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Nonprofit Organisations Act, 1997

Act 71 of 1997

Legislation as at 31 December 2022

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South Africa

Nonprofit Organisations Act, 1997

Act 71 of 1997

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[Amended by Nonprofit Organisations Amendment Act, 2000 (Act 17 of 2000) on 9 June 2000]
[Amended by General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act, 2022 (Act 22 of 2022) on 31 December 2022]

(Afrikaans text signed by the President.)

ACT

To provide for an environment in which nonprofit organisations can flourish; to establish an administrative and regulatory framework within which nonprofit organisations can conduct their affairs; to repeal certain portions of the Fundraising Act, 1978; and to provide for matters connected therewith.

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

Chapter 1
Interpretation and objects of Act

1. Definitions

(1) In this Act unless the context indicates otherwise—

"**accounting officer**" means, in relation to a nonprofit organisation, a person contemplated in section 60 of the Close Corporations Act, 1984 (Act No. 69 of 1984); (xiv)

"**Arbitration Tribunal**" means an Arbitration Tribunal contemplated in section 9; (ii)

"**banking account**" means an account with a bank registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), or with a mutual bank registered in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993); (iii)

"**constitution**" includes a trust deed and memorandum and articles of association; (ix)

"**director**" means the person designated in terms of section 8; (v)

"**Directorate**" means the body established in terms of section 4; (vi)

"**financial year**", in relation to the Directorate, means a period which commences on 1 April and ends on 31 March in the following year; (iv)

"**Minister**" means the Minister for Welfare and Population Development; (x)

"**national department**" means the national department responsible for welfare; (xi)

"**nonprofit organisation**" means a trust, company or other association of persons—

(a) established for a public purpose; and

(b) the income and property of which are not distributable to its members or office-bearers except as reasonable compensation for services rendered; (xii)

"**office-bearer**" means a director, trustee or person holding an executive position; (i)

"**prescribe**" means prescribe by regulation and "prescribed" has a corresponding meaning; (xv)

"**register**" means the register contemplated in section 24; (xiii)

"**registered nonprofit organisation**" means a nonprofit organisation registered in terms of section 13; (vii)

"**this Act**" includes (he regulations made under this Act. (viii)

(2) Any person interpreting and applying this Act must—

(a) give a liberal construction to its provisions, in a manner that—

(i) is consistent with the objects of this Act set out in section 2; and

(ii) accounts for the particular purpose, role and circumstances of a particular nonprofit organisation;

(b) with respect to any particular nonprofit organisation, apply the provisions of sections 16(1) and 17(3) only to the extent that they do not conflict with any other law governing that nonprofit organisation.

2. Objects of Act

The objects of this Act are to encourage and support nonprofit organisations in their contribution to meeting the diverse needs of the population of the Republic by—

(a) creating an environment in which nonprofit organisations can flourish;

(b) establishing an administrative and regulatory framework within which registered nonprofit organisations must conduct their affairs;

[paragraph (b) substituted by section 9 of Act 22 of 2022]

(c) requiring registered nonprofit organisations to maintain adequate standards of governance, transparency and accountability and to improve those standards;

[paragraph (c) substituted by section 9 of Act 22 of 2022]

(d) creating an environment within which the public may have access to information concerning registered nonprofit organisations; and

(e) promoting a spirit of co-operation and shared responsibility within government, donors and amongst other interested persons in their dealings with nonprofit organisations.

Chapter 2
Creation of an enabling environment

3. State's responsibility to nonprofit organisations

Within the limits prescribed by law, every organ of state must determine and co-ordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions.

4. Establishment of Directorate for Nonprofit Organisations

The Minister must establish within the national department a Directorate for Nonprofit Organisations.

5. Functions of Directorate

(1) In addition to any other function determined by the Minister or specified elsewhere in this Act, the Directorate is responsible for—

(a) facilitating the process for developing and implementing policy;

(b) determining and implementing programs, including programs—

(i) to support nonprofit organisations in their endeavour to register; and

(ii) to ensure that the standard of governance within nonprofit organisations is maintained and improved;

(c) liaising with other organs of state and interested parties; and

(d) facilitating the development and implementation of multi-sectoral and multi-disciplinary programs.

