



NYDA AMENDMENT ACT OF 2024

ABSTRACT

The amendment act of the National Youth Development Agency (NYDA) repositioned the mandate of the Agency with the recent National Youth Policy (NYP) 2020-2030 and the Integrated Youth Development Strategy (IYDS) 2022-2025. Along with this, all NYDA programmes are directly captured accordingly in the amendment act. Nonetheless, one of the important issues to acknowledge in this instance is the rearrangement of the Board, even though, it does not reflect drastic changes as it was foresaw coming during the process of consultation. Admittedly, the Board, from now onwards is going to be constituted technically by nine (9) persons. Seven (7) of them are appointed by the President after the recommendation of the National Assembly, and the other two (2) are designated by the Minister. Another important factor of the amendment act is precise and direct about the appointment of the interim Board by the President guided by the National Assembly in case the executive resigns for various reasons as depicted in the act.

1. INTRODUCTION

On 2 September 2024, the President finally approved the *National Youth Development Agency Act of 2008 (Act 54 of 2008)* to give effect to its amendments. Since amendments have been effected, the act is now called the *National Youth Development Agency of 2024 (Act 11 of 2024)*.

The purpose of this brief note is to outline changes effected by the NYDA Principal Act,


although there are not as drastic changes as anticipated during the consultation processes. Most of the clauses remain unchanged. This brief focuses on where the changes have been effected.

2. NOTICEABLE CHANGES

Despite anticipated changes concerning the number of people to constitute the NYDA Board, however, nothing has drastically changed. Moreover, it is essential to outline the following few changes in the constitution of the Board: -

- Section 9 of the Principal Act is being amended in this fashion, the Board consist of seven **(7)** members of which two **(2)** are executive directors appointed by the President on recommendation by the National Assembly.
- This is very important: two **(2)** *ex-officio* members, without voting rights, designated by the Minister from the Department and acting in an advisory capacity. The understanding of this is that the normal process of appointing Board members of NYDA will take the same posture of going through the call for applications, the selection and interview process by the portfolio committee in parliament. Lastly, the president would have to approve after taking cognisance of the recommendations by the National Assembly as already outlined above.
- Once this process has been finalised, the Minister will designate two members whom she feels deemed fit for advisory functions. Technically, the Board will consist of nine **(9)** members, noting that the other two **(2)** will not have voting powers, while their role would be to advise the Minister.

It has been essential to clarify the number of board members who will constitute the Board of NYDA, before zooming into other clauses that have been effected. While Board members still serve in the NYDA, the amendment has also taken effect on the age group, that is, the number of ages for those who will have an interest in serving on the NYDA Board. In this case, the



amendment act is very explicit about the age group, that anyone who is between **18 and 35** years of age is eligible to serve. Importantly, those who serve must be allowed to finish their term office, if they turn 35 years whilst in office. And again, one of the crucial matters is the term of office. The amendment act is very explicit by stating that members hold office for a term of three (**3**) years, and this is very important that members may not be reappointed for more than two terms. This means that prospective board members are only allowed to serve only two terms if they want to but of course, the same procedure applies if wanting to come back for the second time to serve on the board.

Still in the composition of the board, if both Chairperson and deputy are not able to fulfil their responsibilities, the Minister may appoint any of the members contemplated in subsection (1) (a), (*this is referring to 7 members mentioned above*) to temporarily act as Chairperson for a period not exceeding six (**6**) months. Last but not least concerning Board constitution is about their service, and the amendment clearly states that the conditions of service of members are determined by the Minister. It is no longer by the President. The Minister will execute this task in consultation with the Minister of Finance. Finally, this is about board remuneration, and it succinctly states that members who are employed by an organ of state are not entitled to remuneration, but must be reimbursed for out-of-pocket expenses by the Agency. The section below will then deal with the nuts and bolts of the changes in the Principal Act, though not much.

