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GENERAL NOTICE

NOTICE 576 OF 2013

DEPARTMENT OF SCIENCE AND TECHNOLOGY

SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL, 2013

I, Derek Hanekom, Minister of Science and Technology, hereby publish the Science and Technology Laws Amendment Bill, 2013, for public comment.

Members of the public and interested parties are invited to submit written comments on this Bill within 21 days from the date of publication of this notice to the Director-General: Science and Technology, for attention Noxie Mfati, at one of the addresses below.

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Derek Hanekom, MP

Minister of Science and Technology

REPUBLIC OF SOUTH AFRICA

SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill
published in Government Gazette No. of) (The English text is the official text of the
Bill)*

(MINISTER OF SCIENCE AND TECHNOLOGY)

[B—2013]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate deletion from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Scientific Research Council Act, 1988, so as to harmonise the process for the appointment of the chairperson of the Board with other entities reporting to the Minister; to streamline the process for the appointment of members of the Board and the Chief Executive Officer; to provide for the filling of vacancies of members of the Board; to provide for the qualification requirements for membership of the Board and disqualification of members of the Board; to provide for the extension of the term of office of members of the Board; to provide for the dissolution and reconstitution of the Board; to amend the National Research Foundation Act, 1998, so as to provide for additional membership of the Board; to streamline the process for the appointment of members of the Board and the Chief Executive Officer; to provide for the extension of the term of office of members of the Board; to provide for the dissolution and reconstitution of the Board; to amend the Academy of Science of South Africa Act, 2001, so as to provide for the extension of the term of office of members of the Council; to provide for the dissolution and reconstitution of the Council; to amend the Natural Scientific Professions Act, 2003, so as to relax the professional qualification requirements for membership of the Council by state employees; to streamline the process for the appointment of members of the Council and the Chief Executive Officer; to provide for the dissolution and reconstitution of the Council; to amend the Human Sciences Research Council Act, 2008, so as to streamline the process for the appointment of members of the Board and the Chief Executive Officer; to provide for the extension of the term of office of members of the Board; to provide for the dissolution and reconstitution of the Board; to amend the Technology Innovation Agency Act, 2008, so as to streamline the process for the appointment of the members of the Board

and the Chief Executive Officer; to provide for broad representativity in the Board; to provide for the extension of the term of office of members of the Board; to provide for the dissolution and reconstitution of the Board; to amend the South African Space Agency Act, 2008, so as to streamline the process for the appointment of the members of the Board and the Chief Executive Officer; to provide for the extension of the term of office of members of the Board; to provide for the dissolution and reconstitution of the Board; 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 and section 5 of Act 16 of 2011

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

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

“(a) a chairperson, appointed by the Minister **[after consultation with the Board];**”

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

“(2A) Before appointing members of the Board referred to in **[subsections] subsection 2(a) and (b)**, the Minister must:

“(a) publish a notice in the *Government Gazette* and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsection (2) (a) and (b), and

(b) appoint an independent panel which must compile a shortlist of [candidates] not more than 20 persons from the nominees [after

following a transparent nomination process] referred to in paragraph (a)."

- (c) by the insertion after subsection (3A) of the following subsection:

"(3B) Despite subsection (3A), the Minister may, after consultation with the Board extend the period of office of any or all members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first."

- (d) by the addition of the following subsections :

"(8) A member of the Board must vacate his or her office if-

(a) he or she resigns;

(b) the Minister terminates his or her period of office due to misconduct, incapacity or incompetence;

(c) he or she is absent from three consecutive meetings of the Board without the permission of the chairperson;

(d) he or she is in terms of the Electoral Act, 1998, (Act No. 73 of 1998), nominated as a candidate for election as a member of Parliament, a provincial legislature or a municipal council;or

(e) he or she ceases to meet the requirements for appointment as a member of the Board in terms of this Act.

(9) (a) Subject to subsection (5), the Minister may appoint any person to fill a vacancy which occurs with regard to a member appointed by him or her.

(b) A person appointed under paragraph (a) must occupy his or her office for the unexpired portion of the term of office of his or her predecessor.

- (10) A person may not be appointed as a member of the Board if that person—
- (a) is not a citizen or permanent resident of the Republic;
 - (b) is an unrehabilitated insolvent;
 - (c) has, after the commencement of the Constitution of the Republic of South Africa, 1996, been convicted of an offence whether in the Republic or elsewhere, and sentenced to imprisonment without an option of a fine;
 - (d) has, as a result of improper conduct, been removed from an office of trust.”

