are not in employment, training, and education; those living in rural areas and informal settlements; and/or those living with a disabilities regardless of race and gender.

**'Executive Authority'** means the Cabinet member responsible for "Youth";

**'Local'** means local government as described in section 151 of the Constitution (Act 108 of 1996)

**'Pathway management'** means managing the interventions needed to help youth transition from learning to earning

**‘Province’** means provincial government described in section 103 of the Constitution (Act 108 of 1996).

- (b) the substitution for the definition of ‘Integrated Youth Development Strategy’ of the following definition:

**“Integrated Youth Development Strategy”** means the integrated Youth **[Development]** Strategy **[for South Africa]** referred to in section **[3(a)] 3(d)**; and

- (c) the insertion after the definition of "members" of the following definition:

**“national youth policy”** means the national youth policy referred to in section 3(d);”.

#### **Substitution of section 3 of Act 54 of 2008**

2. Section 3 of the principal Act is hereby substituted for the following section:

##### **"Objects of Agency**

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 Executive Authority on the implementation of annual youth development priorities;
- (c) promote the interests of the youth, mainly designated youth groups, in particular;
- (d) contribute to development of the National Youth Policy and an Integrated Youth Development Strategy for South Africa”.

#### **Amendment of Section 4 of the Principal Act**

Section 4 of the Principal Act is hereby substituted with the following:

Offices of Agency

**3. Establishment of National Youth Development Agency offices**

(a) NYDA offices shall be established at provincial and local levels to offer products and services of the Agency.

(b) Provincial Offices of the Agency shall manage local offices.

**Amendment of section 5 of Act 54 of 2008**

**4.** 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 in 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.”
- (vii) pathway management for young people

**[(b) establish offices of the Agency at provincial and local levels and appoint the necessary personnel to those offices.]**

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

- "(2) The Agency may, in order to achieve its objects—
- (a) carry out or cause to be carried out any **[investigation]** research that it deems necessary; or
  - (b) consider such recommendations, suggestions and requests concerning youth affairs as it may receive from any source; **[or]**
  - (c) **conduct or cause to be conducted such research as it may deem necessary.]**"; and
- (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 other things—
- (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 grants to individual youth, youth serving and youth led organisations that advance the Agency's mandate;
  - (e) provide funding and capacity building to small, micro and medium enterprises, and youth owned cooperatives;
  - (f) support and mentor young entrepreneurs;
  - (g) design and support youth employment programmes;
  - (h) assist in promoting healthy lifestyles amongst the youth;
  - (i) assist in designing and implementing programmes that reduce risky behaviour;

- (j) assist in promoting mental health amongst the youth;
- (k) coordinate and implement the national youth service;
- (l) assist in developing norms and standards, as well as implementation guidelines;
- (m) assist in legislation, policy and strategy development; and
- (n) conduct research that impacts on youth."

#### **Amendment of section 6 of Act 54 of 2008**

5. Section 6 of the principal Act is hereby substituted for the following section:

##### **"Reporting by Agency**

- (1) The Agency must, at least once every two years, in the prescribed manner, prepare and submit to the Executive Authority 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 Executive Authority a report on the financial status of the Agency; and
  - (b) supply the Executive Authority with such information and particulars in connection with the activities of the Agency as the Executive Authority may, in writing, request.
- (3) The Executive Authority 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 they have been tabled in Parliament."

#### **Amendment of section 7 of Act 54 of 2008**

6. Section 7 of the principal Act is hereby substituted for the following section:

**“Role of organs of state in supporting Agency**

Organs of state must assist the Agency as may be reasonably required for the effective exercise, performance and carrying out of its powers, functions and duties.”

**Amendment of section 8 of Act 54 of 2008**

7. Section 8 of the principal Act is hereby substituted for the following section:

**“Governance responsibilities of the Board**

- (1) The control and management of the affairs of the Agency is managed by the Board, and the Board must –

- (a) determine -

- (i) a strategic plan;
- (ii) an operational plan;
- (iii) a succession plan; and
- (iv) an Agency charter including a Governance checklist, within 12 months of this section coming into operation;

- (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 a system that is fair, efficient, cost-effective and transparent, including but not limited to-

- (i) the efficient management of working capital;
- (ii) safeguarding and disposal of assets;
- (iii) prevention of irregular, fruitless and wasteful expenditure;
- (iv) implement preventative measures to eradicate corruption and fraud.



- (2) The Agency must perform any other function as determined by the Executive Authority.”
- (3) The agency must lobby private, public and civil society organisations towards achieving the national youth development priorities.

### **Amendment of section 9 of Act 54 of 2008**

8. Section 9 of the principal Act is hereby amended-

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

(1) The Board consists of ten (10) non-executive directors -

- (a) seven of whom are appointed by the President on recommendation of National Assembly;
- (b) two (2) of whom are designated by the Executive Authority as ex officio members, without voting rights;
- (c) the Chief Executive Officer, who is an ex officio member, without voting rights.

(2) The President shall designate two members as Chairperson and Deputy Chairperson;

(3) To be eligible, appointed Board candidates must –

- (a) be a South African Citizen between the ages of 18 to 35;
- (b) have relevant qualification/s, knowledge, expertise and/ or experience in the field of youth development, policy development, social development, business, economics, public management, and/or law”
- (c) be allowed to finish their term of office, if they go beyond the age of 35 whilst in office;
- (d) represent a broad cross-section of the population of the Republic;

(e) be persons who are committed to advance the objects and principles as enunciated in the National Youth Policy;

(4) The deputy chairperson referred to in subsection (2) must, when the chairperson is absent or unable to perform his or her duties, act in his or her stead and when so acting, exercise or perform any function of the chairperson.