[subsection (1), previously unnumbered, numbered by section 10 of Act 22 of 2022]

(2) In order to promote the achievement of the objects of this Act and to perform its functions and duties, the Directorate may collaborate, co-operate, co-ordinate and enter into arrangements with other organs of state, which may include—

(a) measures to co-ordinate their approach to performing their functions in terms of legislation;

(b) entering into a memorandum of understanding, which, among other matters, may provide for—

(i) the sharing of information between the parties, including—

(aa) the types of information to be furnished by each party; or

(bb) measures to protect the confidentiality of the information, including limiting access to specified persons or incumbents of specified positions, subject to the provisions of applicable legislation;

(ii) collaboration, co-operation between the parties, and assisting each other in the performance of their respective duties in terms of legislation, including through the provision of advice and support; and

(iii) the delegation by the Directorate to another organ of state of specified administrative functions.

[subsection (2) added by section 10 of Act 22 of 2022]

6. Model documents and codes of good practice

(1) The Directorate must—

(a) prepare and issue model documents, including—

(i) model constitutions for nonprofit organisations; and

(ii) a model of the narrative report to be submitted by registered nonprofit organisations to the Directorate;

(b) prepare and issue codes of good practice for—

(i) nonprofit organisations; and

(ii) those persons, bodies and organisations making donations or grants to nonprofit organisations.

(2) *[subsection (2) deleted by section 1 of Act 17 of 2000]*

7. Reports of Directorate

Within six months after the end of each financial year, the Minister must table a written narrative and financial report on the activities of the Directorate for the previous financial year in Parliament.

8. Designation of Director of Nonprofit Organisations

The Minister must designate an employee of the national department as the Director of Nonprofit Organisations to be in charge of the Directorate and to perform the other functions conferred on the director by or in terms of this Act or any other law.

9. Panel of Arbitrators and Arbitration Tribunal

(1) The Minister must appoint persons so as to maintain a panel of arbitrators consisting of at least seven persons.

(2) (a) The Minister must designate one member of the panel of arbitrators to act as the chairperson.

(b) If the chairperson is unable to act in this capacity or the post becomes vacant, the Minister may designate any other member of the panel to act as chairperson.

(3) Whenever the Minister is required to appoint a person to the panel of arbitrators in terms of subsection (1), the Minister must—

(a) publish in the *Gazette* and by any other widely circulated means of communication, a notice calling for nominees and stating the criteria for nominations;

(b) consider all nominations submitted in response to the notice;

(c) compile a short-list of nominees and publish it for comment in the manner contemplated in paragraph (a); and

(d) consider any comments received in response to the publication of the short list.

(4) The terms and conditions of appointment of members of the panel of arbitrators must be prescribed by the Minister.

(5) For the purposes of this Act, an Arbitration Tribunal maybe composed of not more than three members of the panel of arbitrators appointed by the chairperson.

[section 9 substituted by section 2 of Act 17 of 2000]

10. Establishment of advisory or technical committees

(1) The Minister may appoint any advisory or technical committee in order to achieve the objects of this Act.

(2) When appointing an advisory or technical committee, the Minister must determine—

(a) the composition, functions, and working procedure of such committee;

(b) in consultation with the Minister of Finance, the terms, conditions, remuneration and allowances applicable to its members; and

(c) any other matter relating to such committee.

Chapter 3
Registration of nonprofit organisations

11. Benefits of registration

The Minister may prescribe benefits or allowances applicable to registered nonprofit organisations, after consultation with the committees of the two Houses of Parliament responsible for welfare and with the concurrence of every Minister whose department is affected by a particular benefit or allowance.

12. Requirements for registration

(1) Any nonprofit organisation that is not an organ of state may apply to the director for registration.

(2) Unless the laws in terms of which a nonprofit organisation is established or incorporated make provision for the matters in this subsection, the constitution of a nonprofit organisation that intends to register must—

(a) state the organisation's name;

(b) state the organisation's main and ancillary objectives;

(c) state that the organisation's income and property are not distributable to its members or office-bearers, except as reasonable compensation for services rendered;

(d) make provision for the organisation to be a body corporate and have an identity and existence distinct from its members or office-bearers;

(e) make provision for the organisation's continued existence notwithstanding changes in the composition of its membership or office-bearers;

(f) ensure that the members or office-bearers have no rights in the property or other assets of the organisation solely by virtue of their being members or office-bearers;

(g) specify the powers of the organisation;

(h) specify the organisational structures and mechanisms for its governance;

(i) set out the rules for convening and conducting meetings, including quorums required for and the minutes to be kept of those meetings;

(j) determine the manner in which decisions are to be made;

(k) provide that the organisation's financial transactions must be conducted by means of a banking account;

(l) determine a date for the end of the organisation's financial year;

(m) set out a procedure for changing the constitution;

(n) set out a procedure by which the organisation maybe wound up or dissolved; and

(o) provide that, when the organisation is being wound up or dissolved, any asset remaining after all its liabilities have been met, must be transferred to another nonprofit organisation having similar objectives.