3. CHANGES FROM SECTION 1 TO 19

This section of the brief deals with a few changes here and there in the Principal Act but it should be noted from the onset that other changes do not need serious deliberations for instance section 1 is only about definitions of terms. Few terms have found expression which was not in the Principal Act, and that is the Chairperson, Civil society organisation, Department, femicide, gender-based violence, integrated youth development strategy, national youth policy, and youth development programmes. For clarity, in the reading of the amendment act, one quickly noticed that the intention was to align it with the

current National Youth Policy (NYP) 2020-2030, and the Integrated Youth Development Strategy (IYDS).

The amendment of section 2 of Act 54 of 2008 is about where NYDA fit in terms of Schedules. NYDA is a national public entity as listed in Part A of Schedule 3 of the Public Finance Management Act (PMFA).

Section 3 is about the object of the Agency. There are now reduced to 7, no longer 9, but it is advisable readers must focus on the new amendment act. Some of them are similar, it is just different wordings etc. Importantly though, these, take the private sector into account.

Amendment of section 5. It must be taken into account that section 4 of the Principal Act remains unchanged. Section 5 is about NYDA competencies. Notably, these competencies are being aligned with NYP 2020-2030 and IYDS 2022-2025. In the section of the Principal Act wherein the Agency could use available resources to advance issues of youth development like career guidance etc, the amendment act there are additions but over and above this emphasis, the amendment act is very clear to say, “the Agency must perform any other function as determined by the Minister”.

3.1 REPORTING

Section 6 deals with the reporting segment by the Board. The Board is mandated to send a report at least every two years. It is no longer three years, as it is articulated in the Principal Act, and this is about the status of the youth report. This report requires to be sent to the Minister, and no longer to the President. This includes other reports as well, such as the financial status of the Agency.

3.2 ROLE OF THE ORGANS OF STATES

This is very important as well, noting that the Principal Act did not empower NYDA to legally interact with organs of states. It succinctly states that subject to the *Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)*, organs of state must assist the Agency as may reasonably be required for the effective exercise of its powers and the performance of its functions.

3.3 GOVERNANCE RESPONSIBILITIES OF THE BOARD

Within 12 months after the board has been appointed it must determine the following operational matters: (i) Strategic Plan; (ii) Operational Plan; (iii) Succession Plan; (iv) and outline the rights and responsibilities of the Agency including a governance checklist. In addition, the Board must monitor and evaluate compliance by the Agency with this amendment Act and any other functions that the Minister may determine, and lastly, manage the financial and other resources in line with the Public Finance Management Act and any other applicable law.

Other matters do not necessarily affect young people directly because there are disqualification, removal from office, resignation of board members, and the filing of vacancies during the term of office. Perhaps, the critical section is whereby the interim Board is supposed to be appointed after the disqualification and resignations have knocked the Board.

Flowing from the above assertion, the amendment act gives the President to appoint a person from the recent list of persons recommended by the National Assembly in terms of section 9 (1) (a). The President will only embark on this exercise after the recommendation from the Minister. The person appointed in this regard must hold office for the unexpired portion of the term of the member he or she replaces. In this kind of situation, the same approach must happen wherein the President appoint a Chairperson and Deputy respectively, and both of whom shall be executive members of the interim Board. The interim Board shall perform the functions of the Board until a new Board is appointed. Finally, the next section of the amendment act has to do with Board Committees which enable it to execute its functions. They are not quite significant, simply because their impacts on youth would be minimal.

The amendment of the *NYDA Act of 2008* (Act 54 of 2008) does not imply that the principal act falls away. The amendments made are very important simply because they take cognisance of NYP 2020-2030 as well as IYDS. In hindsight, when IYDS and NYP are implemented, that would be an indirect recognition of the current amendment act, that is, the *National Youth Development Agency Act of 2024* (Act 11 of 2024). The significance of this amendment act is the enormous powers of the Minister, hence NYDA will no longer expected to report to the President, instead all its tasks are directed to the Minister. The brief has noted the technical part of the Board members wherein two of its members are designated by the Minister. Principally, in future, the NYDA will have seven (7) appointed members of the board through the process of parliament and technically will have nine (9) due to these other two who will be recommended by the Minister for advisory functions.

4. CONCLUSION AND ADVISORY NOTES



LIST OF REFERENCES

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