



Government Gazette

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THE PRESIDENCY

No. 1732

26 November 2003

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

No. 26 of 2003: National Small Business Amendment Act, 2003.



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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.

(English text signed by the President.)
(Assented to 21 November 2003.)

ACT

To amend the National Small Business Act, 1996, so as to repeal all provisions pertaining to the National Small Business Council; to empower the Minister to facilitate and establish an Advisory Body to represent the interests of small business; to make the Public Finance Management Act, 1999, applicable to the Agency; to make further provision in respect of the functions of the Agency; to do away with the requirement of calling for nominations for directors of the Board by notice in the *Gazette*; to repeal the provisions pertaining to alternate directors; and to substitute the Schedule to that Act, in order to reflect the current economic position; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 102 of 1996

1. Section 1 of the National Small Business Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definitions of “constitution of the Council”, “Council”, “National Co-ordinator” and “provincial council”. 5

Substitution of Chapter 2 of Act 102 of 1996

2. The following Chapter is hereby substituted for Chapter 2 of the principal Act:

“CHAPTER 2

Minister’s power to facilitate and establish Advisory Body 10

Minister’s power to facilitate and establish Advisory Body

2. The Minister must, within a reasonable time, facilitate a process aimed at the establishment of an Advisory Body to represent and promote the interests of small business as contemplated in the National Strategy for the Development and Promotion of Small Business in South Africa referred to in the definition of “National Small Business Support Strategy” in section 1. 15

Minister's duty to determine Constitution of Advisory Body

3. (1) The Minister must through an open and transparent process of consultation determine a constitution for the Advisory Body referred to in section 2.

- (2) The constitution of the Advisory Body must—
- (a) in general provide for—
- (i) the composition of the Advisory Body;
 - (ii) the quorum and meetings of the Advisory Body;
 - (iii) the procedure for the functioning of the Advisory Body;
 - (iv) interaction with Parliament, the Department of Trade and Industry and statutory bodies; and
 - (v) any other matter that may be necessary to facilitate the proceedings, activities or business of the Advisory Body; and
- (b) specifically require the Advisory Body to advise the Minister on—
- (i) strategies to address identified market failures affecting the sector;
 - (ii) the impact of current and new legislation on small business;
 - (iii) national standards pertaining to small business development and regulation;
 - (iv) measures to ensure the creation of physical business infrastructure through viable business sites;
 - (v) the development of skills in all aspects of running a business;
 - (vi) steps to be taken to create access for small business into value chains;
 - (vii) constraints affecting the viability of the small business community;
 - (viii) methods to liaise with the small business community to identify their needs;
 - (ix) methods to monitor and influence the provision of support services to the small business sector; and
 - (x) any other matter that the Minister may deem appropriate.

Amendment of section 9 of Act 102 of 1996

3. Section 9 of the principal Act is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) The Public Finance Management Act, 1999 (Act No. 1 of 1999), applies to the Agency.”

Amendment of section 10 of Act 102 of 1996

4. Section 10 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
- “(a) to expand, co-ordinate and monitor the provision of training, advice and counselling [and any other non-financial services] to small business in accordance with the National Small Business Support Strategy;”;
- (b) by the substitution in subsection (1) (c) for the words preceding subparagraph (i) of the following words:
- “to consult with any organ of government, the [Council] Advisory Body or a service provider in order to—”;
- (c) by the substitution in subsection (1) for paragraph (d) of the following paragraph:
- “(d) to facilitate and co-ordinate research relating to support programmes by the Agency.”;
- (d) by the addition in subsection (2) to paragraph (b) of the word “and” and the deletion of paragraph (c).

Amendment of section 11 of Act 102 of 1996

5. Section 11 of the principal Act is hereby amended—
- (a) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
- “(a) The Minister must, by notice in [**the Gazette and in**] two newspapers which have general circulation throughout the national territory of the Republic, invite nominations for directors to the Board referred to in subsection (1)(a) and (b).”;
- (b) by the deletion of subsection (4); and
- (c) by the substitution in subsection (6) for paragraph (a) of the following paragraph:
- “(a) The Minister, with the concurrence of the Minister of Finance, determines the remuneration and allowances of directors [, **alternate directors and co-opted directors of the Board**] who are not in the full-time service of the State.”.