(3) The constitution of a nonprofit organisation that intends to register, may make provision for matters relevant to conducting its affairs, including matters that—

(a) specify qualifications for and admission to membership of the organisation;

(b) determine the circumstances in which a member will no longer be entitled to the benefits of membership;

(c) provide for termination of membership;

(d) provide for appeals against loss of the benefits of membership or against termination of membership and specify the procedure for those appeals and determine the body to which those appeals maybe made;

(e) provide for membership fees and matters determining membership fees and other payments by members;

(f) provide that members or office-bearers do not become liable for any of the obligations and liabilities of the organisation solely by virtue of their status as members or office-bearers of the organisation;

(g) provide for the appointment of office-bearers and define their respective functions;

(h) set out a procedure for nominating, electing or appointing office-bearers;

(i) determine the circumstances and manner in which office-bearers may be removed from office and provide for appeals against such removal and specify procedures for those appeals and determine a body to which those appeals can be made;

(j) provide that its office-bearers are not personally liable for any loss suffered by any person as a result of an act or omission which occurs in good faith while the office-bearer is performing functions for or on behalf of the organisation;

(k) provide for making investments;

(l) determine the purposes for which the funds of the organisation maybe used; and

(m) provide for acquiring and controlling assets.

13. Application for registration

(1) A nonprofit organisation may apply for registration by submitting to the director—

(a) the prescribed form, properly completed;

(b) two copies of its constitution; and

(c) such other information as may be required by the director so as to assist the director to determine whether or not the nonprofit organisation meets the requirements for registration.

(2) Within two months after receiving an application which complies fully with subsection (1) the director—

(a) must consider the application and any further information provided by the applicant; and

(b) if satisfied that the applicant complies with the requirements for registration, must register the applicant by entering the applicant's name in the register.

(3) If, after considering an application, the director is not satisfied that the application complies with the requirements for registration, the director must send the applicant a written notice, giving reasons for the decision and informing the applicant that it has one month from the date of the notice to comply with those requirements.

(4) The period within which compliance must be effected may be extended by the director on good cause shown by the applicant.

(5) If an applicant who has received a notice in terms of subsection (3) complies with the requirements for registration timeously, the director must register the applicant by entering the applicant's name in the register.

(6) If an applicant who has received a notice in terms of subsection (3) has not complied timeously with the requirements set out in that notice, the director must—

(a) refuse to register the applicant; and

(b) notify the applicant in writing of the refusal and the reasons for it.

14. Appeals against refusal to register

(1) Within one month after receipt of a notice of a decision of the director not to register a nonprofit organisation, the organisation may appeal against the decision by submitting to the Directorate for consideration by an Arbitration Tribunal—

(a) the application to register;

(b) the notice sent to the applicant by the director in terms of section 13(3);

(c) details of the organisation's response to the director's notice; and

(d) the director's notice and reasons for the decision which is the subject of the appeal.

(2) Within three months after receipt of the relevant items, the Arbitration Tribunal must consider the appeal in the prescribed manner, including providing the appellant and the Directorate with the opportunity to make oral representations, and send a written notice of its decision to the appellant and to the director, stating the reasons for the decision.

(3) If the Arbitration Tribunal upholds an appeal, the director must register the organisation by entering its name in the register.

15. Certificate of registration

(1) Upon registering any applicant, the director must—

(a) issue a certificate of registration in the applicant's name on the prescribed form which must include a registration number;

(b) send the certificate and a certified copy of the registered constitution to the applicant; and

(c) advise the applicant of the date on which its name was entered in the register.

(2) A nonprofit organisation that has been registered remains registered until—

(a) its registration is cancelled in terms of this Act;

(b) the organisation is voluntarily deregistered; or

(c) the organisation is wound up or dissolved.

16. Effect of registration

(1) The certificate of registration of a nonprofit organisation, or a duly certified copy of the certificate, is sufficient proof that the organisation—

(a) has met all the requirements for registration;

(b) has been registered in terms of this Act; and

(c) is a body corporate.

(2) For the purposes of this Act, service of any document directed to a registered nonprofit organisation at the physical address most recently provided to the director must be regarded as service of that document on that organisation.

(3) A registered nonprofit organisation must reflect its registered status and registration number on all of its documents.

17. Accounting records and reports

(1) Every registered nonprofit organisation must, to the standards of generally accepted accounting practice—

(a) keep accounting records of its income, expenditure, assets and liabilities; and

(b) within six months after the end of its financial year, draw up financial statements, which must include at least—

(i) a statement of income and expenditure for that financial year; and

(ii) a balance sheet showing its assets, liabilities and financial position as at the end of that financial year.

(2) Within two months after drawing up its financial statements, every registered nonprofit organisation must arrange for a written report to be compiled by an accounting officer and submitted to the organisation stating whether or not—

(a) the financial statements of the organisation are consistent with its accounting records;

(b) the accounting policies of the organisation are appropriate and have been appropriately applied in the preparation of the financial statements; and

(c) the organisation has complied with the provisions of this Act and of its constitution which relate to financial matters.

(3) Every registered nonprofit organisation must preserve each of its books of account, supporting vouchers, records of subscriptions or levies paid by its members, income and expenditure statements, balance sheets and accounting officer's reports, in an original or reproduced form, for the prescribed period.

18. Duty to provide reports and information

(1) Every registered nonprofit organisation must, in writing, provide the director with—

(a) a narrative report of its activities in the prescribed manner together with its financial statements and the accounting officer's report as contemplated in section 17(1) and (2), within nine months after the end of its financial year;

(b) the names and physical, business and residential addresses of its office-bearers within one month after any appointment or election of its office-bearers even if their appointment or election did not result in any changes to its office-bearers;

(c) a physical address in the Republic for the service of documents as contemplated in section 16(2);

(d) notice of any change of address within one month before a new address for service of documents will take effect; and

(e) such other information as may be prescribed.

(2) The director may cause any document or a narrative, financial or other report that is submitted to the director to be scrutinised, or, by means of a notice, require a registered nonprofit organisation to submit any information or document reasonably required in order to enable the director to determine whether the organisation is complying with—

(a) the material provisions of its constitution;

(b) any condition or term of any benefit or allowance conferred on the organisation in terms of section 11; or

(c) its obligations in terms of this section, section 17 and arty other provision of this Act.

(3) A registered nonprofit organisation must submit the information or document contemplated in subsection (2) within one month after receipt of the notice.

(4) If the accounting officer of a registered nonprofit organisation becomes aware of any instance in which the organisation has failed to comply with the financial provisions of this Act or its constitution, the accounting officer must notify the director of the occurrence—

(a) within one month after becoming aware of it; and

(b) in writing with sufficient detail to describe the nature of the noncompliance.

(5) The duty imposed on an accounting officer in terms of subsection (4) supersedes the duty of confidentiality owed to the organisation by the accounting officer.

19. Changing constitution or name of registered nonprofit organisation

(1) A registered nonprofit organisation may change its constitution and its name.

(2) A registered nonprofit organisation that has resolved to change its constitution or its name must send the director—

(a) a copy of the resolution and a certificate signed by a duly authorized office-bearer stating that the resolution complies with its constitution and all relevant laws; and

(b) if the organisation has resolved to change its name, the original of its current certificate of registration.

(3) Upon receiving the documents contemplated in subsection (2), from an organisation that has resolved to change its constitution, the director must—

(a) register the changed or new constitution if it meets the requirements for registration;

(b) endorse a copy of the resolution, certifying that the change or replacement of the constitution has been registered; and

(c) send the endorsed copy of the resolution to the organisation.

(4) Upon receiving the documents contemplated in subsection (2) from an organisation that has resolved to change its name, the director must—

(a) enter the new name in the register and issue a certificate of registration in the new name of the organisation;

(b) remove the old name from the register and cancel the earlier certificate of registration; and

(c) send the new certificate to the organisation.