Insertion of section 7A in Act 46 of 1988

2. The Scientific Research Council Act, 1988, is hereby amended by the insertion after section 7 of the following section:

“7A. Dissolution of the Board

- (1) The Minister may dissolve the board if-

- (a) the Board is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister;
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim body consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 7.

(4) A new Board must be re-constituted within 180 days of the dissolution of the previous Board.

(5) Any person who was a member of the Board that was dissolved in terms of this section may be re-appointed to a new Board.”

Amendment of section 10 of Act 46 of 1988

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 appoint a suitably skilled and qualified person as the chief executive officer of the CSIR [, **who shall occupy the post of chief executive officer of the CSIR**], after following a transparent and competitive selection process”

(b) by the substitution for subsection (3) of the following subsection:

“(3) The chief executive officer shall be appointed for a period of not more than five years at a time, on the conditions, including conditions relating to the payment of remuneration and allowances, as the Board, subject to section 11(2), may determine”.

Substitution of section 20 of Act 46 of 1988 as substituted by section 10 of Act 16 of 2011

4. The following section is hereby substituted for section 20 of the Scientific Research Council Act, 1988:

“20. Administration of Act

The [**Chief Executive Officer**] President may by proclamation in the Gazette assign the administration of this Act to any Minister, and may determine that any power or duty conferred or imposed by this Act on such Minister, shall be exercise or carried out by that Minister after consultation with one or more other Ministers.”

Amendment of section 6 of Act 23 of 1998 as amended by section 21 of Act 16 of 2011**5. Section 6 of the National Research Foundation Act, 1998, is hereby amended—**

- (a) by the addition in paragraph (a) of subsection (1) of the following sub-paragraph:

“(iii) two other members, each nominated by the National Advisory Council on Innovation and the Council on Higher Education, appointed by the Minister, and”

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

“(2) For purposes of appointing the members of the Board referred to in subsection 1(a), the Minister must:

(a) _____ publish a notice in the Government Gazette and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsections (1) (a), and

(b) _____; appoint a panel which must compile a short-list of [candidates of] no more than 20 [names] persons from the nominees, referred to in paragraph (a).”

- (c) by the deletion of paragraphs (b) and (c) of subsection (2).

- (d) by the substitution for subsection (3) of the following subsection:

“(3) The members of the Board must all be persons who have achieved distinction in the field of research and technology, **[research and]** technology management, business or public affairs **[or civil society]**”

- (e) by the substitution for subsection (4) of the following subsection:

“(4) The members referred to in subsection (1) (a) are appointed in their personal capacities, but the Minister must ensure that they are broadly representative of **[the following sectors:**

- (a) **Higher education;**
- (b) **business;**
- (c) **agricultural and environment sciences;**
- (d) **health sciences;**
- (e) **natural sciences and engineering;**
- (f) **social sciences and humanities;**
- (g) **civil society]** higher education, broad scientific disciplines, business sector and civil society.”

- (f) by the deletion of subsection (5A).

- (g) by the insertion after subsection (5B) of the following subsection:

“(5C) Despite subsection (5), the Minister may, after consultation with the Board, extend the period of office of any or all members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first”.

- (h) by the substitution for paragraphs (b) and (d) in subsection (6) of the following paragraphs, respectively:

“(b) the Minister terminates his or her period of office **[whenever sufficient reason exists therefor]** due to misconduct, incapacity or incompetence”;

“(d) he or she is in terms of the Electoral Act, [1993 (Act No. 202 of 1993] 1998, (Act No. 73 of 1998), nominated as a candidate for election as a member of Parliament, [or] a provincial legislature or a municipal council.”

- (i) by the addition in subsection (6) of the following paragraph:

“(e) he or she ceases to meet the requirements for appointment as a member of the Board in terms of this Act.”

- (j) by the addition in subsection (9) of the following paragraph:

“(d) has, as a result of improper conduct, been removed from an office of trust.”

Insertion of section 6A in Act 23 of 1998

6. The National Research Foundation Act, 1998, is hereby amended by the insertion after section 6 of the following section:

“6A. Dissolution of the Board

- (1) The Minister may dissolve the board if-

- (a) the Board is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister;
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim body consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 6 of this Act.
- (4) A new Board must be re-constituted within 180 days of the dissolution of the previous Board.
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be re-appointed to a new Board.”

