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THE PRESIDENCY

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It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 3 of 2001: Advisory Board on Social Development Act, 2001.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President.)
(Assented to 16 May 2001.)

ACT

To provide for a national advisory structure in the social development sector with the aim of building and consolidating partnership between government and civil society; for that purpose, to establish a body to be known as the Advisory Board on Social Development; to provide for the objectives, duties and composition of the Board; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise—
- (i) “Board” means the Advisory Board on Social Development established by section 2; 5
 - (ii) “civil society” means institutions, organisations and individuals outside of government, and includes trade unions, consumer organisations, the formal and informal social development sectors, non-governmental organisations, community-based organisations, religious organisations and other organisations delivering social development services; 10
 - (iii) “Department” means the Department of Social Development in the national sphere of government;
 - (iv) “Director-General” means the Director-General of the Department;
 - (v) “Minister” means the Minister of Social Development in the national sphere of government; 15
 - (vi) “partnership” means the national collective responsibility of government and civil society in meeting the social development needs of the people;
 - (vii) “prescribed” means prescribed by regulation;
 - (viii) “regulation” means a regulation made under this Act; 20
 - (ix) “rule” means a rule made under this Act;
 - (x) “social development” means the process of planned institutional or structural change to maintain a balance between human needs and social policies and programmes including empowering individuals and communities to become self-reliant; 25
 - (xi) “social development personnel and practitioners” means all categories of personnel in the social development sector, and includes social workers, social security personnel, community development workers, social auxiliary workers, child and youth care workers, probation officers, departmental personnel and social development workers; 30
 - (xii) “stakeholders” means the structures and sectors from all organs of government and civil society which have a direct and vested interest in social development policies and programmes.

Establishment of Advisory Board on Social Development

2. A body to be known as the Advisory Board on Social Development is established.

Objectives of Board

3. The objectives of the Board are—
- (a) to advise the Minister on— 5
 - (i) measures to promote the transformation and continuous improvement of social development services;
 - (ii) measures to promote social development initiatives;
 - (iii) measures to include local government in the provision of integrated service delivery at local government level; 10
 - (iv) proposals for new legislative frameworks for the social development sector and amendments to existing legislation; and
 - (v) the introduction of local and international best practices in social development services;
 - (b) to act as a consultative forum for the Minister to discuss social development matters, including— 15
 - (i) improving the quality of provincial and national social development;
 - (ii) the introduction of new policy and successful policy implementation in the government and non-governmental environment;
 - (iii) facilitating consultation between stakeholders and government regarding the implementation of social development; 20
 - (iv) ensuring effective review of formulation, implementation and evaluation of social development policies, programmes and legislation, as informed by the needs and priorities of society;
 - (v) inputs from the social development sector to international forums and protocols. 25

Duties of Board

4. (1) The Board, in order to achieve its objectives, must—
- (a) respond to, and advise the Minister on, social development issues identified by, or referred to, the Board; 30
 - (b) identify, promote, monitor and evaluate policy, legislation and programmes with regard to social development and its impact on the quality of life of the people and the delivery of services to people;
 - (c) facilitate dialogue between government and civil society on social development issues; 35
 - (d) promote stakeholder participation in social development, particularly consumer and grassroots sector participation;
 - (e) submit a report—
 - (i) on the activities of the Board to the Minister at least once a year, which report must also be tabled in Parliament; and 40
 - (ii) whenever requested by the Minister;
 - (f) make formal reports available to the public to ensure the commitment of the Board to transparency and accountability;
 - (g) keep abreast of international developments in social development policy. 45
- (2) The Board must establish clear lines of communication, including formal meetings, with structures that it interacts with, including the parliamentary committees on Social Development of the National Assembly and the National Council of Provinces.
- (3) Any advice or recommendation to the Minister must include the minority views of one or more members of the Board. 50

(4) Nothing in this section precludes the Board from considering any matter pertaining to social development policy.

Composition and appointment of Board

5. (1) The Board consists of not less than nine but not more than 11 members appointed by the Minister. of whom— 5
- (a) at least one, but not more than three, must be a representative from the office of the Minister, the Department or the Heads of Social Development; and
 - (b) at least eight are persons who have knowledge or experience of social development and are actively involved in the social development sector. 10
- (2) In appointing members to the Board, the Minister must ensure that the Board represents a broad cross-section of the population of South Africa and comprises of persons who reflect South African society with special attention to race, gender, disability and geographical spread.
- (3) The members referred to in subsection (1)(b) must be nominated by organisations in the social development sector or by the public. 15
- (4) For the purpose of nominations of members referred to in subsection (1)(b), the Minister must invite such nominations by notice in the *Gazette* and by publication in at least two national newspapers, and may invite such nominations through any other media.
- (5) The members referred to in subsection (1)(b) must be appointed only after the parliamentary committees on Social Development of the National Assembly and the National Council of Provinces have made recommendations to the Minister regarding such appointment. 20
- (6) The Minister must, by notice in the *Gazette*, within 30 days after the appointment of such members, publish the names of the members of the Board and the date of commencement of their period of office. 25

Qualifications of members of Board, term of office, vacation of office, filling of vacancies and allowances and disbursements to members of Board