20. Noncompliance with constitution and obligations by registered nonprofit organisation

(1) The director must—

(a) send a compliance notice in the prescribed form to a registered nonprofit organisation if the organisation has not complied with—

(i) a material provision of its constitution;

(ii) a condition or term of arty benefit or allowance conferred on it in terms of section 11; or

(iii) its obligations in terms of sections 17, 18 and 19 and any other provision of this Act; and

(b) refer the nonprofit organisation to the South African Police Service for criminal investigation if satisfied that any noncompliance may constitute an offence.

(2) A compliance notice contemplated in subsection (1) must—

(a) be in writing;

(b) notify the organisation of the noncompliance and the steps it is required to take in order to comply; and

(c) inform the organisation that it has one month from the date of the notice to comply.

(3) The period within which compliance must be effected may be extended by the director on good cause shown by the organisation.

21. Cancellation of registration

(1) If a registered nonprofit organisation which has received a notice in terms of section 20 does not comply timeously with the notice or makes material false representations in any document or a narrative, financial or other report submitted to the director, the director must—

(a) cancel its certificate of registration and its registration;

(b) notify the organisation in writing of—

(i) the cancellation and the reasons for it; and

(ii) the date on which the registration was cancelled; and

(c) amend the register accordingly.

(2) When a nonprofit organisation's registration has been cancelled, all the rights, benefits and allowances it enjoyed as a result of being registered end immediately.

(3) For purposes of this Act, a cancellation of registration takes effect on the date on which the certificate of registration is cancelled by the director.

(4) The director may only cancel the registration of a non-profit organisation as contemplated in section 20 and this section.

[subsection (4) added by section 16 of Act 22 of 2022]

22. Appeals against cancellation of registration

(1) A registered nonprofit organisation may refer the decision of the director to cancel its registration for arbitration to the Directorate for consideration by an Arbitration Tribunal, and the procedure established by section 14(1) applies to noting that arbitration, with the necessary changes.

(2) Within three months after receipt of the relevant items, the Arbitration Tribunal must consider the arbitration in the prescribed manner and send a written notice of its decision to the appellant and to the director, stating the reasons for the decision.

(3) If the Arbitration Tribunal upholds the appeal—

(a) the director must reinstate the registration of the nonprofit organisation by—

(i) reissuing a certificate of registration; and

(ii) amending the register accordingly; and

(b) the nonprofit organisation must be regarded not to have had its registration cancelled.

23. Voluntary deregistration and winding up or dissolution

(1) A registered nonprofit organisation may reregister voluntarily by sending the director—

(a) written notice—

(i) stating its intention to reregister voluntarily and the reasons therefor; and

(ii) specifying a date, at least two months after the date of the notice, on which the deregistration is to take effect; and simultaneously

(b) a copy of the reports referred to in section 18(1) for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(2) If a registered nonprofit organisation resolves to wind itself up or dissolve or is being wound up in terms of any law, the organisation must, within one month after completion of the winding up or dissolution process or the relevant order of court, send to the director—

(a) a written notice—

(i) stating this fact;

(ii) containing certified copies of all relevant documents confirming the winding up or dissolution; and simultaneously

(b) a copy of the reports referred to in section 18(1) for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(3) Upon receiving a notice of voluntary deregistration or winding up or dissolution from a registered nonprofit organisation, the director must on the date specified in the notice—

(a) cancel the organisation's certificate of registration, and reregister it by amending the register; and

(b) notify the organisation in writing of the deregistration and confirm the date on which the amendment was made to the register.

24. Register of nonprofit organisations

(1) The director must keep a register in the prescribed form of—

(a) all nonprofit organisations that have been registered;

(b) all nonprofit organisations whose registrations have been cancelled; and

(c) all nonprofit organisations that have voluntarily deregistered or have been wound up or dissolved.

(2) Within two months after the end of each financial year, the director must publish in the *Gazette* and at least one other widely circulated means of communication, the names of—

(a) all nonprofit organisations that are registered;

(b) all nonprofit organisations whose registrations were cancelled during the previous financial year; and

(c) all nonprofit organisations which deregistered voluntarily, have been wound up or dissolved during the previous financial year.

[paragraph (c) substituted by section 3 of Act 17 of 2000]

(3) Subsection (2) does not preclude the director from publishing the names of the organisations contemplated in that section in any widely circulated means of communication, as and when considered appropriate.