Amendment of section 10 of Act 23 of 1998 as amended by section 22 of Act 16 of 2011

7. Section 10 of the National Research Foundation Act, 1998, is hereby amended:

- (a) by the substitution for heading of the following heading:

“[President] Chief Executive Officer of the Foundation”

- (b) by the substitution for subsection (1) of the following subsection:

“(1) The Board must appoint a suitably skilled and qualified person as the chief executive officer [for] of the Foundation, after following a transparent and competitive [nomination] selection process.”

Amendment of section 23 of Act 23 of 1998

8. Section 23 of the National Research Foundation Act, 1998, is hereby amended by the deletion of paragraph (a).

Amendment of section 7 of Act 67 of 2001 as amended by section 29 of Act 16 of 2011

9. Section 7 of the Academy of Science of South Africa Act, 2001, is hereby amended-

(a) by the insertion after subsection (2A) of the following subsection:

“(2B) Despite subsection (2A), the Minister may, after consultation with the Council, extend the period of office of any or all members of the Council for a period of not more than six months or until a new Council has been appointed, whichever comes first.”

(b) by the deletion of subsection (5A).

Insertion of section 7A in Act 67 of 2001

10. The Academy of Science of South Africa Act, 2001, is hereby amended by the insertion after section 7 of the following section:

“7A. Dissolution of the Council

(1) The Minister may dissolve the Council if-

- (a) the Council is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Council and the Minister;
- (c) there is a breakdown in the relationship amongst the members of the Council, which renders the continued effective functioning of the Council impossible.

- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Council, the Minister must appoint an interim body consisting of a minimum of three persons who are members of the Academy, to assume the responsibilities of the Council, until a new Council is constituted, in accordance with the procedure referred to in section 6.
- (4) A new Council must be re-constituted within 180 days of the dissolution of the previous Council.
- (5) Any person who was a member of the Council that was dissolved in terms of this section may be re-appointed to a new Council”.

Amendment of section 3 of Act 27 of 2003 as amended by section 53 of Act 16 of 2011

11. Section 3 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) not fewer than four and not more than six [**must be professional natural scientists or certified natural scientists**] who are in the service of the state, each nominated by his or her Director-General or chief executive officer of the organ of state concerned: Provided that at least one of the persons so nominated must be in the service of the Department and one in the service of the Department of Higher Education and Training; and”

Amendment of section 4 of Act 27 of 2003

12. Section 4 of the Natural Scientific Professions Act, 2003, is hereby amended:

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

“(2) When any nomination in terms of section 3 (1) (c) becomes necessary, the Minister must:

(a) _____ invite the public by notice in the Gazette and in at least one leading newspaper in each province, to nominate persons within a period of 30 days from the date of the notice, and

(b) _____ appoint a panel of experts to compile a short-list of no more than ten persons from the nominees, referred to in paragraph (a).”

(b) by the deletion of subsections (3) and (4).

Amendment of section 5 of Act 27 of 2003

13. Section 5 of the Natural Scientific Professions Act, 2003, is hereby amended –

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

“(1) The term of office for members of the Council is four years [, **but members continue in office until the succeeding Council is properly constituted**].”

(b) by the substitution for subsection (3) of the following subsection:

“(3) Despite subsection (1), the Minister may, after consultation with the council [-, (a)] extend the period of office of any [**member**] or all members of the Council for a period of not more than six months [, **but he or she may only extend the period of office twice; and**
(b) **terminate the period of office of any member of the Council**] or until a new Board has been appointed, whichever comes first.”

(c) by the deletion of subsection (4).

Amendment of section 6 of Act 27 of 2003 as amended by section 54 of Act 16 of 2011

14. Section 6 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) If a member of the Council dies or vacates his or her office before the expiration of his or her term of office, the Minister may **[, after consultation with the Council and]** subject to subsection (1), appoint a person who meets the requirements for appointment in the relevant category in terms of section 3 to fill the vacancy for the unexpired portion of the period for which that member was appointed.”

Insertion of section 7A in Act 27 of 2003

15. The Natural Scientific Professions Act, 2003, is hereby amended by the insertion after section 7 of the following section:

“7A. Dissolution of the Council

- (1) The Minister may dissolve the Council if-
- (a) the Council is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
 - (b) there is a total breakdown in the relationship between the Council and the Minister; or
 - (c) there is a breakdown in the relationship amongst the members of the Council, which renders the continued effective functioning of the Council impossible.
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Council, the Minister must appoint an interim body consisting of a minimum of three persons who are professional or certificated natural scientists, to assume the responsibilities of the Council, until a

new Council is constituted, in accordance with the procedure referred to in section 4.

