

REPUBLIC OF SOUTH AFRICA

**SCIENCE AND TECHNOLOGY
LAWS AMENDMENT BILL**

*(As amended by the Portfolio Committee on Science and Technology (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF SCIENCE AND TECHNOLOGY)

[B 42B—2018]

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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.

BILL

To amend the Scientific Research Council Act, 1988, the Academy of Science of South Africa Act, 2001, the Human Sciences Research Council Act, 2008, the Technology Innovation Agency Act, 2008, and the South African National Space Agency Act, 2008, so as to harmonise the processes for the termination of the membership of Boards or Councils of the entities established by these Acts; to clarify the requirements for the disqualification of persons from membership of Boards or Councils; to provide for the appointment of external persons to committees of Boards or Councils; to provide for the determination of the remuneration and allowances of members of the Boards or Councils and committees of the Boards or Councils; to provide for consultation with the Minister in the appointment of the Chief Executive Officers of the entities; to provide for the determination by the Boards or Councils of the procedures at Boards or Councils meetings; to provide for the procedure for the convening of the Boards or Councils meetings at the request of members of the Boards or Councils; to provide for disclosure by members of the Boards or Councils of interests in the business of the entities and to harmonise the timeframes for making such disclosures to the Minister; to provide for the circumstances where members of Boards or Councils are prohibited from participating or voting in Boards or Councils meetings; to provide for the circumstances where the decisions or acts authorised by the decisions of Boards or Councils may not be invalidated; to provide for the appointment and secondment of employees of the entities by the Chief Executive Officers and the determination of the conditions of appointment and secondment of employees by the Boards or Councils; to provide for the repeal of sections dealing with matters that are contained in the Public Finance Management Act, 1999; to provide for the circumstances under which the entities may be liquidated; to provide for consultation by the Minister with the Boards or Councils of the entities before making regulations in terms of these Acts; to provide for the delegation of functions in writing by the Boards or Councils of the entities to individual members or committees of Boards or Councils; to provide for the requirements for the performance of functions by the entities outside the Republic; and to provide for matters connected therewith.

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

Amendment of section 7 of Act 46 of 1988, as amended by section 4 of Act 71 of 1990, section 5 of Act 16 of 2011 and section 1 of Act 7 of 2014

1. Section 7 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the deletion of subsection (7); and
 - (b) by the substitution in subsection (8) for paragraphs (a) and (b) of the following paragraphs, respectively:
 - “(a) he or she resigns by written notice to the Minister;
 - (b) the Minister, after consultation with the Board, terminates his or her period of office due to misconduct, incapacity, incompetence or any other reasonable ground;”.

Amendment of section 9 of Act 46 of 1988

2. Section 9 of the Scientific Research Council Act, 1988, is hereby amended by the substitution for subsections (2), (3) and (4) of the following subsections, respectively:
- “(2) Such a committee shall consist of one or more members of the Board, including employees of the CSIR or any other person with suitable skills and experience, as the Board deems necessary, and the Board may at any time dissolve or reconstitute such a committee.
 - (3) **[If a committee referred to in subsection (1) consists of more than one member, the]** The Board shall designate a member of the committee as chairperson thereof.
 - (4) The Board shall pay the members of a committee referred to in subsection (1) who are not employees of the CSIR the remuneration and allowances determined by the **[Board]** National Treasury from time to time.”.

Amendment of section 10 of Act 46 of 1988, as amended by section 3 of Act 7 of 2014

3. Section 10 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection:
 - “(1) The Board shall, in consultation with the Minister, appoint a suitably skilled and qualified person as the chief executive officer of the CSIR, after following a transparent and competitive selection process.”;
 - and
 - (b) by the substitution in subsection (4) for the words following paragraph (c) of the following words:
 - “the Board may, **[in]** after consultation with the Minister, appoint a senior employee of the CSIR who meets the requirements determined in terms of subsection (1) to act as chief executive officer during such absence or inability, or until a chief executive officer has been appointed in terms of subsection (1), and that other person shall, while so acting, have all the powers and perform all the duties of the chief executive officer.”.

Amendment of section 11 of Act 46 of 1988, as amended by sections 6 and 12 of Act 16 of 2011

4. Section 11 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the insertion after subsection (1) of the following subsection:
 - “(1A) The Board shall determine the procedure for its meetings.”;
 - (b) by the substitution for subsection (2) of the following subsection:
 - “(2) The chairperson—
 - (a) may at any time call a special meeting of the Board [,] ; or
 - (b) must, within 14 days of a written request signed by at least one third of the members of the Board, convene such a meeting, which shall be held at such time and place as he or she may direct.”;
 - (c) by the insertion after subsection (3) of the following subsections:
 - “(3A) A member of the Board must, upon appointment and thereafter annually, disclose to the Minister, by way of a written statement, any interest which could reasonably compromise the Board in the performance of its functions.”