25. Access by public to documents submitted to director

(1) The director must preserve in an original or reproduced form the constitution of registered nonprofit organisations and must preserve—

(a) the constitution of a nonprofit organisation whose registration has been cancelled, or that has voluntarily deregistered, has been wound up or dissolved; and

[paragraph (a) substituted by section 4 of Act 17 of 2000]

(b) any report or document submitted to the director in terms of this Act, in an original or reproduced form and for the prescribed period.

(2) All members of the public have the right of access to and to inspect any document that the director is obliged to preserve.

(3) The Minister must prescribe the circumstances and manner in which the public may have access to or inspect such documents.

Chapter 4
Regulations

26. Regulations

The Minister may make any regulation that is necessary or expedient in order to achieve the objects of this Act.

27. Conditions, restrictions or prohibitions in regulations

(1) Any condition, restriction or prohibition contained in a regulation must—

(a) be proportionate to the object pursued by that regulation; and

(b) limit the rights of persons and bodies as little as is reasonably possible.

(2) If a failure to comply with a condition, restriction or prohibition contained in a regulation is an offence, that regulation must provide that, to the extent practicable, before being subjected to criminal liability, the affected person must be given notice of the offence and an opportunity to comply with the regulation.

28. Procedure for making regulations

(1) When intending to make or amend regulations, unless the public interest requires the regulations to be made without delay, the Minister must comply with the following procedure:

(a) The intention to make the regulations must be announced by notice in the *Gazette* and at least one other widely circulated means of communication.

(b) The notice must specify—

(i) that draft regulations have been developed for comment; and

(ii) where a copy of the draft regulations may be obtained.

(c) A period of at least one month from the date of the notice must be allowed for interested parties to comment on the regulations.

(d) The comments received and the content of all discussions and consultations must be considered before making the regulations.

(2) Subsection (1) does not apply to an amendment to correct a textual error.

(3) Any regulation affecting State revenue or expenditure may only be made with the concurrence of the Minister of Finance.

Chapter 5
General provisions

29. Offences

(1) It is an offence to cause a nonprofit organisation, when it is being wound up or dissolved, to transfer its remaining assets otherwise than in the manner contemplated in section 12(2)(o).

(2) It is an offence for persons, bodies or organisations—

(a) to represent themselves as being validly registered in terms of this Act unless they are so registered;

(b) to make use of a registration number, a registration certificate or any information contained in the registration certificate if they have not been registered in terms of this Act; or

(c) to make material false representations in any document or a narrative, financial or other report submitted to the director.

(3) In any criminal proceedings in respect of an offence created in terms of this Act—

(a) a certified copy of the registration certificate or extract of the register is admissible evidence and, in the absence of evidence to the contrary, is sufficient proof that an organisation is registered or has been registered, as the case may be; and

(b) an affidavit from the director stating that an organisation has not been registered in terms of this Act, is sufficient proof of this fact in the absence of evidence to the contrary.

30. Penalties

A person convicted of an offence in terms of this Act is liable to a fine or to imprisonment or to both a fine and imprisonment.

31. Delegation of functions

(1) Subject to section 15 of the Exchequer Act, 1975 (Act No. 66 of 1975), the Minister may in writing delegate any of his or her functions in terms of this Act, except those contemplated in sections 8 and 26 to—

(i) any person in the employ of the national department;

(ii) any body established by or in terms of this Act; or

(iii) any other organ of State responsible for welfare matters, if the head of that organ of State accepts the delegation.

(2) A person or body carrying out a function delegated in terms of subsection (1) must do so subject to the direction of the Minister.

(3) The Minister may—

(a) withdraw a delegation made in terms of subsection (1); and

(b) withdraw or amend arty decision made by a person or body in terms of a delegation contemplated in subsection (1).

(4) Until it is withdrawn or amended, any decision made by a person or body in terms of a delegated power contemplated in subsection (1) must be regarded as having been made by the Minister.

(5) Any right or privilege acquired, or any obligation or liability incurred, as a result of a decision in terms of a delegation contemplated in subsection (1) is not affected by any subsequent withdrawal or amendment of that decision.

32. Restriction of liability

(1) The State Liability Act, 1957 (Act No. 20 of 1957), applies, with the necessary changes, to each body established by or in terms of this Act, but a reference in that Act to "the Minister of the Department concerned" must be interpreted as referring to the chairperson or head of the relevant body.