(4) A new Council must be re-constituted within 180 days of the dissolution of the previous Council.

(5) Any person who was a member of the Council that was dissolved in terms of this section may be re-appointed to a new Council.”

Amendment of section 8 of Act 27 of 2003

16. Section 8 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Council [~~may~~] must appoint a suitably skilled and qualified person as a chief executive officer and such other officials as it may deem necessary to carry out its functions, on such conditions, including the payment of remuneration and [~~a~~] honorarium, as it may determine.”

Amendment of section 5 of Act 17 of 2008

17. Section 5 of the Human Sciences Research Council Act, 2008, is hereby amended-

(a) by the substitution for paragraph (c) of subsection 3 of the following paragraph:

“(c) the chairperson of the panel has submitted a short-list of candidates together with their curriculum vitae to the Minister [~~who must submit it to the National Assembly for approval; and~~]”

(b) by the deletion of paragraph (d) of subsection 3.

(c) by the deletion of subsection (8).

- (d) by the substitution for subsection (9) of the following subsection:

“(9) If a member of the Board ceases to hold office or is removed from office in terms of subsection (7), the Minister may **[subject to subsection (3)]** appoint a person who meets the requirements set out in section 4 in that member’s place for the remaining part of the term of office.”

- (e) by the substitution for subsection (11) of the following subsection:

“(11) No member may serve for more than two consecutive terms **[except that if all the members’ term lapse at the same time the Minister may extend the terms of two members for one more term to ensure continuity].**”

- (f) by the addition of the following subsections:

“(12) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the invitation, the Minister may appoint the required number of persons who qualify to be appointed in terms of this Act.

(13) Despite subsection (11), the Minister may, after consultation with the Board, extend the period of office of any or all members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”

Insertion of section 9A in Act 17 of 2008

18. The Human Sciences Research Council Act, 2008, is hereby amended by the insertion after section 9 of the following section:

“9A Dissolution of the Board

- (1) The Minister may dissolve the board if-
- (a) the Board is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
 - (b) there is a total breakdown in the relationship between the Board and the Minister;
 - (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim body, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 5(3).
- (4) A new Board must be re-constituted within 180 days of the dissolution of the previous Board.
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be re-appointed to a new Board.”

Amendment of section 10 of Act 17 of 2008

19. Section 10 of the Human Sciences Research Council Act, 2008, is hereby amended:

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

“(a) The Board must **[with the approval of the Minister]** appoint a suitably skilled and qualified person as the chief executive officer.”

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

“(4) The chief executive officer holds office for a term not exceeding five years, at a time, on such conditions relating to payment of remuneration and allowances as the Board, subject to 11(2), may determine.”

Amendment of section 17 of Act 17 of 2008

20. Section 17 of the Human Sciences Research Council Act, 2008, is hereby amended by the deletion of paragraph (b).

Amendment of section 5 of Act 26 of 2008

21. Section 5 of the Technology Innovation Agency Act, 2008, is hereby amended-

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

“(4) Before appointing members of the Board referred to in subsection 1(a) and (b), **[The]** the Minister must:

(a) publish a notice in the *Government Gazette* and two national newspapers circulating in the Republic calling upon members of the public to nominate persons contemplated in subsection (1)(a) and (b),
and

(b) appoint a panel which must compile a shortlist of **[candidates for members of the Board]** not more than 20 persons from the nominees **[, after a transparent nomination and competitive process]** referred to paragraph (a).”

(b) by the substitution for subsection (5) of the following subsection:

“(5) The members of the Board contemplated in subsection (1) (a) and (b) are appointed by the Minister [**in consultation with the National Assembly**], on the grounds of their knowledge and experience in technological innovation, technology management, intellectual property and commercialisation thereof and business skills which when considered collectively should enable them to attain the objects of the Agency.”

- (c) by the insertion after subsection (5) of the following subsections:

“(6) The Board must be constituted in a manner that is broadly representative of the demographics of the country.

(7) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the invitation, the Minister may appoint the required number of persons who qualify to be appointed in terms of this Act.”

- (d) by the deletion of subsections (6) and (7).