(5) A quorum is constituted by **[four (4)]** five (5) members, which must include the Chairperson and or the Deputy Chairperson and at least one ex-officio member.

(b) by the substitution for subsection (6) of the following subsection:

(6) Members hold office for a period of **three (3)** years, not exceeding two consecutive terms;”

(7) The deputy chairperson must, when the chairperson is absent or unable to perform his or her duties, act in his or her stead and when so acting, perform any function of the chairperson.

(8) Should both the chairperson and deputy chairperson not be able to fulfil their responsibilities, the Executive Authority may appoint any of the members to Act in those positions temporarily as an interim arrangement.

(c) by the substitution for subsection (10) of the following subsection:

“(9) The conditions of service of members are determined by the Executive Authority **[President]**, in consultation with the Minister of Finance”; and

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

“(10) 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 Agency **[Board]**.”

#### **Amendment of section 10 of Act 54 of 2008**

9. Section 10 of the principal Act is hereby amended -

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

“(2) The President may, on the recommendation of **[the Parliament]** the Executive Authority, remove a member from office if the member -

- (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

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

“(4) The President, on recommendation of the Executive Authority, may suspend a member from office any time after the start of the proceedings **[of Parliament]** for the removal of a member”; and

(c) by the insertion of the following subsection:

“(5) A vacancy in the Board occurs if a member-

- (a) is subject to a disqualification referred to in section 10 (1);
- (b) is removed from office in terms of section 10(2);
- (c) resigns; or
- (d) dies.”

(6) where a vacancy arises as contemplated in subsection 5, the Executive Authority must make a recommendation to the President on a nominee to fill the vacancy, from the recent previous shortlist of the Board candidates.

- (i) 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 quorate due to vacancies, the Executive Authority shall

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

(b) manage appointment process of an Interim Board, and make recommendations of candidates to the President for appointment.

(8) Members of an Interim Board shall only be nominated where there are –

(a) mass resignations of the Board members resulting in the Board not quorating;

(b) unanticipated delays in filling the Board vacancies.

(9) 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**

**10.** Section 11 of the principal Act is hereby amended -

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

#### **Disclosure of conflict of interests**

(1) A person may not be appointed on the Board, unless the necessary financial and non disclosure has been made.

(2) If at any stage during the course of any proceedings before the Board, it appears that any Board member has or may have an interest which may cause such conflict of interest to arise on his or her part -

(a) such Board member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Board members to discuss the matter and determine whether such Board member is precluded from participating in such meeting by reason of a conflict of interest; and

(b) such disclosure and the decision taken by the remaining Board members regarding such determination, must be recorded in the minutes of the meeting in question.

(3) If any Board member fails to disclose any interest as required by subsection (2) or, subject to the provisions of that subsection, if he or she is present at the venue where a meeting of the Board is held or in any manner whatsoever participates in the proceedings of the Board, the relevant proceedings of the Board will be null and void.

#### **Amendment of section 12 of Act 54 of 2008**

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

"(1) The Board may, in the performance of its functions, establish Committees, including the [:-

(a) Executive Committee;

(b) Human Resource and Remuneration Committee;

(c) 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]**

(d) Development Committee;

(e) Social and Ethics Committee;

(f) Information Communication Technology Committee; and

or any other Committee to assist in the performance of its functions."

#### **Amendment of section 16 of Act 54 of 2008**

12. Section 16 of the principal Act is hereby amended –

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

"(a) in consultation with the Board, appoint executive **[managers]** directors of the Agency, which may include **[a Chief Operations Officer and]** a Chief Financial Officer; and

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

"(2) The Board must, in consultation with the **[Minister of Finance]** Executive Authority, approve the remuneration, allowances, benefits and other terms and conditions of appointment of members of staff."

#### **Amendment of section 17 of Act 54 of 2008**

**13.** 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 a Committee referred to in section 12 **[any employee of the Agency]**."

2) The Board shall develop and review board charters that outlines the roles and responsibilities aligned to corporate governance prescripts.

#### **Amendment of section 18 of Act 54 of 2008**

**14.** Section 18 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) in such manner as may be approved by the **[Minister of Finance]** Executive Authority."

#### **Amendment of section 19 of Act 54 of 2008**

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

"The **[President]** Executive Authority may, after consultation with the Board, make regulations regarding—".

### **Amendment of arrangement of sections in Act 54 of 2008**

16. The arrangement of sections which occur immediately after the Preamble to the principal Act is hereby substituted by the following item —

#### **“ ARRANGEMENT OF SECTIONS**

- 1 Definitions
- 2 Establishment of **[the]** Agency
- 3 Objects of **[the]** Agency
- 4 Offices of Agency
- 5 Functions of **[the]** Agency
- 6 Reporting by **[the]** Agency
- 7 Role of organs of state **[companies and civil society organisations in youth development]** in supporting Agency
- 8 Control and management of affairs of Agency
- 9 Composition, appointment and conditions of service of **[the]** Board
- 10 Disqualification, removal from office and resignation of director of Board
- 11 Meetings of Board
- 12 Committees of Board
- 13 Appointment of Chief Executive Officer
- 14 Employment contract and performance agreement of Chief Executive Officer
- 15 A Duties of Chief Executive Officer
- 16 Appointment of staff

17 Delegation and assignment

18 Funding and investments

19 Regulations

20 Judicial”

**Short title and commencement**

21. This Act is called the National Youth Development Agency Amendment Act, 2020, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.