

North West, South Africa

## North West Youth Entrepreneurship Services Fund Act, 2015

Act 6 of 2015

Legislation as at 13 September 2016

FRBR URI: /akn/za-nw/act/2015/6/eng@2016-09-13

There may have been updates since this file was created.

PDF created on 19 April 2024 at 10:15.

*Collection last checked for updates: 12 September 2023.*

[Check for updates](#)



### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from LawLibrary and is presented in collaboration with the African Legal Information Institute, the Judicial Institute for Africa and the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

[www.lawlibrary.org.za](http://www.lawlibrary.org.za) | [info@lawlibrary.org.za](mailto:info@lawlibrary.org.za)

[www.laws.africa](http://www.laws.africa) | [info@laws.africa](mailto:info@laws.africa)

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

North West Youth Entrepreneurship Services Fund Act, 2015  
 Contents

Chapter 1 – Definitions ..... 1

    1. Definitions ..... 1

Chapter 2 – Establishment, objects, powers and functions of North West Youth Development Fund and powers, functions and duties of responsible Member ..... 2

    2. Establishment of North West Youth Entrepreneurship Services Fund ..... 2

    3. Objects of Fund ..... 3

    4. Functions of Fund ..... 3

    5. Powers, duties and functions of responsible Member ..... 4

Chapter 3 – Board of Fund ..... 5

    6. Composition of Board ..... 5

    7. Disqualification from being appointed to Board ..... 6

    8. Declaration of financial or other interests of members of Board ..... 6

    9. Failure to declare financial or other interests by member of Board ..... 7

    10. Term of office and reappointment of member of Board ..... 7

    11. Vacancies, removal and resignation from office of members of Board ..... 7

    12. Temporary suspension of member of Board ..... 7

    13. Meetings and procedures at meetings of Board ..... 7

    14. Recusal of member from meetings and proceedings of Board ..... 8

    15. Remuneration of members of Board ..... 8

    16. Establishment of committees to assist Board ..... 9

    17. Co-opting of persons to Board or Committees of Board ..... 9

    18. Consultation and assistance to Board ..... 9

Chapter 4 – Chief Executive Officer and staff of Fund ..... 10

    19. Chief Executive Officer of Fund ..... 10

    20. Functions and duties of Chief Executive Officer ..... 10

    21. Resignation and removal from office of Chief Executive Officer ..... 11

    22. Staff of Fund ..... 11

    23. Secondment or transfer of staff to Fund ..... 11

    24. Policy directives ..... 11

Chapter 5 – Funding and financial management of Fund ..... 12

    25. Funding ..... 12

    26. Financial management ..... 12

    27. Audit and annual report ..... 13

    28. Financial year of Fund ..... 13

29. Immovable property .....	13
30. Legal proceedings against Fund .....	13
Chapter 6 – General provisions .....	14
31. Security of confidential information held by Fund .....	14
32. Dissolution of Fund .....	14
33. Use of name of Fund .....	14
34. Delegations .....	14
35. Regulations .....	15
36. General offences .....	15
37. Penalties .....	15
38. Repeal of law .....	15
39. Transitional arrangements and validation in respect of repeal of North West Youth Development Trust Act .....	15
40. Short title .....	16
Schedule 1 (Section 6(12)) .....	16
Schedule 2 (Section 6(12)) .....	20



# North West South Africa

## North West Youth Entrepreneurship Services Fund Act, 2015 Act 6 of 2015

Published in North West Provincial Gazette 7690 on 13 September 2016

Assented to on 26 May 2016

Commenced on 1 September 2016 by North West Youth  
Entrepreneurship Services Fund Act, 2016: Commencement

*[This is the version of this document from 13 September 2016 and  
includes any amendments published up to 12 September 2023.]*

**To provide for the establishment of the North West Youth Entrepreneurship Services Fund; to provide for the repeal of the North West Youth Development Trust Act, 1997 ([Act No. 7 of 1997](#)); to provide for the management of the Fund by the Board of the Fund; to determine the objects, powers, duties and functions of the Fund; to determine the manner in which the Fund is to be managed, governed, staffed and financed; and to provide for matters connected therewith.**

WHEREAS the North West Youth Development Trust Act, 1997 ([Act No. 7 of 1997](#)) is to be repealed by the promulgation of this Act;

WHEREAS the North West Youth Development Trust is to be disestablished to give effect to the establishment of the North West Youth Entrepreneurship Services Fund;

WHEREAS upon the disestablishment of the North West Youth Development Trust, all assets and liabilities, will devolve to the North West Youth Entrepreneurship Services Fund;

AND WHEREAS the North West Youth Entrepreneurship Services Fund, as successor in title to the Youth Development Trust, must have a legal basis to acquire and manage the assets and liabilities.

BE IT THEREFORE ENACTED by the Provincial Legislature of the Province of North West, as follows:-

### Chapter 1 Definitions

#### 1. Definitions

In this Act, unless the context otherwise indicates-

"**Board**" means the Board of the Fund contemplated in [section 6\(3\)](#);

"**Chairperson**" means the chairperson of the Board designated in terms of [section 6\(4\)\(a\)](#);

"**Chief Executive Officer**" means the Chief Executive Officer of the Fund appointed in terms of [section 18\(1\)](#);

"**Committee**" means a committee of the Board established in terms of [section 16](#) to advise the Board;

"**Constitution**" means the [Constitution of the Republic of South Africa](#), 1996;

"**Department**" means the Department in the Provincial Government of North West responsible for youth development;

"**Executive Council**" means the Executive Council of the Province of North West as contemplated in section 132 of the [Constitution](#);

"**Financial Year**" means the financial year of the Board as contemplated in [section 27](#);

"**Fund**" means the North West Youth Entrepreneurship Services Fund established in terms of [section 2](#);

"**Gazette**" means the official *Gazette* of the Province of North West;

"**Head of Department**" means the Director General or the person appointed as head of the Department in terms of section 12 of the Public Service Act, ([Proclamation 103 of 1994](#)), as amended;

"**Member of the Executive Council responsible for finance**" means the member of the Executive Council of the Province of North West responsible for finance;

"**Portfolio Committee**" means the Portfolio Committee of the Provincial Legislature responsible for youth development;

"**Premier**" means the Premier of the Province of North West referred to in section 125 of the [Constitution](#);

"**prescribed**" means prescribed by regulation under [section 35](#) and "prescribe" has a corresponding meaning;

"**previously disadvantaged individuals**" means persons who were previously disadvantaged by unfair discrimination and who may be protected or advanced to achieve equality and, for the purposes of this Act, includes the following designated groups-

- (a) men of African, Asian or Colored descent;
- (b) women, irrespective of descent; and
- (c) disabled persons, irrespective of descent;

"**Province**" means the Province of North West contemplated in section 103 of the [Constitution](#) and "provincial" has a corresponding meaning;

"**Provincial Government**" means the government of the Province of North West;

"**Provincial Legislature**" means the Legislature of the Province of North West as contemplated in section 105 of the [Constitution](#), and having the legislative authority for the Province as contemplated in section 104(1) of the [Constitution](#);

"**Public Finance Management Act**" means the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)), and includes any regulations made thereunder;

"**regulations**" means regulations made in terms of [section 35](#);

"**responsible Member**" means the Premier or that Member of the Executive Council of the North West Province duly assigned the powers and functions relating to, amongst others, youth development by the Premier in terms of section 132(2) of the [Constitution](#);

"**stakeholder**" means any organization, body or person with a direct and continuing interest in youth development; and

"**this Act**" includes the regulations.

## Chapter 2

### Establishment, objects, powers and functions of North West Youth Development Fund and powers, functions and duties of responsible Member

#### 2. Establishment of North West Youth Entrepreneurship Services Fund

- (1) The North West Youth Entrepreneurship Services Fund is hereby established.
- (2) The Fund is a juristic person capable of suing and being sued.

- (3) The Fund is a Schedule 3(c) provincial public entity subject to the Public Finance Management Act 1999, ([Act No. 1 of 1999](#)).

### 3. Objects of Fund

The objects of the Fund are-

- (a) to promote and develop entrepreneurship amongst the youth in the Province;
  - (b) to promote and support youth development initiatives and projects in the Province;
  - (b) to mobilise resources for youth development initiatives in the Province;
- [Please note: numbering as in original.]*
- (c) to create opportunities for youth development in the Province; and
  - (d) to contribute to an enabling environment for job creation and youth development in the Province.

### 4. Functions of Fund

(1) The functions of the Fund are-

- (a) to promote, manage and support youth entrepreneurship promotion and awareness programmes in the Province;
- (b) to create and support youth entrepreneurship initiatives in the Province;
- (c) to provide for efficient support systems for business incubation for young entrepreneurs in the Province;
- (d) to, subject to approval by the responsible Member, source funding through any lawful means to finance projects or initiatives aimed business development support services for the youth in business, in the Province;
- (e) to monitor and solicit for interdepartmental youth entrepreneurship initiatives in the Province;
- (f) to initiate any research aimed at youth entrepreneurial development in the Province;
- (g) to initiate or participate in any policy development process aimed at youth entrepreneurial development in the Province;
- (h) to monitor provincial legislation and its impact on youth development in the Province;
- (i) to mobilise resources and investment in youth development programmes and projects targeting previously disadvantaged individuals;
- (j) to mobilise resources for skills development, capacity building, support and mentorship programmes for youth development;
- (k) to mobilise resources for programmes aimed at accessing the job or other markets for the youth through strategic partnerships and direct government interventions;
- (l) to solicit for technical and financial support for the youth involved in small business initiatives in the Province;
- (m) subject to approval of the responsible Member, to establish and administer a youth entrepreneurship data system and research programme for the benefit of the youth in the Province;
- (n) to act as a link between organs of state in the national, provincial and local spheres of government and other stakeholders in youth development;

- (o) to liaise and interact with any organisation, structure or body that has an interest in any matter related to youth development initiatives in the Province;
- (p) to operate throughout the Province: Provided that where it considers it desirable for the attainment of its objects, may become involved in projects and programmes outside the Province or establish linkages with organs of state outside the Province;
- (q) to actively assist potential and existing stakeholders in youth entrepreneurship with relevant, accurate and reliable information and advice;
- (r) to administer funds appropriated from the Provincial Legislature in accordance with the Public Finance Management Act;
- (s) to foster strategic partnerships with public and private institutions focusing on entrepreneurship, mentorship and coaching programmes development of the youth in business;
- (t) subject to approval of the responsible Member, through any lawful means, to establish and administer a youth entrepreneurship collateral fund for the benefit of the youth in business in the Province; and
- (v) advise the responsible Member on any matter referred to the Fund by him or

*[Please note: numbering as in the original.]*

## 5. Powers, duties and functions of responsible Member

- (1) The responsible Member must, within 12 months after the coming into operation of this Act, ensure-
  - (a) the development of the Fund strategy;
  - (b) the development of norms and standards pertaining to entrepreneurial development of previously disadvantaged stakeholders in youth development;
  - (c) the formulation of a strategy to change inequalities and foster sustainability in the youth entrepreneurial development programmes in the Province; and
  - (d) the performance of such other functions as may be assigned to him or her in terms of this Act or any other law.
- (2) In addition to the provisions of subsection (1), the responsible Member is responsible for-
  - (a) the appointment of the Board members in terms of [section 6\(3\)\(a\)](#);
  - (b) the termination of appointment of Board members in terms of [section 11\(2\)](#);
  - (c) the dissolution of the Board, subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 ([Act No. 2 of 2000](#));
  - (d) the approval of the appointment of the Chief Executive Officer in terms of [section 19\(1\)](#);
  - (e) the approval to establish subsidiaries aimed at assisting the Fund to realize its objects as contemplated in [section 4\(1\)\(l\)](#);
  - (f) the approval of the appointment of Board members of subsidiaries; and
  - (g) the disestablishment of the subsidiaries in consultation with the Provincial Executive Council.

## Chapter 3 Board of Fund

### 6. Composition of Board

- (1) The Board consists of-
  - (a) at least five, but not more than nine, members appointed by the responsible Member; and
  - (b) the Chief Executive Officer, *ex officio*, as contemplated in [section 19\(5\)](#).
- (2) Members of the Board must be fit and proper persons to serve the best interests of the Board, collectively possessing appropriate skills, experience, competency and acumen in the youth development, marketing and related industries.
- (3) In appointing members to the Board, the responsible Member must ensure-
  - (a) that a member is a South African citizen;
  - (b) that historic imbalances are addressed;
  - (c) that the members are broadly representative of the population of the Province;
  - (d) that members are representative of the different stakeholder organisations in the youth development industry operating in the Province; and
  - (e) that the Board, collectively, possesses the necessary and appropriate skills and expertise.
- (4) The responsible Member must designate-
  - (a) one of the members of the Board as the chairperson of the Board; and
  - (b) one of the members of the Board as the deputy chairperson of the Board.
- (5) The responsible Member must appoint a person as his or her representative who-
  - (a) must facilitate liaison between the responsible Member and the Board;
  - (b) must report to the responsible Member, from time to time, regarding matters which are considered relevant; and
  - (c) may attend meetings of the Board and participate in discussions, but does not have the right to vote when a decision of the Board is taken.
- (6) The responsible Member must, by notice in the *Gazette* or at least two newspapers circulating in the Province, invite interested parties within the Province to nominate candidates for appointment to the Board.
- (7) The invitation for nomination must specify-
  - (a) the nomination procedure;
  - (b) the requirement for nomination; and
  - (c) the closing date for the nominations.
- (8) The responsible Member must consider all nominations submitted in response to the notice, and may appoint a selection panel consisting of senior departmental officials to review all the nominations and make recommendations to the responsible Member regarding the nominees.
- (9) The responsible Member must cause the names of the persons appointed to the Board to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified in writing, of their appointment to the Board.

- (10) The responsible Member must, within two months after the appointment of members of the Board in terms of subsection (3), inform the Portfolio Committee of the names of the appointed members including the term of their appointment.
- (11) This section applies, with the necessary changes, to the filling of a vacancy on the Board.
- (12) The Code of Conduct contained in Schedule 1 and the Declaration of Interests and Gifts by Members of Board, contained in Schedule 2 to this Act apply to all members of the Board.
- (13) In discharging its duties and responsibilities in terms of sections 50 and 51, read with section 49(2) (a) of the Public Finance Management Act, the Board, as an Accounting Authority of the Fund, must ensure that the Fund exercises its powers and carries out its duties and functions contemplated in [section 4](#).

## 7. Disqualification from being appointed to Board

A person is disqualified from being appointed to the Board or from remaining on the Board, by reason that he or she-

- (a) is or becomes an un-rehabilitated insolvent;
- (b) is or has been declared by a competent court to be of unsound mind;
- (c) is directly or indirectly interested in any contract with the Board and fails to declare his or her interest and the nature thereof in the manner required by this Act;
- (d) is a person under curatorship;
- (e) has at any time been removed from an office of Fund on account of misconduct involving theft or fraud;
- (f) has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the responsible Member may, upon a person who is nominated for appointment disclosing full details of an offence in an affidavit, condone a conviction consistent with section 106(1) (e) of the [Constitution](#):  
  
Provided that a disqualification in terms of this subsection ends five years after the sentence has been completed; and
- (g) fails to disclose an interest in accordance with [section 8](#) or attended or participated in the proceedings of the Board while having an interest contemplated in the said section.
- (h) is or becomes a public servant or an employee of a municipality.

## 8. Declaration of financial or other interests of members of Board

- (1) A person who has been nominated to serve on the Board in terms of [section 6](#) must, within 10 days of being nominated, submit a written declaration to the responsible Member of all direct or indirect interests in any company or other business interests.
- (2) Any failure by the nominee to disclose financial and other interests in terms of subsection (1) disqualifies such nominee in terms of [section 7](#) from appointment as a member of the Board.
- (3) Every member of the Board must, upon assuming office and at the beginning of, every financial year of the Board, submit a written declaration of his or her direct or indirect interest in any company or other business interest.
- (4) Where a member of the Board acquires an interest in any company, or other business, anytime during his or her tenure as a member of the Board, he or she must, within 10 days of the date of the acquisition of such an interest, submit a written declaration to the responsible Member of such an interest.

- (5) Any failure on the part of a member to disclose his or her interest as contemplated in subsections (3) and (4) will result in the termination of appointment of such member in terms of [section 11](#)(1) and (2).
- (6) The responsible Member must keep an updated register of the interests of members of the Board disclosed in terms of this section.

## **9. Failure to declare financial or other interests by member of Board**

A member of the Board who fails to make a declaration envisaged in [section 8](#) commits an offence.

## **10. Term of office and reappointment of member of Board**

- (1) A member is appointed to serve on the Board for a period of three years or such lesser period as the responsible Member may determine.
- (2) A member is eligible for reappointment upon the expiry of his or her term of office: Provided that no person may be re-appointed to serve on the Board after having served for an uninterrupted period of six years.

## **11. Vacancies, removal and resignation from office of members of Board**

- (1) A member of the Board must vacate office if he or she becomes subject to a disqualification contemplated in [section 7](#).
- (2) The responsible Member may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her opinion, there are sound, cogent and justifiable reasons for doing so.
- (3) A member must vacate office if he or she is absent, without a leave of absence having first been granted by the Board, from two consecutive meetings of the Board for which reasonable notice was given to that member personally or by post.
- (4) A member may resign from office by giving not less than 30 days written notice to the responsible Member: Provided that the responsible Member may waive the resignation notice period.
- (5) Whenever a vacancy occurs on the Board, the responsible Member must, subject to [section 6](#), appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.
- (6) In the event that the responsible Member exercises his or her powers in terms of subsection (2), he or she may, notwithstanding the procedure for the appointment of the members of the Board, appoint persons to serve as members of the Board on an interim basis: Provided that-
  - (a) the persons appointed in terms of this subsection may not remain on the Board for a period of more than 90 days from the date of their appointment; and
  - (b) the responsible Member must appoint the permanent members of the Board within 90 days of the appointment.

## **12. Temporary suspension of member of Board**

The responsible Member may suspend a member of the Board whilst the responsible Member is investigating allegations which, if found to be correct, may result in the member's appointment being terminated.

## **13. Meetings and procedures at meetings of Board**

- (1) The first meeting of the Board must be held on a date and at a time and venue determined by the responsible Member where after all future meetings must be as determined by the chairperson.

- (2) The quorum for a meeting of the Board is the majority of the members of the Board.
- (3) The proceedings at a meeting of the Board must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.
- (4) The chairperson must preside at all meetings of the Board: Provided that in his or her absence, the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Board, the members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.
- (5) A decision of the Board must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter, the chairperson has a casting vote in addition to his or her deliberative vote.
- (6) The Board must arrange for minutes of its meetings to be kept.
- (7) No decision of the Board is invalid merely by reason of a vacancy in the Board: Provided that the decision is taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.
- (8) The chairperson, or a majority of the Board, may call an extraordinary meeting of the Board in which event the provisions of this section apply with the necessary changes.
- (9) The Board may, in its discretion, allow members of the public to attend any meeting of the Board.

#### **14. Recusal of member from meetings and proceedings of Board**

- (1) A member of the Board must recuse himself or herself from a matter being investigated, considered or voted upon by the Board if one or more of the following occur-
  - (a) if he or she has a direct or indirect interest; or
  - (b) if there is a possibility that a direct or indirect interest might arise.
- (2) If at any stage during the course of any proceedings before the Board it appears that a member who is present at that meeting has or may have an interest contemplated in subsection (1), such a member must forthwith disclose the nature of his or her interest and leave the meeting.
- (3) Any disclosure made in terms of subsection (1) must be recorded in the minutes of the meeting in question.
- (4) If it subsequently emerges that the Board took a decision on a matter in respect of which a member has failed to disclose an interest contemplated in subsection (1), such decision by the Board is invalid.
- (5) For the purposes of this section "indirect interest" includes, but is not limited to, an interest held by any member's-
  - (a) business partner, associate or employer, other than the State;
  - (b) spouse, partner in a customary marriage, or person with whom such member cohabits or lives as though they were married; or
  - (c) child, parent or sibling.

#### **15. Remuneration of members of Board**

- (1) Subject to subsection 2(a) a, member of the Board may be paid from the funds of the Board such remuneration and allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

- (2) (a) A member of the Board and a person who has been co-opted to the Board may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Board for reasonable actual subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Board,
- (b) The Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

## 16. Establishment of committees to assist Board

- (1) The Board may establish committees consisting of one or more of its members to
  - (a) assist the Board to ensure that the powers, duties and functions of the Board contemplated in [section 4](#) are exercised and performed by the Board; or
  - (b) enquire or conduct research into any matter falling within the powers and functions of the Board in terms of this Act.
- (2) When establishing a committee contemplated in subsection (1), the Board must—
  - (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Board;
  - (b) appoint a chairperson of such committee who must be a member of the Board; and
  - (c) determine whether or not such committee may co-opt persons who are not members of the Board, and if so, on what terms and conditions.
- (3) The Board may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Board.
- (4) The Chief Executive Officer may attend and participate in, but may not vote, at a meeting of a committee.
- (5) A member of the staff of the Fund may, on invitation by the relevant committee, attend a meeting of that committee.

## 17. Co-opting of persons to Board or Committees of Board

- (1) The Board may, if it is of the opinion that a particular person is able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.
- (2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Board or a committee.
- (3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds of the Board as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

## 18. Consultation and assistance to Board

- (1) The Board may, whenever necessary, appoint or call to its assistance any person for purposes of assisting or advising the Board on any matter pertaining to the exercise of its powers, functions and duties in terms of this Act.
- (2) The Board must, on appointing any person as contemplated in subsection (1), conclude a written agreement with the person concerned which must include a description of the service to be

rendered by the person and the date by which he or she must furnish the Board with a report and recommendations in regard thereto.

- (3) The terms, conditions, remuneration and allowances pertaining to the appointment of any person in terms of this section must be paid out of funds of the Board as may be determined by it and must be included in the written agreement contemplated in subsection (2).
- (4) The Board may consult any person, organisation or institution with regard to any matter it deems necessary to enable it to perform its functions.

## **Chapter 4**

### **Chief Executive Officer and staff of Fund**

#### **19. Chief Executive Officer of Fund**

- (1) The Board must, in consultation with the responsible Member, appoint a suitably qualified, skilled and experienced person as Chief Executive Officer of the Fund.
- (2)
  - (a) The Chief Executive Officer is appointed for a period not exceeding five years.
  - (b) The Chief Executive Officer may be reappointed for one further period not exceeding five years.
- (3)
  - (a) The appointment of the Chief Executive Officer is subject to the conclusion of a written performance agreement entered into between that person and the Board,
  - (b) The Board and the Chief Executive Officer may, in writing and by agreement, amend the performance agreement.
- (4) For purposes of the declaration of financial or other interests, the provisions of [section 8](#) apply with the necessary changes to the Chief Executive Officer except that the Chief Executive Officer must declare his or her interests to the Board.
- (5) The Chief Executive Officer is an *ex officio* member of the Board but does not have the right to vote at its meetings.

#### **20. Functions and duties of Chief Executive Officer**

- (1) The Chief Executive Officer must-
  - (a) be responsible for the administrative and financial management of the Fund in accordance with the Public Finance Management Act, and the direction of the Board;
  - (b) ensure that the Fund's annual budget, operational annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act;
  - (c) in consultation with the Board, appoint members of staff of the Fund;
  - (d) in consultation with the Board, determine a code of conduct, applicable to the Chief Executive Officer, all staff of the Fund and justiciable for purposes of disciplinary proceedings, to ensure-
    - (i) compliance with applicable law, including this Act;
    - (ii) the effective, efficient and economical use of the Fund's funds and resources;
    - (iii) the promotion and maintenance of a high standard of professional ethics;
    - (iv) the prevention of conflicts of interest;
    - (v) the protection of confidential information held by the Fund; and

- (vi) professional, honest, impartial, fair, ethical and equitable service;
  - (e) maintain discipline over the staff appointed in terms of paragraph (c) and must, for those purposes, be accountable to the Board;
  - (f) keep and maintain a register of interests declared by a member of staff of the Fund; and
  - (g) ensure compliance by the Board, as the accounting authority, with the provisions of the Public Finance Management Act, and any other applicable legislation.
  - (h) Chief Executive Officer must submit to the responsible Member within 14 days of the Board meeting, a copy of the minutes thereof.
- (2) If the Chief Executive Officer is for any reason unable to perform any of his or her functions, the Board must, in writing, and in consultation with the responsible Member, appoint another person as Acting Chief Executive Officer until the Chief Executive Officer is able to resume those functions.

## 21. Resignation and removal from office of Chief Executive Officer

- (1) The Chief Executive Officer vacates office-
- (a) in the case of resignation, when the resignation takes effect;
  - (b) when, in terms of the Companies Act, 2008 ([Act No. 71 of 2008](#)), the person holding that office has become disqualified to serve as director of a company; and
  - (c) upon having been removed from office in terms of subsection (2).
- (2) The Board may in consultation with the responsible Member terminate the Chief Executive Officer's employment in accordance with applicable employment and labour law.

## 22. Staff of Fund

- (1) The Chief Executive Officer must, subject to subsection (2), employ members of staff of the Fund as may be reasonably necessary-
- (a) to assist him or her in fulfilling his or her functions and the functions of the Board in terms of this Act; and
  - (b) to assist the Board with the work incidental to the performance by the Board of its functions.
- (2) The Board must, within six months after the coming into operation of this Act, and subject to [section 25\(4\)](#), determine a human resources policy for staff members of the Fund, including the Chief Executive Officer.
- (3) For purposes of the declaration of financial or other interests, and subject to the provisions of [section 8\(3\)](#), (4) and (5) apply with the necessary changes to staff members of the Fund.
- (4) The Chief Executive Officer must keep an updated register of the interests of such members of the Board disclosed in terms of subsection (3).

## 23. Secondment or transfer of staff to Fund

The Fund may utilise the services of persons seconded or transferred from the public service in accordance with the provisions of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)).

## 24. Policy directives

- (a) The responsible Member may set strategic guidelines for the pursuit of the Fund's objectives and may issue policy directives to the Fund.

- (b) The responsible Member may withdraw or amend any policy directive issued in terms of paragraph (a).

## **Chapter 5**

### **Funding and financial management of Fund**

#### **25. Funding**

- (1) The funds of the Fund consist of-
  - (a) money appropriated by the Provincial Legislature;
  - (b) interest on investments of the Fund; and
  - (c) income lawfully derived from any other source.
- (2) The Board must utilise its funds-
  - (a) for the payment of remuneration, allowances and subsistence and travelling expenses of-
    - (i) the members of the Board;
    - (ii) the Chief Executive Officer; and
    - (iii) the members of staff of the Fund; and
  - (b) to cover costs in connection with-
    - (i) the day to day operation and administration of the Fund; and
    - (ii) the performance of the duties and functions of the Board and the exercise of its powers in terms of this Act.
- (3) The Chief Executive Officer must, with the concurrence of the Board-
  - (a) open an account in the name of the Fund with an institution registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)); and
  - (b) deposit therein all money received in terms of subsection (1).
- (4) The Board, in consultation with the responsible Member, must determine-
  - (a) the remuneration and conditions of service; and
  - (b) the pension and retirement benefits, of the Chief Executive Officer and the other members of staff of the Fund.
- (5) The Board may, with the prior approval of the Member of the Executive Council responsible for finance, and subject to the provisions of the Public Finance Management Act, invest monies deposited into its account which are not required for immediate use: Provided that the Board must take reasonable steps to ensure that the investment is not of a speculative nature and that monies are not held over at the end of any financial year.
- (6) The Board may not borrow money or issue guarantees, indemnities or securities or enter into any other transactions that bind it, unless such borrowing, guarantee, indemnity, security or other transaction is authorised in terms of this Act and is not in conflict with the Public Finance Management Act.

#### **26. Financial management**

- (1) The Chief Executive Officer must cause full and proper books of account of the Fund and all the necessary records in relation thereto to be kept.

- (2) The Chief Executive Officer must ensure that the Fund's annual budgets, corporate plans, annual reports and audited financial statements are prepared and submitted in accordance with the Public Finance Management Act.
- (3) The Chief Executive Officer must, within three months before the end of each financial year, submit to the Board for review and approval-
  - (a) a business plan for the Fund, containing measurable objectives and other information contemplated in [section 4](#); and
  - (b) a statement of the estimated income and expenditure of the Fund, in respect of the following three financial years.
- (4) In any financial year the Chief Executive Officer may submit to the Board for approval adjusted or supplementary statements of the estimated income and expenditure of the Fund for that financial year.
- (5) The Board may not enter into any financial commitment beyond its approved budget and its accumulated reserves.

## 27. Audit and annual report

- (1) The Auditor-General must audit the financial statements of the Fund.
- (2) The Board must table a report on the activities of the Fund for each financial year, in the Provincial Legislature, within five months after the end of that financial year.
- (3) Within five months after the report has been tabled, a delegation consisting of the chairperson of the Board and at least two other members of the Board must brief the relevant Portfolio Committee on the annual report.
- (4) The report must-
  - (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
  - (b) state the extent to which the Fund has achieved or advanced its objects referred to in [section 3](#) and the measurable objectives as set out in its business plan during the financial year concerned; and
  - (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

## 28. Financial year of Fund

The financial year of the Fund commences on 1 April of a particular year and ends on 31 March of the following year.

## 29. Immovable property

The Fund may, in terms of a policy and procedures determined by the Board and with the approval of the responsible Member, acquire, hold or dispose of immovable property in the course of its business.

## 30. Legal proceedings against Fund

- (1) Any legal proceedings against the Fund must be instituted in accordance with the Institution of Legal Proceedings against certain Organs of State Act, 2002 ([Act No. 40 of 2002](#)).
- (2) The Fund is, for the purposes of subsection (1), regarded as an organ of state contemplated in paragraph (c) of the definition thereof in section 1 of the said Act.

## Chapter 6 General provisions

### 31. Security of confidential information held by Fund

- (1) Subject to the [Constitution](#) and the Promotion of Access to Information Act, 2000 ([Act No. 2 of 2000](#)), no person may disclose any information submitted to the Fund in connection with any legal brief or instruction, unless -
  - (a) he or she is ordered to do so by a court of law; or
  - (b) the person who gave such brief or instruction consents thereto in writing.
- (2) No person may disclose any information kept in a register contemplated in sections [8\(6\)](#), [20\(1\)\(f\)](#) and [22\(4\)](#) of the Act unless such disclosure is-
  - (a) in terms of any law that compels or authorises such disclosure;
  - (b) materially necessary for the proper functioning of the Fund; or
  - (c) made for purposes of monitoring, evaluating, investigating or considering any activity relating to the Fund, or any member of staff of the Fund.
- (3) Any person who contravenes subsection (1) or (2) is guilty of an offence.

### 32. Dissolution of Fund

The Fund may only be dissolved in terms of an Act of the Provincial Legislature.

### 33. Use of name of Fund

- (1) No person may, without the prior written authorisation of the Fund, in any way represent or make use of the name, acronym, logos, designs or material used or owned by the Fund.
- (2) No person may falsely claim to be acting on behalf of the Fund.
- (3) Any person who contravenes subsections (1) or (2) is guilty of an offence.

### 34. Delegations

- (1) The responsible Member may delegate to the Head of Department -
  - (a) any power conferred on the responsible Member by this Act, except the power to make regulations referred to in [section 35](#); or
  - (b) any duty imposed on the responsible Member by this Act, except any duty regarding the appointment, termination or suspension of office, of the members of the Board contemplated in sections [6](#), [10](#) and [12](#).
- (2) The Board may, by a special resolution, delegate to the Chief Executive Officer any power or duty conferred or imposed on the Board by this Act.
- (3) The Chief Executive Officer may delegate to any member of staff of the Fund any power or duty conferred or imposed on the Chief Executive Officer by this Act, except any duty as accounting officer of the Fund.
- (4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.

- (5) Any delegation referred to in subsection (1), (2) or (3)-
  - (a) must be in writing;
  - (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty; and
  - (c) may at any time be withdrawn or amended in writing by that person or body.

### **35. Regulations**

The responsible Member may, after consultation with the Board and by notice in the *Gazette*, make regulations regarding-

- (a) any matter that may or must be prescribed in terms of this Act;
  - (b) any administrative or procedural matter necessary to give effect to the provisions of this Act;
  - (c) any matter in respect of which the responsible Member deems it necessary or expedient to make regulations in order to achieve the objects of this Act.
- (2) A regulation regarding fees or money to be paid must be made in consultation with the Member of the Executive Council responsible for finance.

*[Please note: numbering as in original.]*

### **36. General offences**

- (1) A member of the Board, a member of staff, adviser, agent or any other person employed or acting on behalf of the Fund commits an offence if he or she directly or indirectly accepts any bribe or receives any unauthorized fee or reward from any person in connection with anything done or offered by the Fund.
- (2) Any person commits an offence if he or she, in respect of or in connection with anything done or offered by the Fund, bribes or attempts to bribe or corruptly influence or attempts to corruptly influence a member of the Board, a member of staff, adviser, agent or any other person employed or acting on behalf of the Fund.
- (3) Any person who falsely claims that he or she is authorized to charge or collect fees, donations or contributions on behalf of, or by direction of the Board, commits an offence.

### **37. Penalties**

Any person convicted of an offence in terms of this Act is liable to a fine not exceeding R5000-00 or to imprisonment for a period not exceeding five years.

### **38. Repeal of law**

The North West Youth Development Trust Act, 1997 ([Act No. 7 of 1997](#)), is hereby repealed.

### **39. Transitional arrangements and validation in respect of repeal of North West Youth Development Trust Act**

- (1) (a) Upon the disestablishment of the North West Youth Development Trust, all assets, liabilities and responsibilities of the North West Youth Development Trust, established in terms of section 2 of the North West Youth Development Trust Act, must devolve to the North West Youth Entrepreneurship Services Fund; and

- (b) Persons who, on the day before the date of commencement of this Act, were members of staff of the North West Youth Development Trust are regarded as having been appointed in terms of section 20 of this Act with the retention of all rights and benefits.
- (2) Any act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or carried out by the North West Youth Development Trust, the Chief Executive Officer, an officer or member of staff of the North West Youth Development Trust or the responsible Member in terms of or in pursuance of the repealed Act, to the date of commencement of this Act, is not invalid by reason of-
  - (a) the regulations referred to in the repealed Act not having been published by the responsible Member; or
  - (b) any procedure, process, requirement, condition or detail referred to in the repealed Act. not having been determined or prescribed by regulation, as contemplated in the repealed Act.

#### **40. Short title**

This Act is called the North West Youth Entrepreneurship Services Fund Act, 2015.

### **Schedule 1 (Section 6(12))**

#### **Code of Conduct for Board members**

##### **1. General conduct of Board member**

A Board member-

- (a) must perform the functions allocated to him or her in good faith, diligently, honestly and in a transparent manner;
- (b) must fulfill his or her role in an efficient manner;
- (c) may not conduct himself or herself in a disgraceful, improper or unbecoming manner;
- (d) must comply with any applicable legislation;
- (e) must act in the best interest of the Fund;
- (f) may not embark on actions that would create division within the Board;
- (g) may not refuse to provide any service to a person on political or ideological grounds;
- (h) must foster good relations with the organs of state with whom he or she interacts; and
- (i) must disclose gifts received.

##### **2. Attendance at meetings**

A member of the Board must attend each meeting of the Board and of a committee of which that member of the Board is a member, except when-

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the Board; or
- (b) that member of the Board is required in terms of this Code to withdraw from the meeting.

### 3. Sanctions for non-attendance of meetings

- (1) The Board may impose a sanction as determined by the Board on a member of the Board for-
  - (a) not attending a meeting which that member of the Board is required to attend in terms of item 2; or
  - (b) failing to remain in attendance at such a meeting.
- (2) A member of the Board, who is absent from three or more consecutive meetings of the Board, or from three or more consecutive meetings of a committee of the Board, which that member of the Board is required to attend in terms of item 2, must be removed from office as a member of the Board, by the responsible Member.
- (3) The responsible Member must inform the Premier of the removal of the member of the Board represented.
- (4) Proceedings for the imposition of a sanction including removal of a member of Board must be conducted in accordance with a uniform standing procedure which the Board must adopt for the purposes of this item.

### 4. Disclosure of interests

- (1) A member of the Board must-
  - (a) disclose to the Board; or to any committee of the Board of which that member of the Board is a member, any direct or indirect personal or private business interest that that member of the Board, or any spouse, partner or business associate of that member of the Board, may have in any matter before the Board or the committee of the Board; and
  - (b) withdraw from the proceedings of the Board or committee of the Board when that matter is considered by the Board or its committee, unless the Board or its committee decides that the member of the Board's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A member of the Board who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the Board, must disclose full particulars of the benefit of which the member of the Board is aware at the first meeting of the Board at which it is possible for the member of the Board to make the disclosure.
- (3) This section does not apply to an interest or benefit which a member of the Board, or a spouse, partner, business associate or close family member has or acquires in common with other members of the Board.

### 5. Personal gain

- (1) A member of the Board may not use the position or privileges of a member of the Board, or confidential information obtained as a member of the Board, for private gain or to improperly benefit another person.
- (2) Except with the prior consent of the Board, a member of the Board may not-
  - (a) be a party to or beneficiary under a contract for-
    - (i) the provision of goods or services to the Board; or
    - (ii) the performance of any work otherwise than as a member of the Board and for the Board;
  - (b) obtain a financial interest in any business of the Board; or
  - (c) for a fee or other consideration appear on behalf of any other person before the Board or its committee.

- (3) If more than one quarter of the members of the Board object to consent being given to a member of the Board in terms of sub-item (2), such consent may only be given to the member of the Board with the approval of the responsible Member.

## 6. Declaration of interests

- (1) When appointed, a member of the Board must, within 60 days, declare, in writing, to the Board the following financial interests held by that member of the Board-
  - (a) shares and securities in any company;
  - (b) membership of any close corporation;
  - (c) interest in any trust;
  - (d) directorships;
  - (e) partnerships;
  - (f) other financial interests in any business undertaking;
  - (g) employment and remuneration;
  - (h) interest in property;
  - (i) pension; and
  - (j) subsidies, grants and sponsorships by any organization.
- (2) Any change in the nature or detail of the financial interests of a member of the Board must be declared, in writing, to the officer referred to in sub-item (1) annually.
- (3) Gifts received by a member of the Board in excess of an amount as may be prescribed by notice in the *Provincial Gazette* from time to time, must also be declared in accordance with sub-item (1).
- (4) The Board must determine which of the financial interests referred to in sub-item (1) must be made public, having regard to the need for confidentiality and the public interest for disclosure.
- (5) The declaration of interests and gifts contemplated in this item must substantially comply with the format of Annexure A to this Schedule, and must be completed annually where necessary, in order to comply with the provisions of sub-item (2).

## 7. Rewards, gifts and favors

A member of the Board may not request, solicit or accept any reward, gift or favor for

- (a) voting or not voting in a particular manner on any matter before the Board or before a committee of the Board of which that member of the Board is a member;
- (b) persuading the Board or any committee of the Board in regard to the exercise of any power, function or duty;
- (c) making a representation to the Board or any committee of the Board; or
- (d) disclosing privileged or confidential information.

## 8. Unauthorized disclosure of information

- (1) A member of the Board may not, without the permission of the Board or a committee, disclose any privileged or confidential information of the Board or committee to any unauthorized person.
- (2) For the purpose of this item "privileged or confidential information" includes any information-
  - (a) determined by the Board or committee of the Board to be privileged or confidential;

- (b) discussed in closed session by the Board or its committee;
  - (c) of which disclosure would violate a person's right to privacy; or
  - (d) declared to be privileged, confidential or secret in terms of the law.
- (3) This item does not derogate from the right of any person to access information in terms of national legislation.

## 9. Breach of Code of Conduct

- (1) If the Board, on reasonable suspicion, is of the opinion that a provision of the Code of Conduct has been breached, the Board must-
- (a) authorize an investigation of the facts and circumstances of the alleged breach;
  - (b) give the member of the Board a reasonable opportunity to reply in writing regarding the alleged breach; and
  - (c) report the matter to a meeting of the Board after paragraphs (a) and (b) have been complied with.
- (2) A report referred to in sub-item (1)(c) may be made available to the public.
- (3) The Board must report the outcome of the investigation to the responsible Member.
- (4) The Secretary of the Board must ensure that each member of the Board, when taking office, is given a copy of this Code and that a copy of this Code is available in every room or place where the Board or a committee of the Board meets.
- (5) The Board may-
- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
  - (b) establish a special committee-
    - (i) to investigate and make a finding on any alleged breach of this Code; and
    - (ii) to make appropriate recommendations to the Board.
- (6) If the Board, or a special committee appointed by the Board to conduct the investigation, finds that a member of the Board has breached a provision of this part of the Code of Conduct, the Board may-
- (a) issue a formal warning to the member of the Board;
  - (b) reprimand the member of the Board;
  - (c) suspend the member of the Board for a period in consultation with the responsible Member; and
  - (d) remove the member of the Board from office in consultation with the responsible Member.
- (7) (a) Any member of the Board who has been warned, reprimanded, suspended or removed in terms of paragraph (a), (b), (c) or (d) of sub-item (6) may, within 14 days of having been notified of the decision of the Board, appeal to the responsible Member in writing, setting out the reasons on which the appeal is based.
- (b) A copy of the appeal must be provided to the Board.
  - (c) The Board may, within 14 days of receipt of the appeal referred to in paragraph (b), make any representation pertaining to the appeal to the responsible Member in writing.
  - (d) The responsible Member may, after having considered the appeal, confirm, set aside or vary the decision of the Board and inform the member of the Board and the Board of the outcome of the appeal.

- (8) The responsible Member may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make recommendations on whether the member of the Board should be suspended or removed from office.
- (9) If the responsible Member is of the opinion that a member of the Board has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the responsible Member may-
  - (a) suspend the member of the Board for a period and on conditions determined by the responsible Member; or
  - (b) remove the member of the Board from office.
- (10) Any investigation in terms of this item must be conducted in accordance with the rules of natural justice.

**Schedule 2 (Section 6(12))**

**Declaration of interests and gifts**

I the undersigned: \_\_\_\_\_ (Full names)

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

Residential address:

Position held: \_\_\_\_\_

Telephone number:

Fax number:

hereby certify that the following information is complete and correct to the best of my knowledge:

**1. Shares and other financial interests**

Number of shares/extent of financial interests	Nature	Nominal value	Name of company/entity

**2. Directorships and partnerships**

Name of corporate entity or partnership	Type of business	Amount of remuneration

**3. Consultancies**

Name of client	Nature	Type of business activity	Value of any benefits received

**4. Sponsorships**

Source of assistance/sponsorship	Description of assistance/sponsorship	Value of assistance/sponsorship

**5. Gifts and hospitality from a source other than a family member**

Description	Value	Source

**6. Land and property**

Description	Extent	Area	Value

\_\_\_\_\_

Signature

Place: \_\_\_\_\_

Date: \_\_\_\_\_

***Oath/Affirmation***

1. I certify that before administering the oath/affirmation I asked the deponent the following questions and wrote down his/her answers in his/her presence:
  - (a) Do you know and understand the contents of the declaration? Answer \_\_\_\_\_
  - (b) Do you have any objection to taking the prescribed oath or affirmation? Answer \_\_\_\_\_
  - (c) Do you consider the prescribed oath or affirmation to be binding on your conscience? Answer \_\_\_\_\_
  
2. I certify that the deponent has acknowledged that she/he knows and understands the contents of this declaration. The deponent uttered the following words: "I swear that the contents of this declaration are true, so help me God." / "I truly affirm that the contents of the declaration are true". The signature/mark of the deponent has been affixed to the declaration in my presence.

***Commissioner of Oaths/Justice of Peace***

Full first names and surname: \_\_\_\_\_

(Block letters)

Designation: \_\_\_\_\_ Ex Officio Republic of South Africa

Street address of Institution: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_

Signature of Responsible member

Date \_\_\_\_\_

Name of Responsible member

\_\_\_\_\_

Portfolio: \_\_\_\_\_

## Memorandum on the objects of the Youth Entrepreneurship Services Fund Bill, 2015

### 1. Background

- 1.1 The Bill seeks to repeal the North West Youth Development Trust Act, 1997 ([Act No. 7 of 1997](#));
- 1.2 The Bill also seeks to disestablish the North West Youth Development Trust, established in terms of the North West Youth Development Trust Act, 1997 ([Act No. 7 of 1997](#)), effectively replacing it with the North West Youth Entrepreneurship Services Fund, as successor in law;
- 1.3 In order to create the requisite legal basis for the establishment of the North West Youth Entrepreneurship Services Fund, new legislation needs to be promulgated.
- 1.4 Such legislation needs to define the role of the new entity, the composition, duties, powers and functions of its Board, its funding and financial management, etc.
- 1.5 The North West Youth Entrepreneurship Services Fund Bill, 2015, has been developed to create the requisite legal basis for the establishment of the North West Youth Entrepreneurship Services Fund, its management, objects, powers, duties and functions of its Board;
- 1.6 It further determines the manner in which the Fund is to be, governed, staffed and financed.
- 1.7 It is trite that any authority exercising a power assigned in terms of legislation and related prescripts is confined to exercising only such power as it is lawfully conferred upon him or her. This is a principle that applied in the cases of *Fedlife Assurance Ltd v Johannesburg Transitional Metropolitan Council* 1999 (1) SA 374 (CC), *Pharmaceutical Manufacturers Association of SA: In re Ex Parte President of the Republic of South Africa* 2000 (2) SA 674 (CC) and the case of *Qualidental Laboratories Pty Ltd v Heritage Western Cape* [2007] SCA 170 (RSA).
- 1.8 In *Barnett v Minister of Land Affairs* 2007 SCA 95 the Supreme Court of Appeal ordered the demolition of the structures along the Eastern Cape coast that have been erected with the approval of officials who did not have the necessary authority to grant development approval.
- 1.9 The conclusion is therefore that, in order to ensure that the new entity, namely the North West Youth Entrepreneurship Services Fund, gets the requisite legal status to exercise its powers and perform its functions lawfully, this Bill must be promulgated.

### 2. Clause by clause explanation

In summary, the Bill provides as follows-

Clause 1.

Clause 1 provides for the definition of terms used in the Bill.

Clause 2

Clause 2 provides for the establishment of the North West Youth Entrepreneurship Services Fund. It also confirms its juristic personality as a PFMA Schedule 3C public entity.

Clause 3

Clause 3 provides for the objects of the Act. Such objects are *inter alia*-

- (a) to promote and develop entrepreneurship amongst the youth in the Province;
- (b) to promote and support youth development initiatives and projects in the Province;
- (c) to mobilise resources for youth development initiatives in the Province; and
- (d) to create opportunities for youth development in the Province.

## Clause 4

Clause 4 provides for the Functions of Fund.. It states such functions to be to-

- (a) to promote, manage and support youth entrepreneurship promotion and awareness programmes in the Province;
- (b) to create and support youth entrepreneurship initiatives in the Province;
- (c) to provide for efficient support systems for business incubation for young entrepreneurs in the Province;
- (d) to, subject to approval by the responsible Member, source funding through any lawful means to finance projects or initiatives aimed business development support services for the youth in business, in the Province;
- (e) to monitor and solicit for interdepartmental youth entrepreneurship initiatives in the Province;
- (f) to initiate any research aimed at youth entrepreneurial development in the Province;
- (g) to initiate or participate in any policy development process aimed at youth entrepreneurial development in the Province;
- (h) to monitor provincial legislation and its impact on youth development in the Province;
- (i) to mobilise resources and investment in youth development programmes and projects targeting previously disadvantaged individuals;
- (j) to mobilise resources for skills development, capacity building, support and mentorship programmes for youth development;
- (k) to mobilise resources for programmes aimed at accessing the job or other markets for the youth through strategic partnerships and direct government interventions;
- (l) to solicit for technical and financial support for the youth involved in small business initiatives in the Province;
- (m) subject to approval of the responsible Member, to establish and administer a youth entrepreneurship data system and research programme for the benefit of the youth in the Province;
- (n) to act as a link between organs of state in the national, provincial and local spheres of government and other stakeholders in youth development;
- (o) to liaise and interact with any organisation, structure or body that has an interest in any matter related to youth development initiatives in the Province;
- (p) to operate throughout the Province: Provided that where it considers it desirable for the attainment of its objects, may become involved in projects and programmes outside the Province or establish linkages with organs of state outside the Province;
- (q) to actively assist potential and existing stakeholders in youth entrepreneurship with relevant, accurate and reliable information and advice;
- (r) to administer funds appropriated from the Provincial Legislature in accordance with the Public Finance Management Act;
- (s) to foster strategic partnerships with public and private institutions focusing on entrepreneurship, mentorship and coaching programmes development of the youth in business;
- (t) subject to approval of the responsible Member, through any lawful means, to establish and administer a youth entrepreneurship collateral fund for the benefit of the youth in business in the Province; and
- (v) advise the responsible Member on any matter referred to the Fund by him or her.

## Clause 5

Clause 5 seeks to define the powers of the responsible Member as *inter alia*-

- (a) the development of the Fund strategy;
- (b) the development of norms and standards pertaining to entrepreneurial development of previously disadvantaged stakeholders in youth development;
- (c) the formulation of a strategy to change inequalities and foster sustainability in the youth entrepreneurial development programmes in the Province; and

- (d) the performance of such other functions as may be assigned to him or her in terms of this Act or any other law.

Clause 6

Clause 6 provides for the composition of the Board of the Fund, the minimum and maximum number of members, the criteria for appointment to the Board and the procedure for appointment of members of the Board.

Clause 7

Clause 7 provides for the disqualification of member and potential candidates from being appointed to the Board

Clause 8

Clause 8 provides for the declaration of financial or other interests

Clause 9

Clause 9 seeks to define the consequences of failure to declare financial or other interests

Clause 10

Clause 10 sets the term of office of members of the Board as three years and such members may be reappointed.

Clause 11

Clause 11 deals with matters relating to vacancies, removal and resignation from office of members of Board

Clause 12

Clause 12 provides for temporary suspension of members of the Board

Clause 13

Clause 13 regulates matters around the conduct of Meetings of Board

Clause 14

Clause 14 provides for recusal of member from meetings and proceedings of Board

Clause 15

Clause 15 regulates matters around the remuneration of members of the Board

Clause 16

Clause 16 deals with matters relating to the establishment of Committees to assist the Board

Clause 17

Clause 17 deals with the co-option of persons to the Board or Committees of the Board

Clause 18

Clause 18 deals with consultation and assistance

Clause 19

Clause 19 sets the criteria and procedure for appointment of the Chief Executive Officer of the Fund

Clause 20

Clause 20 defines the role and functions of the Chief Executive Officer.

Clause 21

Clause 21 regulates matters around the resignation and removal from office of the Chief Executive Officer.

Clause 22 regulates matters of the staff of the Fund.

Clause 23

### **3. Organisational and personnel implications for Provincial Government**

Since the North West Youth Entrepreneurship Services Fund is, as a result of this Act, going to be the successor in law to the North West Youth Development Trust, the transitional arrangements Clause caters for the transfer of the staff, if any, to the West Youth Entrepreneurship Services Fund.

### **4. Financial implications for Provincial Government**

Since the North West Youth Entrepreneurship Services Fund is, as a result of this Act, going to be a new entity, the financial implications are that the current financial year budget appropriation will have to be adjusted to accommodate additional financial costs associated with the establishment and running costs of a new entity.

### **5. Departments/ Bodies/ Persons consulted**

The Bill has been drafted in consultation with-

- 5.1 All departments;
- 5.2 The Broader Extech;
- 5.3 The Joint Executive Cluster Committees;
- 5.4 All political parties in the Province;
- 5.5 All relevant stakeholders; and
- 5.6 Office of the Chief State Law Advisor.

### **6. Contact person**

Name: Mr Thapelo Sekawana

Position: Director

Tel: (018)388-3716

E-mail: [Sekawana@nwpg.gov.za](mailto:Sekawana@nwpg.gov.za)