

**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.

*(English text signed by the President.)*  
*(Assented to 9 April 2003.)*

# ACT

**To amend the National Development Agency Act, 1998, so as to amend the definition of Minister; to reduce the number of members on the Board; to further regulate meetings of the Board; to empower the Minister to appoint the chief executive officer; and to further regulate delegation; and to provide for matters connected therewith.**

IT ENACTED by the Parliament of the Republic of South Africa, as BE follows:-

**Amendment of section 1 of Act 108 of 1998**

1. Section 1 of the National Development Agency Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Minister" of the following definition:

'Minister' means the Minister of **[Finance]** Social Development;

**Amendment of section 5 of Act 108 of 1998**

2. Section 5 of the principal Act is hereby amended

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

"(1) The NDA acts through a board consisting of-

- (a) **[six]** ~~five~~ members to represent the Government appointed by the Minister **[of Finance]** after consultation with **[the Ministers of Education, Health, Housing, Public Works, Trade and Industry, Welfare and Population Development, and Water Affairs and Forestry and such other Ministers as the Minister of Finance considers necessary to consult]** ~~Cabinet~~ and
- (b) **[nine]** ~~six~~ members to represent civil society **[organisations]** appointed by the Minister after an open and transparent process of considering a short list of candidates presented to the Minister by a panel, comprising an equal number of representatives from State Departments and of experts in the development field, established by the Minister for that purpose.";

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

"(4) (a) In appointing members to the Board and in establishing the panel, the Minister must ensure that the Board and the panel represent a broad cross-section of the population of South Africa and comprise persons who reflect South African society with special attention to race,

gender, disability, geographical spread, organisations based in rural areas and faith-based organisations;

- (b) The Minister must, by notice in the *Gazette* and, within 30 days after the appointment of the members of the Board, publish the names of such members and the date of commencement of their term of office."
- (c) by the substitution in subsection (5) for paragraph (b) of the following paragraph:  
 "(b) At that meeting the **[members of the Board]** Minister must **[elect] appoint-**
- (i) a chairperson from among the members referred to in subsection (1)(b); and
- (ii) a deputy chairperson from among the members referred to in subsection (1)(a) and (b)";
- (d) by the substitution for subsection (7) of the following subsection:  
 "(7) If the office of chairperson or deputy chairperson of the Board becomes vacant, a chairperson or deputy chairperson, as the case may be, must be **[elected] appointed** in accordance with subsection (5)."; and
- (e) by the substitution for subsection (11) of the following subsection :  
 "(11) A member of the Board who is not in the full-time employment of the State is paid such remuneration and allowances as the Minister, in consultation with the Minister of Finance determines."

#### **Amendment of section 7 of Act 108 of 1998**

3. Section 7 of the principal Act is hereby amended -

- (a) by the substitution for subsection (3) of the following subsection:  
 "(3) The quorum for a meeting of the Board is at least **[eight] six** members of the Board."; and
- (b) by the addition of the following subsection:  
 "(9) (a) If, during the course of any proceedings of the Board, there is reason to believe that a member has any interest contemplated in subsection (8), that member must immediately fully disclose the nature of his or her interest and leave the meeting in question so as to enable the remaining members to discuss the matter and determine whether or not that member should be allowed to participate in the proceedings.  
 (b) The disclosure, and the decision taken by the remaining members, must be recorded in the minutes of the proceedings in question."

#### **Amendment of section 9 of Act 108 of 1998**

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

- (a) by the substitution for subsection (1) of the following subsection:  
 "(1) The **[Board]** Minister must on the recommendation of the Board appoint a chief executive officer for the NDA, who is also the accounting officer of the NDA.";
- (b) by the substitution for subsection (6) of the following subsection:  
 "(6) The chief executive officer is appointed \_  
 (a) for such period, but not exceeding five years, as the **[Board]** Minister determines; and  
 (b) subject to such conditions as the **[Board]** Minister, subject to subsection (8), determines.";
- (c) by the substitution for subsection (7) of the following subsection:  
 "(7) On such conditions as the Board, in consultation with the Director-General Social Development and subject to subsection (8), determines, the chief executive officer may appoint such employees as are necessary to enable the NDA to perform its duties and exercise its powers."; and
- (d) by the substitution for subsection (8) of the following subsection :  
 "(8) The NDA must pay to its chief executive officer and employees out of its funds such remuneration, allowances, subsidies and other benefits as the Minister, in consultation with the Minister of Finance determines."

**Amendment of section 10 of Act 108 of 1998**

5. Section 10 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

"(7) The NDA may establish such reserve funds, and deposit therein such amounts, as the Minister, in consultation with the Minister of Finance approves."

**Amendment of section 12 of Act 108 of 1998**

6. Section 12 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words :

"The Minister may delegate to the Director-General: **[Finance]** Social Develop -

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**Short title and commencement**

7. This Act is called the National Development Agency Amendment Act, 2003, and comes into operation on a date to be fixed by the President by proclamation in the Gazette.