(2) No member of staff, person or contractor of a body contemplated in subsection (1) is liable for any damages arising from the publication or disclosure in terms of this Act of any report or finding, or from any recommendation that is given in good faith and submitted to the Minister, or to Parliament.

33. Repeal of laws

Chapters I and HI of the Fund-raising Act, 1978 (Act No. 107 of 1978), are hereby repealed to the extent that they apply to fund-raising organisations, branches of such organisations and any other organisation contemplated in Chapter I of that Act.

34. Transitional arrangements

(1) For the purposes of this section, every function to be carried out by the Director of Fund-raising in terms of the Fund-raising Act, 1978 (Act No. 107 of 1978), must be carried out by the director.

(2) (a) Subject to paragraphs (b), (c) and (d), any fund-raising organisation, branch of a fund-raising organisation or any other organisation, duly authorised or registered in terms of section 4,5 or 6 of the Fund-raising Act, 1978, must be regarded as having been registered as a nonprofit organisation in terms of this Act, and the director must enter the name of the organisation in the register as soon as practicable after this Act takes effect.

(b) In order to maintain its registration, an organisation contemplated in paragraph (a) must apply to be registered in terms of this Act—

(i) within two years after this Act takes effect, subject to paragraphs (c) and (d); and

(ii) in accordance with the procedure contemplated in sections 13, 14 and 15.

(c) An organisation contemplated in paragraph (a) must apply to be registered in terms of this Act—

(i) within two months after this Act takes effect, if the authorisation or registration of the organisation would expire within two months after this Act takes effect; or

(ii) no later than two months before its authorisation or registration expires, if the authorisation or registration would expire within two years after this Act takes effect.

[paragraph (c) amended by section 5 of Act 17 of 2000]

(d) If an application contemplated in paragraph (c) is not made timeously, the director must notify the organisation in writing of this fact and inform the organisation that it has two months from the date of the notice to submit its application to be registered.

(e) If the organisation does not submit its application within this period, the organisation's registration lapses and the director must—

(i) cancel the organisation's certificate of registration and its registration by amending the register; and

(ii) notify the organisation in writing—

(aa) of the cancellation and the reasons therefor; and

(bb) of the date on which the amendment in question was made to the register.

(3) If an authorised or registered fund-raising organisation, branch of a find-raising organisation or any other organisation contemplated in subsection (2)(a) fails to comply with the terms and conditions of its authorisation or registration, the procedures contemplated in sections 20, 21 and 22 of this Act apply.

(4) (a) Any pending application for authorisation or registration made in terms of section 4, 5 or 6 of the Fund-raising Act, 1978, must be dealt with by the director in accordance with the procedure contemplated in sections 13,14 and 15 of this Act.

(b) Any pending application to amend any authorisation or registration made in terms of section 8 of the Fund-raising Act, 1978, must be dealt with by the director in accordance with the procedure contemplated in that section despite its repeal but for all other purposes must be regarded as having been made in terms of this Act.

(c) Any pending application to withdraw any authorisation or registration made in terms of section 8 of the Fund-raising Act, 1978, must be dealt with by the director in accordance with the procedure contemplated in section 23 of this Act.

(d) Any pending appeal instituted in terms of section 10 of the Fund-raising Act, 1978, may be continued to its conclusion in terms of that section despite its repeal but for all other purposes must be regarded as having been instituted in terms of this Act.

(e) Any pending investigation into the affairs of an authorised or registered fund-raising organisation conducted in terms of section 30 of the Fund-raising Act, 1978, may be continued to its conclusion in terms of that section despite its repeal but for all other purposes must be regarded as having been conducted in terms of this Act.

(f) Any pending criminal proceedings instituted in terms of section 34 of the Fund-raising Act, 1978, may be continued to their conclusion in terms of that section despite its repeal but for all other purposes must be regarded as having been instituted in terms of this Act.

(5) Except as otherwise provided in this section, anything done under any provision repealed by this Act must be regarded as having been done under the corresponding provision of this Act and continues to have force and effect—

(a) except if it is inconsistent with this Act; or

(b) until it is set aside or repealed.

35. State bound

This Act binds the State.

36. Short title and commencement

This Act is called the Nonprofit Organisations Act, 1997, and takes effect on a date fixed by the President by proclamation in the *Gazette*.