Amendment of section 19 of Act 102 of 1996

6. Section 19 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:
- “(a) As soon as practicable after the end of every financial year the [**Council**] Advisory Body and the Agency must each compile a report on their respective activities during that year.”;
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) The [**Council**] Advisory Body and the Agency must furnish the Minister with any such other reports as the Minister may request.”;
- (c) by the substitution in subsection (3) for paragraph (a) of the following subsection:
- “(a) particulars of the work performed by the Agency and [**Council**] Advisory Body and of progress achieved in furtherance of the objects of the National Small Business Support Strategy;”;
- (d) by the substitution for the second subsection (3) of the following subsection:
- “[(3)] (4) The Director-General must submit the Annual Review of Small Business to the Minister before the end of [**February**] June of each year and the Minister must table it in Parliament.”.

Substitution of Schedule to Act 102 of 1996

7. The Schedule to this Act is hereby substituted for the Schedule to the principal Act.

Substitution of long title of Act 102 of 1996

8. The following long title is hereby substituted for the long title to the principal Act:
- “To provide for the establishment of the [**National Small Business Council**] Advisory Body and the Ntsika Enterprise Promotion Agency; [**and**] to provide guidelines for organs of state in order to promote small business in the Republic; and to provide for matters incidental thereto.”.

Short title

9. This Act is called the National Small Business Amendment Act, 2003.

SCHEDULE

"SCHEDULE

(See definition of 'small business' in section 1)

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---|---------------|--|-----------------|---|
| Sector or subsector in accordance with the Standard Industrial Classification | Size of class | The total full-time equivalent of paid employees | Total turn-over | Total gross asset value (fixed property excluded) |
| Agriculture | Medium | 100 | R5m | R5m |
| | Small | 50 | R3m | R3m |
| | Very Small | 10 | R0.50m | R0.50m |
| | Micro | 5 | R0.20m | R0.10m |
| Mining and Quarrying | Medium | 200 | R39m | R23m |
| | Small | 50 | R10m | R6m |
| | Very Small | 20 | R4m | R2m |
| | Micro | 5 | R0.20m | R0.10m |
| Manufacturing | Medium | 200 | R51m | R19m |
| | Small | 50 | R13m | R5m |
| | Very Small | 20 | R5m | R2m |
| | Micro | 5 | R0.20m | R0.10m |
| Electricity, Gas and Water | Medium | 200 | R51m | R19m |
| | Small | 50 | R13m | R5m |
| | Very Small | 20 | R5.10m | R1.90m |
| | Micro | 5 | R0.20m | R0.10m |
| Construction | Medium | 200 | R26m | R5m |
| | Small | 50 | R6m | R1m |
| | Very Small | 20 | R3m | R0.50m |
| | Micro | 5 | R0.20m | R0.10m |
| Retail and Motor Trade and Repair Services | Medium | 200 | R39m | R6m |
| | Small | 50 | R19m | R3m |
| | Very Small | 20 | R4m | R0.60m |
| | Micro | 5 | R0.20m | R0.10m |
| Wholesale Trade, Commercial Agents and Allied Services | Medium | 200 | R64m | R10m |
| | Small | 50 | R32m | R5m |
| | Very Small | 20 | R6m | R0.60m |
| | Micro | 5 | R0.20m | R0.10m |
| Catering, Accommodation and other Trade | Medium | 200 | R13m | R3m |
| | Small | 50 | R6m | R1m |
| | Very Small | 20 | R5.10m | R1.90m |
| | Micro | 5 | R0.20m | R0.10m |

Act No. 26, 2003 NATIONAL SMALL BUSINESS AMENDMENT ACT, 2003

| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 |
|---|---------------|--|-----------------|---|
| Sector or subsector in accordance with the Standard Industrial Classification | Size of class | The total full-time equivalent of paid employees | Total turn-over | Total gross asset value (fixed property excluded) |
| Transport, Storage and Communications | Medium | 200 | R26m | R6m |
| | Small | 50 | R13m | R3m |
| | Very Small | 20 | R3m | R0.60m |
| | Micro | 5 | R0.20m | R0.10m |
| Finance and Business Services | Medium | 200 | R26m | R5m |
| | Small | 50 | R13m | R3m |
| | Very Small | 20 | R3m | R0.50m |
| | Micro | 5 | R0.20m | R0.10m |
| Community, Social and Personal Services | Medium | 200 | R13m | R6m |
| | Small | 50 | R6m | R3m |
| | Very Small | 20 | R1m | R0.60m |
| | Micro | 5 | R0.20m | R0.10m |