6. (1) A person may not be appointed as a member of the Board if he or she— 30
- (a) is not permanently resident in the Republic;
 - (b) has been convicted of a criminal offence, whether in the Republic or elsewhere, and was sentenced to imprisonment without the option of a fine, unless it has been established that such a person was granted amnesty in respect of an offence of which he or she was convicted and such an offence was politically motivated; and 35
 - (c) has been disqualified under any law from practising his or her profession.
- (2) The members of the Board referred to in section 5(1)(b) hold office for a period of three years with effect from the date of their appointment.
- (3) Members referred to in section 5(1)(b) are at the expiry of their terms of office eligible for reappointment to not more than one consecutive term. 40
- (4) A member referred to in section 5(1)(b) vacates his or her office if that member—
- (a) has been absent from more than two consecutive ordinary meetings of the Board without the permission of the Board or without a written apology;
 - (b) is disqualified under any law from practising his or her profession;
 - (c) submits his or her resignation in writing to the Minister; or 45
 - (d) ceases to be permanently resident in the Republic.
- (5) A member of the Board vacates his or her office if the Minister terminates his or her membership for reasons which are just or fair.
- (6) If there is a vacancy on the Board the Minister may, despite the provisions of section 5(3), (4) and (5), after consultation with the Board, appoint a person who meets 50 the criteria referred to in section 5(2), to fill the vacancy.

(7) A member of the Board, excluding a member who is in the employ of the State, must be paid allowances and disbursements as may be determined by the Minister in consultation with the Minister of Finance.

Chairperson and vice-chairperson

7. (1) Before the first meeting of a newly constituted Board the Minister must appoint a chairperson, and at that first meeting the members of the Board must elect from among themselves the vice-chairperson. 5

(2) (a) If the office of the chairperson or vice-chairperson becomes vacant, the Minister or the members of the Board, as the case may be, must, at the first meeting after such vacancy occurred, appoint a new chairperson or elect from among themselves a new vice-chairperson, as the case may be. 10

(b) The chairperson or vice-chairperson holds office for the unexpired portion of the period of office of his or her predecessor.

(3) The chairperson or vice-chairperson of the Board may vacate his or her office without terminating his or her membership of the Board, in which case such a vacancy must be filled in terms of subsection (2)(a). 15

Meetings of Board

8. (1) The Board must meet for the first time at a place determined by the Minister and thereafter at a time and place determined by the chairperson, or if he or she is absent, the vice-chairperson. 20

(2) (a) When the chairperson is absent or unable to perform his or her functions, the vice-chairperson must act as chairperson.

(b) If both the chairperson and vice-chairperson are absent from a meeting or unable to perform their functions, the members present must elect a person from among themselves to preside at that meeting. 25

(3) The Board must determine the procedure for calling meetings and the procedures to be followed at meetings.

(4) The majority of the members of the Board constitute a quorum for a meeting of the Board.

(5) The Board must hold at least three meetings each year. 30

(6) (a) The Board may hold such special meetings as the Board may, from time to time, determine.

(b) The chairperson may at any time convene a special meeting of the Board, but must convene such special meeting at the written request of the Minister or of at least seven members of the Board. 35

(7) A decision or recommendation taken by the Board, or an action taken on authority of such decision or recommendation, is not invalid merely because—

(a) of a casual vacancy in the Board; or

(b) a person who was entitled to sit as a member of the Board did not sit when the decision was taken. 40

Committees

9. (1) (a) The Board may, with the approval of the Minister, from time to time, establish in the prescribed manner such committees as it may deem necessary, to assist it in the performance of its functions.

(b) Such committees may include persons not serving on the Board. 45

(2) (a) A committee must perform such duties as may, from time to time, be imposed upon it by the Board.

(b) The Board is not divested of any duty imposed upon a committee.

(c) The Board may designate a member of a committee as the chairperson of such committee, and if no member is so designated, the members of such committee may elect a chairperson from among themselves. 50

(d) The quorum for a meeting of a committee is the majority of its members, and the procedure at a meeting of a committee must be as determined by the Board.

(3) Should the Board establish a committee to consider a particular matter, the committee must, as far as possible, give directly affected groups the opportunity to comment on such matter, and submit a report to the Board who must transmit that report to the Minister. 55

(4) Any committee established by the Board in terms of subsection (1) may be dissolved by a decision of the Board.

personnel and finances of Board

10. (1) (a) The Director-General must, after consultation with the Board, designate officers or employees appointed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994), for the proper performance by the Board of its duties.

(b) The personnel referred to in paragraph (a) are responsible to the chairperson of the Board and accountable to the Department. 5

(c) The Director-General is the accounting officer of the Board.

(d) Subject to any law regulating access to information, the Department must provide the Board with such information the Board may require to fulfil its duties under this Act.

(2) Subject to any law governing the provision of services to the State, the Director-General may, at the request of the Board, enter into agreements with persons for the performance of specific duties or for the provision of specific services. 10

(3) The expenses of the Board and committees of the Board are funded by the Department from money appropriated for that purpose by Parliament or received from other sources approved by the Minister. 15

Rules

11. The Board may, with the approval of the Minister, make rules relating to any matter which the Board deems necessary for the achievement of its objects, including rules relating to a code of conduct for members of the Board.

Regulations

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12. The Minister may, on the recommendation of the Board, make regulations relating to any matter which is necessary in order to achieve the objects of this Act.

Repeal of certain provisions of Act 100 of 1978

13. The National Welfare Act, 1978, is repealed in so far as it relates to provisions which have not been assigned to a competent authority within the jurisdiction of the government of a province in terms of Proclamation No. R.7 of 1996. 25

Short title and commencement

14. This Act is called the Advisory Board on Social Act, 2001, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 30