Amendment of section 7 of Act 26 of 2008

22. Section 7 of the Technology Innovation Agency Act, 2008, is hereby amended by the substitution in subsection (1) for all the words preceding paragraph (a) of the following words:

“(1) The Minister may, after consultation with [**the members of**] the Board, remove a member of the Board from office on account of—”

Amendment of section 8 of Act 26 of 2008

23. Section 8 of the Technology Innovation Agency is hereby amended by the insertion after subsection (3) of the following subsection:

“(4) Despite subsection (1), the Minister may, after consultation with the Board, extend the period of office of any or all members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”

Insertion of section 10A in Act 26 of 2008

24. The Technology Innovation Agency Act, 2008, is hereby amended by the insertion after section 10 of the following section:

“10A Dissolution of the Board

(1) The Minister may dissolve the board if-

- (a) the Board is unable to perform its duties in terms of the Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister;
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

(2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim body, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 5(4).

(4) A new Board must be re-constituted within 180 days of the dissolution of the previous Board.

- (5) Any person who was a member of the Board that was dissolved in terms of this section may be re-appointed to a new Board.”

Amendment of section 11 of Act 26 of 2008

25. Section 11 of the Technology Innovation Agency Act, 2008, is hereby amended by the substitution for subsections (1) and (7) of the following subsection, respectively:

“(1) The **[Minister] Board** must **[on the recommendation of the Board]** appoint a suitably skilled and qualified person as the Chief Executive Officer who must be responsible for the management of the affairs of the Agency”.

“(7) The Chief Executive Officer holds office on such terms and conditions, including those relating to remuneration and allowances, as the **[Minister, after considering the recommendations of the] Board** may, **[and]** in consultation with the Minister **[of Finance]**, determine **[in writing]**.”

Substitution of section 7 of Act 36 of 2008

26. Section 7 of the South African National Space Agency Act, 2008, is hereby amended-

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

“(c) the chairperson of the panel has submitted a short-list of candidates together with their curriculum vitae to the Minister **[who must submit it to the National Assembly for approval; and]**”

- (b) by the deletion of paragraph (d).

- (c) by the substitution for subsection (3) of the following subsection:

“(3) If the short-list compiled in terms of subsection (2) does not contain suitable persons or the required number of suitable persons, the Minister may **[call for further nominations in the manner set out in subsection (1)]** appoint the required number of persons who qualify to be appointed in terms of the Act.”

Amendment of section 8 of Act 36 of 2008

27. Section 8 of the South African National Space Agency Act, 2008, is hereby amended-

- (a) by the deletion of subsection (4).
- (b) by the insertion after subsection (5) of the following subsection:

“(5A) Despite subsection (5), the Minister may, after consultation with the Board, extend the period of office of any or all members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.”

- (c) by the substitution for subsection (7) of the following subsection:

“(7) If a member of the Board dies, resigns by written notice to the Minister or is removed from office, the Minister may **[having followed the procedure contemplated in section 7]** appoint a person who meet the requirements set out in subsection 7(4) in that vacancy for the remaining part of the term of office.”

Insertion of section 13A in Act 36 of 2008

28. The South African National Space Agency Act, 2008, is hereby amended by the insertion after section 13 of the following section:

“13A. Dissolution of the Board

- (1) The Minister may dissolve the board if-
- (a) the Board is unable to perform its duties in terms of the Act;
 - (b) there is a total breakdown in the relationship between the Board and the Minister;
 - (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.
- (2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim body, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 7(1).
- (4) A new Board must be re-constituted within 180 days of the dissolution of the previous Board.
- (5) Any person who was a member of the Board that was dissolved in terms of this section may be re-appointed to a new Board.”

Amendment of section 14 of Act 36 of 2008

29. Section 14 of the South African National Space Agency Act, 2008, is hereby amended by the substitution for subsections (1) and (3) for the following subsections, respectively:

“(1) The Board must **[with the approval of the Minister,]** appoint a suitably skilled and qualified person as the Chief Executive Officer.”

“(3) The Chief Executive Officer is appointed for a term not exceeding five years, at a time, and is subject to such conditions relating to remuneration and allowances as the Board may, in consultation with the Minister, determine.”

Short title

30. This Act is called the Science and Technology Laws Amendment Act, 2013.

**MEMORANDUM ON THE OBJECTS OF THE SCIENCE AND TECHNOLOGY LAWS
AMENDMENT BILL 2013**

1. BACKGROUND

The Department of Science & Technology administers a number of laws which regulate the operations and governance of public entities that report to the Minister. In order to enhance efficiency in the process of constituting the governing boards for such entities, the Department has recognised a need to streamline the process for the appointment of members of such boards, and the filling of vacancies that are occasioned by the vacation of office of such members. This process seeks to, amongst others, give effect to the principle of separation of powers and thereby strengthen Parliament's oversight role over such entities.

2. OBJECTS OF THE BILL

- 2.1** The bill seeks to streamline the process for the nomination and appointment of members of the boards or councils for such entities. It also seeks to harmonise the process for the appointment of chairpersons of the boards or councils of such entities, as well as their chief executive officers.
- 2.2** The bill also provides the grounds and the process for the dissolution and reconstitution of the boards or councils of such entities, as well as interim governance arrangements. The purpose of this streamlining process is to, amongst others, improve efficiency in the appointment processes and to ensure consistency in the governance of all public entities reporting to the Minister.
- 2.3** It also provides for the extension of the term of the boards or councils and includes requirements to ensure broad representativity in the boards in relation to, amongst others, technical expertise, race, gender and disability.

3. KEY PROVISIONS OF THE BILL

3.1 Scientific Research Council Act, 1988 (Act No. 46 of 1988)

The bill seeks to streamline the process for the appointment of members of the board to enhance efficiency. It also harmonises the process for the appointment of the Chairperson to ensure consistency with other public entities reporting to the Minister. It also makes provision for the extension of the term of office of board members, when necessary.

The bill also sets out the grounds for the disqualification of members of the board, and the process for the dissolution and reconstitution of the board as well as interim governance arrangements.

3.2 National Research Foundation Act, 1998 (Act No. 23 of 1998)

The bill seeks to harmonise the process for the appointment of the chief executive officer of the Foundation to ensure consistency with other public entities reporting to the Minister. It also seeks to streamline the process for the appointment of members of the board. It also makes provision for the extension of the term of office of board members, when necessary.

The bill also regulates the process for the dissolution and reconstitution of the board as well as interim governance arrangements.

3.3 Academy of Science of South Africa Act, 2001 (Act No. 67 of 2001)

The bill seeks to streamline the process for the appointment of members of the Council to enhance efficiency and ensure consistency with other public entities reporting to the Minister. It also regulates the process for the dissolution and reconstitution of the board as well as interim governance arrangements.

3.4 Natural Scientific Professions Act, 2003 (Act No. 27 of 2003)

The bill seeks to streamline the process for the appointment and filling of vacancies of members of the board to enhance efficiency. It also regulates the process for the dissolution and reconstitution of the board as well as interim governance arrangements.

The bill also seeks to relax qualification requirements for state representatives on the board, and harmonises the process for the appointment of the Chief Executive Officer to ensure consistency with other public entities reporting to the Minister.

3.5 Human Sciences Research Council Act, 2008 (Act No. 17 of 2008)

The bill seeks to streamline the process for the appointment of members of the board and the chief executive officer, as well as the filling of vacancies to enhance efficiency. It also makes provision for the extension of the term of office of board members, when necessary.

It also regulates the process for the dissolution and reconstitution of the board as well as interim governance arrangements.

3.6 Technology Innovation Agency Act, 2008 (Act No. 26 of 2008)

The bill seeks to harmonise the process for the appointment of the chairperson and members of the board to ensure consistency with other public entities reporting to the Minister, and makes provision for the extension of the term of office of board members, when necessary. It also regulates the process for the dissolution and reconstitution of the board, as well as interim governance arrangements.

It also seeks to harmonise the process for the appointment of the Chief Executive Officer to ensure consistency with other public entities reporting to the Minister.

3.7 South Africa Space Agency Act, 2008 (Act No.36 of 2008)

The bill seeks to streamline the process for the appointment of the members of the board and the Chief Executive Officer, as well as the filling of vacancies to enhance efficiency. It also makes provision for the extension of the term of office of board members, when necessary.

The bill also seeks to regulate the process for the dissolution and reconstitution of the board, as well as interim governance arrangements.

4. PARTIES CONSULTED

The proposed amendments were published in the *Government Gazette* for public comments, and all affected stakeholders (relevant science councils) were consulted, accordingly.

5. FINANCIAL IMPLICATIONS FOR STATE

There will be no cost implications to the state in relation to the implementation of the Bill. The proposed amendments are purely of an administrative or technical nature.

6. PARLIAMENTARY PROCEDURE

- 6.1** The State Law Advisors and the Department of Science and Technology are of the opinion that this Bill should be dealt with in terms of the procedure established by section 75 of the Constitution, since it does not contain provisions to which the procedure set out in section 76 of the Constitution applies.
- 6.2** The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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