- (3B) A member of the Board may not vote or in any manner be present during or participate in the proceedings at any meeting of the Board if, in relation to any matter before the Board, he or she may have an interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner.”; and 5
- (d) by the insertion after subsection (4) of the following subsection:
- “(4A) A decision taken by the Board or an act performed under the authority of the Board is not invalid if—
- (a) there is a vacancy on the Board; or
- (b) a person who is not a member of the Board was present at the meeting when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of members of the Board who were present at the time and entitled to sit as members.”.

Amendment of section 12 of Act 46 of 1988 15

5. Section 12 of the Scientific Research Council Act, 1988, is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:
- “(a) The **[Board]** chief executive officer may upon the conditions which **[it]** the Board may determine appoint the employees of the CSIR or receive on secondment such number of persons whom **[it]** he or she deems necessary to assist the CSIR in the performance of the CSIR’s functions. 20
- (b) The CSIR shall out of its funds pay to its employees such remuneration, allowances, subsidies and other benefits as the Board may determine in accordance with a system approved from time to time for that purpose by the Minister, **[with the concurrence of the Minister of Finance]** in accordance with National Treasury directives.”; 25
- (b) by the deletion in subsection (1) of paragraph (c);
- (c) by the substitution in subsection (1) for paragraph (d) of the following paragraph: 30
- “(d) The **[Board]** chief executive officer may, on such conditions as **[it]** the Board may **[deem fit]** determine, with the employee’s consent, second an employee of the CSIR, either for a particular service or for a period of time, to the service of a department of State, the government of any other country or territory, or **[a person]** an institution or organisation in or outside the Republic, provided such an employee’s rights, privileges and benefits by virtue of his [/] or her conditions of service as an employee of the CSIR are not adversely affected by such secondment[: **Provided that an employee shall not be seconded to the service of the government of such other country or territory, or such person outside the Republic, unless the employee consents thereto.**]; and 35 40
- (d) by the deletion of subsection (2). 45

Repeal of section 14 of Act 46 of 1988 45

6. Section 14 of the Scientific Research Council Act, 1988, is hereby repealed.

Amendment of section 15 of Act 46 of 1988, as amended by section 7 of Act 16 of 2011

7. Section 15 of the Scientific Research Council Act, 1988, is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (c) of the following paragraph: 50
- “(c) revenue obtained by virtue of the provisions of **[subsections (4) and (5)]** subsection (4);”;
- (b) by the deletion in subsection (2) of paragraph (b); and
- (c) by the deletion of subsections (3) and (5). 55

Insertion of section 15A in Act 46 of 1988

8. The following section is hereby inserted in the Scientific Research Council Act, 1988, after section 15:

“Liquidation of CSIR

15A. The CSIR may not be wound up except by or under the authority of an Act of Parliament.” 5

Amendment of section 18 of Act 46 of 1988, as amended by section 9 of Act 16 of 2011

9. Section 18 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of the following words: 10
- “The Minister may, after consultation with the Board, make regulations as to—”; and
- (b) by the deletion of paragraphs (a), (b), (c), (d) and (e).

Amendment of section 19 of Act 46 of 1988 15

10. Section 19 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 20
- “(a) delegate to the chairperson, any member or committee of the Board or the chief executive officer [or any other employee of the CSIR] any **[power conferred upon]** function entrusted to the Board by or under this Act, on such conditions as the Board may determine [**;** **or**].”;
- (b) by the deletion in subsection (1) of paragraph (b);
- (c) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 25
- “(a) delegate to an employee of the CSIR any **[power conferred upon]** function entrusted to the chief executive officer by or under this Act [**;** **or**].”;
- (d) by the deletion in subsection (2) of paragraph (b); and 30
- (e) by the substitution for subsection (3) of the following subsection: 30
- “(3) Any delegation under subsection (1) or (2) must be in writing and does not prohibit the [exercise] performance of the [power] function in question by the Board or the chief executive officer, as the case may be.”.

Amendment of section 1 of Act 67 of 2001, as amended by section 25 of Act 16 of 2011 35

11. Section 1 of the Academy of Science of South Africa Act, 2001, is hereby amended by the insertion after the definition of “Council” of the following definition: 40
- “**‘Executive Officer’** means the person appointed as the Executive Officer of the Academy in terms of section 9B;”.

Amendment of section 2 of Act 67 of 2001, as substituted by section 26 of Act 16 of 2011

12. Section 2 of the Academy of Science of South Africa Act, 2001, is hereby amended by the deletion of subsection (2).

Amendment of section 5 of Act 67 of 2001, as amended by section 27 of Act 16 of 2011 45

13. Section 5 of the Academy of Science of South Africa Act, 2001, is hereby amended—
- (a) by the substitution for subsection (8) of the following subsection: