

South Africa

## Geoscience Act, 1993

Act 100 of 1993

Legislation as at 1 July 2012

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# South Africa

## Geoscience Act, 1993

### Act 100 of 1993

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**Commenced on 1 November 1993 by [Geoscience Act, 1993: Commencement](#)**

*[This is the version of this document from 1 July 2012.]*

*[Amended by [Geoscience Amendment Act, 2003 \(Act 11 of 2003\)](#) on 1 November 1993]*

*[Amended by [Geoscience Amendment Act, 2010 \(Act 16 of 2010\)](#) on 1 July 2012]*

(Afrikaans text signed by the Acting State President.)

## ACT

**To provide for the promotion of research and the extension of knowledge in the field of geoscience; for that purpose to make provision for the establishment of a Council for Geoscience and for the management thereof by a Management Board; and to provide for matters connected therewith.**

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

### 1. Definitions

In this Act, unless the context otherwise indicates—

“**chairperson**” means the chairperson of the Board appointed in terms of section 4;

*[definition of “chairperson”, previously “chairman”, substituted by section 1(a) of [Act 16 of 2010](#)]*

“**Chief Executive Officer**” means the person appointed in terms of section 18 as the Chief Executive Officer of the Council;

*[definition of “Chief Executive Officer” inserted by section 1(b) of [Act 16 of 2010](#)]*

“**committee**” means a committee nominated in terms of section 16;

“**Council**” means the Council for Geoscience referred to in section 2;

“**discovery**” means a technological or scientific discovery, including a discovery of a mineral deposit;

*[definition of “discovery” substituted by section 1(c) of [Act 16 of 2010](#)]*

“**economic geology**” means the study of the distribution, formation, economics and application of earth materials for economic and industrial purposes;

*[definition of “economic geology” inserted by section 1(d) of [Act 16 of 2010](#)]*

“**environmental geology**” means geology applied to the solving of conflicts, minimizing possible adverse environmental degradation or maximizing possible advantageous conditions resulting from the use of the natural and modified environment;

*[definition of “environmental geology” inserted by section 1(d) of [Act 16 of 2010](#)]*

“**Executive Committee**” means the Executive Committee of the Board referred to in section 15;

*[definition of “Executive Committee”, previously “Executive Management Committee”, substituted by section 1(e) of [Act 16 of 2010](#)]*

“**executive officer**” *[definition of “executive officer” deleted by section 1(f) of [Act 16 of 2010](#)]*

“**geochemistry**” means the study of the chemical composition of the earth and terrestrial bodies, and the chemical processes and reactions that govern the composition of rocks, water, and soils, and the cycles of matter and energy that transport the earth’s chemical components in time and space, and their interaction with the hydrosphere and the atmosphere;

*[definition of “geochemistry” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geochronology**” means the science of determining the absolute age of rocks, fossils and sediments, by means of element decay within a certain degree of uncertainty inherent to the applied method;

*[definition of “geochronology” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geohazards**” means—

- (a) a geological state or an incipient geological condition that has the potential to develop further into a situation leading to harm, damage or uncontrolled risk;
- (b) phenomena that are related to geological and environmental conditions and involve long-term and short-term geological processes which range in magnitude from relatively small to large scale features and may affect the local and regional socio-economy; and
- (c) areas characterized by potential life-threatening geological conditions in South Africa, including dolomite land, undermined areas, areas of potential slope stability problems and areas prone to potential severe seismicity and flood-line areas;

*[definition of “geohazards” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geohydrology**” means the study area of geology that deals with the distribution, movement, extraction and quality of groundwater in the soil and rocks of the earth’s crust;

*[definition of “geohydrology” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geohydrological aquifer systems**” means the study area of geology that deals with the study of the structures and pathways that control the movement of groundwater in the soil and rocks of the earth’s crust;

*[definition of “geohydrological aquifer systems” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geomagnetism**” means the study of the earth’s magnetic field and phenomena related thereto;

*[definition of “geomagnetism” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geophysics**” means the study of the earth by the quantitative observation of its physical properties;

*[definition of “geophysics” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geoscientific information**” includes geotechnical information, mining, geohydrology, geochemistry, geophysics, engineering geology, economic geology, geochronology, palaeontology, geohydrological aquifer systems, geotechnical investigations, marine geology, geomagnetism, seismology, geohazards and environmental geology;

*[definition of “geoscientific information” inserted by section 1(g) of [Act 16 of 2010](#)]*

“**geotechnical information**” means information pertaining to the physical properties of rocks or soil with a view to designing earthworks and foundations for development of structures or for repair of distress to earthworks and structures caused by subsurface conditions;

*[definition of “geotechnical information” inserted by section 1(g) of [Act 16 of 2010](#)]*

**“geotechnical investigations”** means physical investigations pertaining to the physical properties of rocks or soil with a view to designing earthworks and foundations for development of structures or for repair of distress to earthworks and structures caused by subsurface conditions;

*[definition of “geotechnical investigations” inserted by section 1(g) of [Act 16 of 2010](#)]*

**“Board”** means the non-executive Board referred to in section 4;

*definition of “Board”, previously “Management Board”, substituted by section 1(h) of [Act 16 of 2010](#)]*

**“mineral”** means a mineral as defined in section 1 of the Minerals and Petroleum Resources Development Act, 2002 ([Act No. 28 of 2002](#));

*[definition of “mineral” substituted by section 1(i) of [Act 16 of 2010](#)]*

**“Minister”** means the Minister of Mineral Resources;

*[definition of “Minister” substituted by section 1(j) of [Act 16 of 2010](#)]*

**“prospecting”** means prospecting as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 ([Act No. 28 of 2002](#));

*[definition of “prospecting” substituted by section 1(k) of [Act 16 of 2010](#)]*

**“reconnaissance operation”** means any operation carried out for or in connection with the search for a mineral by geological, geophysical and photogeological surveys and includes any remote sensing techniques, but does not include any prospecting operation;

*[definition of “reconnaissance operation” inserted by section 1(l) of [Act 16 of 2010](#)]*

**“seismology”** is the study of earthquakes and seismic waves that move through and around the earth;

*[definition of “seismology” inserted by section 1(l) of [Act 16 of 2010](#)]*

**“regulation”** means a regulation in force in terms of this Act;

**“this Act”** includes a regulation.

## 2. Establishment of Council for Geoscience

There is hereby established a juristic person to be known as the Council for Geoscience.

## 3. Objects of Council

The objects of the Council are to—

- (a) promote the search for, and exploitation of, any mineral in the Republic;
- (b) undertake research in the field of geoscience;
- (c) act as a national advisory authority in respect of—
  - (i) goohazards related to infrastructure and development; and
  - (ii) geo-environmental pollution brought about by mineral exploitation and by other activities; and
- (d) provide specialized geoscientific services.

*[section 3 substituted by section 2 of [Act 16 of 2010](#)]*

#### 4. Board

- (1) With a view to the achievement of the objects of the Council its affairs shall be managed by a Board, which shall, subject to the provisions of this Act, determine the policy and goals of the Council and exercise control over the performance of the functions of the Council.
- (2) The Board shall consist of—
  - (a) the chairperson, who shall be appointed by the Minister;
  - (b) at least nine but not more than 13 other members appointed by the Minister as follows:
    - (i) an official of the Department of Mineral Resources nominated by the Director-General: Mineral Resources;
    - (ii) an official of the Department of Water and Environmental Affairs nominated by the Director-General: Water and Environmental Affairs;
    - (iii) an official of the Department of Rural Development and Land Reform nominated by the Director-General: Rural Development and Land Reform;
    - (iv) an official of the Department of Human Settlements nominated by the Director-General: Human Settlements;
    - (v) a person who is involved in the mining industry;
    - (vi) *[subparagraph (vi) omitted by section 3 of Act 16 of 2010]*
    - (vii) a person who is involved in commerce;
    - (viii) *[subparagraph (viii) omitted by section 3 of Act 16 of 2010]*
    - (ix) an official of the Department of Science and Technology nominated by the Director-General: Science and Technology;
    - (x) two persons with appropriate experience, expertise or skills to enhance the Board's capability in performing its functions effectively; and
    - (xi) an official of the National Treasury nominated by the Director General: National Treasury; and
  - (c) the Chief Executive Officer, who shall serve *ex officio* as a member of the Board.
- (3) *[subsection (3) omitted by section 3 of Act 16 of 2010]*
- (4) The Minister may, whenever he or she deems it necessary or expedient, subject to the provisions of subsection (1), appoint an alternate member for any member of the Board.
- (5) The members or alternate members of the Board shall be persons who—
  - (a) have special knowledge of or experience in any aspect of the Council's functions; or
  - (b) by virtue of the offices occupied by them are able to make a contribution to the achievement of the objects of the Council.

*[section 4 substituted by section 3 of Act 16 of 2010]*

#### 5. Functions of Council

- (1) For the purpose of achieving its objects, the Council may perform the following functions:
  - (a) Undertake geoscientific research and related technological development;
  - (b) compile and develop a comprehensive and integrated collection of knowledge and information of geology, geochemistry, geophysics, engineering geology, economic geology,

- geochronology, palaeontology, geohydrological aquifer systems, geotechnical investigations, marine geology, geomagnetism, seismology, geohazards, environmental geology and other related disciplines;
- (bA) promote the search for, and the exploitation of, any minerals in the Republic;
  - (bB) bring to the notice of the Minister any information in relation to the prospecting for and mining of mineral resources which is likely to be of use or benefit to the Republic;
  - (c) serve as the national custodian of all geoscientific information relating to the earth, the marine environment and geomagnetic space;
  - (d) study the—
    - (i) distribution and nature of mineral resources; and
    - (ii) geo-environmental aspects of past, current and future mineral exploitation;
  - (e) study the use of the surface and the subsurface of land and the seabed, and from a geoscientific viewpoint advise government institutions and the general public on the judicious and safe use thereof with a view to facilitate sustainable development;
  - (f) develop and maintain the National Geoscientific Library, the National Borehole Core Depository, the National Geophysical and Geochemical Test Sites, and the Geological Museum as part of the Transvaal Museum;
  - (g) conduct investigations and render prescribed specialized services to public and private institutions;
  - (h) undertake—
    - (i) research of its own accord;
    - (ii) research on behalf of the State or any other government institution, or on behalf of any person or institution, or support such research financially; or
    - (iii) any reconnaissance operation, prospecting and other related activities with a view to attracting investment to the mineral resource sector; and
  - (i) do anything that is necessary for or conducive to the achievement of the said objects.
- (2) In order to promote relevant research and to support its objects the Council may—
- (a) make grants to universities, colleges and other educational and scientific institutions in aid of research by their staff or for the establishment of facilities for such research;
  - (b) undertake joint research projects with government departments, universities, colleges, other educational and scientific institutions and other persons;
  - (c) co-operate with educational authorities and scientific or technical societies for the promotion of the education and training of researchers, technical experts and other supporting personnel in schools, colleges and universities;
  - (d) grant study bursaries and loans to researchers, and make monetary contributions for research programmes in support of its own human resource development requirements;
  - (e) co-operate with persons and institutions undertaking research in other countries by the exchange of geoscientific knowledge and information by means of international meetings and research projects; and
  - (f) serve as the national advisory authority to various local, provincial and national authorities in respect of—
    - (i) geohazards that may affect infrastructure and development; and

- (ii) geo-environmental pollution brought about by mineral exploitation and by other activities through the production of geoscientific and geological information.
- (3) In order to perform the functions and achieve the objects of the Council, the Chief Executive Officer may—
  - (a) on behalf of the Council conclude agreements with any person or institution or, subject to the provisions of section 8, with any government or administration, on the conditions upon which the Board and that person, institution, government or administration may agree;
  - (b) act as the official representative of the Council at all national and international organisations and meetings;
  - (c) defend legal proceedings instituted against the Council and institute legal proceedings connected with its functions;
  - (d) with the approval of the Minister, granted with the concurrence of the Minister of Finance, for or on behalf of the Council purchase or otherwise acquire or possess or hire immovable property, and alienate, let, pledge or otherwise encumber such property;
  - (e) with the approval of the Minister, granted with the concurrence of the Minister of Finance, raise money by way of loans on such terms and conditions and against such security as the Board may deem expedient;
  - (f) hire or let services against payment;
  - (g) produce and sell reports, maps, computer programs and other intellectual property which the Council generates in the course of its research;
  - (h) do everything that is conducive to the performance of the functions or the achievement of the objects of the Council or is calculated, directly or indirectly, to enhance the value of or render profitable the property or rights of the Council.
- (4) The Council shall, in addition to its other functions in terms of this Act or any other law—
  - (a) perform such functions and undertake such investigations or research as the Minister may assign to it; and
  - (b) advise the Minister on research in the field of geoscience.
- (5) The functions of the Council mentioned in this section shall be performed by the Chief Executive Officer, except in so far as they have been assigned by this Act or by the Minister to any other person.

*[section 5 substituted by section 4 of [Act 16 of 2010](#)]*

## **6. Powers of Council in respect of certain information**

- (1) Notwithstanding the provisions of any other law, the Council shall have the right to analyze and verify any information of the Department of Mineral Resources which the Minister, or an officer of the said Department designated by the Minister, may approve on such conditions as the Minister or the said officer may determine.

*[subsection (1) substituted by section 5(a) of [Act 16 of 2010](#)]*

- (2) The Council may take into its custody and use information contemplated in subsection (1) or a copy thereof, but any provision of any law whereby any restriction is imposed on the publication or display of such information, shall *mutatis mutandis* apply to any information or copy thereof which is in the custody of the Council in terms of this section.

## 7. Prohibition on mining development and certain research by Council

*[heading substituted by section 6(a) of Act 16 of 2010]*

Notwithstanding anything to the contrary contained in this Act, the Council may not—

- (a) undertake any mining development for itself; and  
*[paragraph (a) substituted by section 6(b) of Act 16 of 2010]*
- (b) undertake any research on behalf of any private institution which may favour the ability of such an institution above all other similar institutions to acquire a mineral asset.

## 8. Exercise of powers of Council outside Republic

- (1) The Council may at the request of the Minister or for the purposes of furthering its objects undertake geoscientific research and perform generic geological functions in any country or territory outside the Republic on behalf of any person, institution, government or administration.

*[subsection (1) substituted by section 7(a) of Act 16 of 2010]*

- (2) Subject to the provisions of subsection (3), the provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* to the exercising by the Council of its powers in terms of this section as if the country or territory in which it so exercises its powers were within the Republic.
- (3) Notwithstanding anything to the contrary contained in this Act, geoscientific research and the performance of generic geological functions under subsection (1) shall be undertaken on such terms and conditions as may be agreed upon between the Council and the person, institution, government or administration on whose behalf the research and the performance of functions are to be undertaken.

*[subsection (3) substituted by section 7(b) of Act 16 of 2010]*

- (4) The Minister may, with the concurrence of the Minister of Finance, indemnify the Council against any losses which it may incur in consequence of any act or omission of a person, institution, government or administration contemplated in subsection (1).
- (5) The Board shall report to the Minister on the activities contemplated in subsection (1).

*[subsection (5) added by section 7(c) of Act 16 of 2010]*

## 9. Period of office and conditions of service of members of Board, and filling of vacancies

- (1) A member or an alternate member of the Board, except the Chief Executive Officer, shall hold office for such period, but not exceeding three years, as the Minister may determine at the time of his or her appointment.
- (2) Any person whose term of office as a member or an alternate member of the Board has expired shall be eligible for re-appointment.
- (3) If a member or an alternate member of the Board for any reason vacates his or her office, the Minister may appoint a person to act in the place of such member or alternate member for the unexpired period of his or her term of office.
- (4) *[subsection (4) omitted by section 9 of Act 16 of 2010]*
- (5) With the exception of the Chief Executive Officer or a member or an alternate member who is in the full-time employment of the State or the Council, the members or alternate members of the Board shall be appointed on such conditions, including conditions relating to the payment of

remuneration and allowances, as the Minister may determine with the concurrence of the Minister of Finance.

*[section 9 substituted by section 9 of [Act 16 of 2010](#)]*

## 10. Chairperson and deputy chairperson of Board

- (1) The Minister shall appoint a member of the Board as deputy chairperson to act as chairperson whenever the chairperson is unable to perform his or her functions as chairperson.
- (2) The chairperson or deputy chairperson, or in their absence a member of the Board elected by the members present, shall preside at a meeting of the Board.
- (3) The provisions of this Act shall not prohibit the Chief Executive Officer from being appointed by the Minister as chairperson of the Board for such period as the Minister may determine.

*[section 10 substituted by section 10 of [Act 16 of 2010](#)]*

## 11. Limitation of powers of Board and Chief Executive Officer

- (1) The Minister may from time to time reserve any matter provided for in this Act, as a matter in respect of which a decision of the Board or the Chief Executive Officer shall be subject to the approval of the Minister.
- (2) The Minister and the Minister of Finance may from time to time jointly reserve any financial matter provided for in this Act, as a matter in respect of which a decision of the Board or the Chief Executive Officer shall be subject to the consent of the Minister with the concurrence of the Minister of Finance.

*[section 11 substituted by section 11 of [Act 16 of 2010](#)]*

## 12. Persons disqualified from being members of Management Board

No person shall be appointed as a member or an alternate member of the Management Board—

- (a) if he is an unrehabilitated insolvent;
- (b) unless he is a citizen of, and permanently resident in, the Republic;
- (c) if he has been convicted of an offence and has been sentenced therefor to imprisonment without the option of a fine; or
- (d) if he—
  - (i) is in terms of the provisions of the Electoral Act, 1998 ([Act No. 73 of 1998](#)), nominated as a candidate for election as a member of Parliament; or
  - (ii) is in terms of the [Constitution of the Republic of South Africa, 1996](#), designated or appointed as a member of Parliament or any other legislative or executive authority of the State.

*[subparagraph (i) substituted by section 12(a) of [Act 16 of 2010](#)]*

*[subparagraph (ii) substituted by section 12(a) of [Act 16 of 2010](#)]*

## 13. Vacating of office by members of Management Board

- (1) A member or an alternate member of the Board, except the Chief Executive Officer, shall vacate his or her office if—
  - (a) he becomes subject to a disqualification contemplated in section [12](#);
  - (b) he becomes of unsound mind;

- (c) (i) in the case of a member, he or she has been absent from more than two consecutive meetings of the Board without the leave of the chairperson;
  - (ii) in the case of the chairperson, he or she has been so absent without the leave of the Board; or
  - (iii) in the case of an alternate member, he or she has without any reason acceptable to the chairperson been so absent during the absence, or a vacancy in the office, of the member in whose stead he or she was appointed as a member or an alternate member, unless the Board condones his or her absence on good cause shown;
- [paragraph (c) substituted by section 13(b) of [Act 16 of 2010](#)]*
- (d) *[paragraph (d) deleted by section 13(c) of [Act 16 of 2010](#)]*
  - (e) he or she ceases to hold the qualification by virtue of which he or she was appointed as a member or an alternate member of the Board; or
- [paragraph (e) substituted by section 13(d) of [Act 16 of 2010](#)]*
- (f) resigns as a member or an alternate member.
- [subsection (1), previously unnumbered, numbered and amended by section 13(a) of [Act 16 of 2010](#)]*
- (2) The Minister may at any time terminate the period of office of a member of the Board if such member is unable to perform his or her duties or is guilty of misconduct as contemplated in section [12](#).
- [subsection (2) added by section 13(e) of [Act 16 of 2010](#)]*
- (3) The Minister may on good cause shown dissolve the Board and appoint a new Board within 30 days in accordance with section [4](#).
- [subsection (3) added by section 13(e) of [Act 16 of 2010](#)]*

#### 14. \*\*\*

*[section 14 repealed by section 14 of [Act 16 of 2010](#)]*

#### 15. Board Committee

- (1) The Board may establish a Committee, which shall, subject to the directions of the Board, during the periods between meetings of the Board perform such functions of the Board as the Board may determine from time to time.
- (2) The Committee shall not be competent, except in so far as the Board may otherwise direct, to set aside or vary a decision of the Board.
- (3) The Committee shall consist of the chairperson and deputy chairperson of the Board, and as many, but not fewer than two, other members of the Board as the Board may determine.
- (4) The chairperson or in his or her absence the deputy chairperson of the Board shall be the chairperson of the Committee.
- (5) The provisions of section [17\(3\)](#) and [\(4\)](#) shall *mutatis mutandis* apply in respect of meetings of the Committee.
- (6) The Board shall not be discharged from responsibility for the performance of any function entrusted to the Committee in terms of this section.
- (7) The Board may vary or set aside any decision of the Committee.

*[section 15 substituted by section 15 of [Act 16 of 2010](#)]*

**16. \*\*\***

*[section 16 repealed by section 16 of [Act 16 of 2010](#)]*

**17. Meetings of Board**

- (1) The meetings of the Board shall be held at such times and places as the Board may determine: Provided that the first meeting shall be held at such time and place as the chairperson may determine.
- (2) The chairperson, or in his or her absence the deputy chairperson, may at any time in his or her discretion call a special meeting of the Board, which shall be held at such time and place as the chairperson or the deputy chairperson, as the case may be, may direct.
- (3) The quorum for a meeting of the Board shall be a majority of its members.
- (4) A decision of the Board shall be taken by resolution of a majority of the members present at any meeting of the Board and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her deliberative vote as a member of the Board.
- (5) No decision taken by or act performed under the authority of the Board shall be invalid by reason only of a casual vacancy on the Board or of the fact that a person who was not entitled to sit as a member of the Board, sat as a member at the time when the decision was taken or that act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Board who were present at the time and entitled to sit as members.
- (6) For the purposes of this section "member" shall include an alternate member present at a particular meeting of the Board during the absence, or a vacancy in the office, of the member for whom he or she has been appointed.
- (7) The Board may with the approval of the Minister accord observer status at any meeting of the Board to designated representatives of any person, institution, government or administration on whose behalf the Council is doing or has done geoscientific research or is performing or has performed generic geological functions in terms of section 8.

*[section 17 substituted by section 17 of [Act 16 of 2010](#)]*

**18. Chief Executive Officer of Council**

- (1)
  - (a) The Board shall with the concurrence of the Minister appoint a Chief Executive Officer of the Council.
  - (b) The Chief Executive Officer of the Council shall hold office for a period not exceeding five years, but shall be eligible for re-appointment.
- (2) The Chief Executive Officer shall be responsible for the management and the performance of the functions of the Council by virtue of this Act and such functions as may be assigned to him or her by the Board or the Minister in terms of the provisions of this Act or by the provisions of this Act or any other law, and shall report on such matters as the Board or the Minister may determine.
- (3) The Chief Executive Officer shall perform his or her functions contemplated in subsection (2) in accordance with the policy and goals determined by the Board and subject to the control of the said Board.
- (4) Whenever the Chief Executive Officer is unable to carry out his or her duties or perform his or her functions for any reason, or whenever there is a vacancy in the office of Chief Executive Officer, the Board, after consulting the Minister, may appoint a person to act as Chief Executive Officer during such inability, or until a Chief Executive Officer has been appointed in terms of subsection (1), and

that person shall, while so acting, have all the powers and perform all the functions of the Chief Executive Officer.

- (5) The Chief Executive Officer shall be appointed on such conditions, including conditions relating to the payment of remuneration, allowances, subsidies and other benefits, as the Board may determine in accordance with a system approved from time to time by the Minister with the concurrence of the Minister of Finance.

*[section 18 substituted by section 18 of [Act 16 of 2010](#)]*

## 19. Personnel of Council and conditions of service

- (1) The executive officer may—
  - (a) on such conditions as may be determined by the Management Board, appoint such employees of the Council as he may deem necessary to assist him in the performance of his functions;
  - (b) pay such employees such remuneration, allowances, subsidies and other benefits as the Management Board may determine in accordance with a system approved from time to time by the Minister with the concurrence of the Minister of State Expenditure.
- (2) The executive officer may—
  - (a) in addition to the employees referred to in subsection (1)(a), be assisted in the performance of his or her functions by officers and employees in the employment of the State who have been placed at the disposal of the Council in terms of the provisions of section 15(3)(a) of the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)).

*[paragraph (a) substituted by section 19 of [Act 16 of 2010](#)]*

  - (b) on such conditions as he may deem fit, second an employee of the Council, either for a particular service or for a period of time, to the service of a department of State, the government of any other country or territory, or any person or institution in or outside the Republic: Provided that an employee shall not be so seconded unless the employee consents thereto: Provided further that if an employee is so seconded, his conditions of service as an employee of the Council shall not be adversely affected thereby.
- (3) The executive officer may from time to time on such conditions and against such security as the Management Board may deem fit—
  - (a) provide collateral security, including guarantees, to a financial institution as defined in section 1 of the Financial Services Board Act, 1990 ([Act No. 97 of 1990](#)), in respect of a loan granted to an employee of the Council by such a financial institution to enable such employee to acquire, improve or enlarge immovable property for the purposes of occupation;
  - (b) build, cause to be built, purchase or rent houses, flats or flat buildings for occupation by employees of the Council, and may sell or let such houses or flats or flat buildings to such employees, or otherwise alienate, let or otherwise dispose of such houses, flats or flat buildings; and
  - (c) establish, institute, erect or carry on sports or recreational societies, social clubs, social and health services, restaurants, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in his opinion may be beneficial to the employees of the Council.
- (4) If a person who is employed in any capacity by or on behalf of the Council, while engaged in any activity in the course of such employment suffers an injury or contracts a disease which is directly attributable thereto, the Minister may with the concurrence of the Minister of State Expenditure authorize the Council to pay compensation to such person, or, in the event of his death, to his dependants.

- (5) The provisions of subsection (4) shall not affect the right of any person to claim damages in respect of any injury or disease referred to in the said subsection.
- (6) (a) Subject to the provisions of paragraph (b), the Council shall for the purposes of the Associated Institutions Pension Fund Act, 1963 ([Act No. 41 of 1963](#)), be deemed to be an associated institution.
- (b) The Management Board may, with the approval of the Minister, granted with the concurrence of the Minister of State Expenditure, institute and manage or cause to be managed a pension or provident fund for employees of the Council.

## 20. Funds of Council

- (1) The funds of the Council shall consist of—
  - (a) The Chief Executive Officer shall utilize the funds of the Council for defraying expenses in connection with the performance of its functions.
  - (b) income derived by virtue of the provisions of subsections (3), (4) and (5);
  - (c) money raised by the Council in terms of section 5(3)(e);
  - (d) fees or royalties contemplated in section 24(2) which are paid to the Council;
  - (e) donations or contributions received by the Council from any person, institution, government or administration;
  - (f) money received from any other source.
- (2) (a) The Chief Executive Officer shall utilize the funds of the Council for defraying expenses in connection with the performance of its functions.
- (b) The Chief Executive Officer shall utilize any money contemplated in subsection (1)(a) in accordance with the approved statement of its estimated income and expenditure referred to in subsection (6): Provided that, subject to the provisions of paragraph (a), the Chief Executive Officer may with the approval of the Board, granted with the concurrence of the Minister, utilize any amount or portion of any amount required to be utilized for a particular purpose in connection with that matter: Provided further that the Chief Executive Officer may, with the approval of the Board, granted with the concurrence of the Minister, utilize any balance of the money remaining at the end of the Council's financial year in question for any expenses in connection with the performance of its functions.
- (c) The Chief Executive Officer shall utilize any donations or contributions contemplated in subsection (1)(e) for such purposes and in accordance with such conditions, if any, as may be specified by the donor or contributor in question.

*[subsection (2) substituted by section 20(a) of [Act 16 of 2010](#)]*

- (3) The Chief Executive Officer may in respect of any work performed or services rendered by him or her under this Act, or for the use of the facilities of the Council or rights resulting from any discoveries, inventions or improvements made by employees of the Council, charge such fees or make such other financial arrangements as the Board may deem fit.

*[subsection (3) substituted by section 20(b) of [Act 16 of 2010](#)]*

- (4) The Chief Executive Officer shall open an account in the name of the Council with an institution registered as a bank in terms of the Banks Act, 1990 ([Act No. 94 of 1990](#)), and shall deposit therein all money received in terms of this section.

*[subsection (4) substituted by section 20(c) of [Act 16 of 2010](#)]*

- (5) (a) The Chief Executive Officer may invest any unexpended portion of the Council's funds with the Corporation for Public Deposits established by section 2 of the Corporation for Public

Deposits Act, 1984 ([Act No. 46 of 1984](#)), or, subject to the approval of the Minister acting with the concurrence of the Minister of Finance, dispose thereof in any other manner.

- (b) The Board may with the approval of the Minister, granted with the concurrence of the Minister of Finance, establish such reserve funds and deposit therein such amounts as it may deem necessary or expedient.

*[subsection (5) substituted by section 20(d) of [Act 16 of 2010](#)]*

- (6) (a) The Board—
- (i) shall in each financial year, at a time determined by the Minister, submit a statement of the Council's estimated income and expenditure during the following financial year;
- (ii) may at any stage in any financial year submit supplementary statements of the Council's estimated expenditure for that financial year,
- to the Minister for his or her approval, granted with the concurrence of the Minister of Finance.

*[paragraph (a) substituted by section 20(e) of [Act 16 of 2010](#)]*

- (b) The Council may not incur any expenditure which exceeds the total amount approved under paragraph (a).

## 21. Accounting, auditing and reporting

- (1) The Chief Executive Officer shall be the accounting officer charged with the responsibility of accounting for all money received and all payments made by the Council.

*[subsection (1) substituted by section 21(a) of [Act 16 of 2010](#)]*

- (2) The accounting officer and the Board shall comply with the provisions of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)).

*[subsection (2) substituted by section 21(a) of [Act 16 of 2010](#)]*

- (3) The Auditor-General shall audit the annual financial statements of the Council.

## 22. Recovery of losses and damage

- (1) If a person who is or was in the employment of the Council caused the Council any loss or damage because he—
- (a) failed to collect money due to the Council and for the collection of which he is or was responsible;
- (b) is or was responsible for an irregular payment of money of the Council or for a payment of such money not supported by a proper voucher;
- (c) is or was responsible for fruitless expenditure of money of the Council owing to an omission to carry out his duties;
- (d) is or was responsible for a deficiency in, or for the destruction of, or damage to, the Council's money, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the Council;
- (e) is or was responsible for a claim against the Council owing to an omission to carry out his duties,

the accounting officer shall determine the amount of such loss or damage, and may order that person, by notice in writing, to pay to the Council, within 30 days from the date of such notice, the whole or any part of the amount so determined.

- (2) If a person who is in the employment of the Council and who has in terms of subsection (1) been ordered to pay an amount, fails to pay such amount within the period stipulated in the notice in question, the amount may, subject to the provisions of subsections (4), (5) and (6), be deducted from his or her monthly salary: Provided that such deduction shall not in any month exceed a fourth of his or her monthly salary.
- [subsection (2) substituted by section 22(a) of [Act 16 of 2010](#)]*
- (3) If a person who was in the employment of the Council and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the accounting officer shall, subject to the provisions of subsections (4), (5) and (6), recover on behalf of the Council the amount from the person concerned by legal process.
- (4) If a person who has in terms of subsection (1) been ordered to pay an amount, offers within the period stipulated in the notice in question, to pay the amount in instalments, the accounting officer may allow payment in such instalments as he may consider reasonable.
- (5) A person who has in terms of subsection (1) been ordered to pay an amount, may within a period of 30 days from the date of such order appeal in writing against such order to the Board, stating the grounds for his or her appeal, and the Board may, after such investigation as it may deem necessary, dismiss the appeal, or order that the appellant be exempted, either wholly or partly, as the Board may deem fair and reasonable, from the payment of such amount.
- [subsection (5) substituted by section 22(b) of [Act 16 of 2010](#)]*
- (6) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the Board under subsection (5), apply within a period of 30 days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not convinced by the accounting officer on the merits of the case that the order was rightly made or that the amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.
- [subsection (6) substituted by section 22(c) of [Act 16 of 2010](#)]*

### **23. Delegation of powers and assignment of functions**

- (1) The Board may—
- on such conditions as it may determine, in writing delegate to the chairperson or any other member of the Board, the Chief Executive Officer or any other employee of, or holder of an office with, the Council or to a committee established under section 15, any power conferred upon the Board by or under this Act;
  - in writing assign to the chairperson or any other member of the Board, the Chief Executive Officer or any other employee of, or holder of an office with, the Council or a committee established under section 15, any function assigned to the Board by or under this Act.
- (2) The Chief Executive Officer may—
- in writing delegate to an employee of, or the holder of an office with, the Council any power conferred upon him or her by or under this Act in his or her capacity as Chief Executive Officer; or
  - in writing assign to such employee or holder of an office any function assigned to him or her by or under this Act in the said capacity.
- (3) Any delegation or assignment under subsection (1) or (2) may be made subject to such conditions and restrictions as may be determined by the Board or by the Chief Executive Officer, as the case may be, and may be rescinded or amended by the Board or the Chief Executive Officer, as the case may be.

- (4) The Board and the Chief Executive Officer shall not be divested of any power or function delegated or assigned under subsection (1) or (2) by the Board or the Chief Executive Officer, and may amend or withdraw any decision made in the exercise of such delegated power or in the performance of a function so assigned.
- (5) *[subsection (5) omitted by section 23 of [Act 16 of 2010](#)]*
- (6) Where a power or function is delegated or assigned under subsection (1) or (2) to the holder of an office, such power or function shall be deemed to have been delegated or assigned to the serving holder of such office or to any person acting in his or her stead.
- (7) The Minister may issue a directive to authorize Council officials to enter any land within the borders of the Republic of South Africa in order to execute the Council's mandate, save where there is prohibition under any other law.
- (8) The Council official referred to in subsection (7) must, before entering the land in question notify and consult with the land owner or lawful occupier of the land.

*[section 23 substituted by section 23 of [Act 16 of 2010](#)]*

#### **24. Discoveries, inventions and improvements by employees of Council and other persons**

- (1) Subject to the provisions of subsections (5) and (6), the rights in all discoveries and inventions and in all improvements in respect of processes, apparatus and machines made by—
  - (a) employees of the Council or officers and employees in the employment of the State who have been placed at the disposal of the Council under section [19\(2\)](#);
  - (b) persons assisting the Council with any investigation or research; or
  - (c) persons to whom bursaries or grants-in-aid have been granted by the Council, unless it is otherwise agreed to by the Council and such persons,

shall vest in the Council.

- (2) The Board may make the discoveries, inventions and improvements referred to in subsection (1) and the rights which are vested in the Council available for use in the public interest subject to such conditions and the payment of such fees or royalties as the Board may determine.

*[subsection (2) substituted by section 24(a) of [Act 16 of 2010](#)]*

- (3) If the rights in any discovery, invention or improvement are vested in the Council in terms of subsection (1), the Board may award to the person responsible for the discovery, invention or improvement such bonus as it deems fit and make provision for financial participation by him or her in the profits derived from such discovery, invention or improvement to such extent as the Minister may determine with the concurrence of the Minister of Finance.

*[subsection (3) substituted by section 24(a) of [Act 16 of 2010](#)]*

- (4) The Board may on behalf of the Council apply for a patent in respect of any discovery, invention or improvement contemplated in subsection (1) and the Council shall for the purposes of the Patents Act, 1978 ([Act No. 57 of 1978](#)), be regarded as the assignee of the discoverer or inventor in question.

*[subsection (4) substituted by section 24(a) of [Act 16 of 2010](#)]*

- (5) The rights in a discovery, invention or improvement made by the employees of the Council in the course of an investigation for or on behalf of another person, government or administration shall vest in the Council, unless otherwise agreed upon between the Board and the person, government or administration concerned.

*[subsection (5) substituted by section 24(a) of [Act 16 of 2010](#)]*

- (6) The provisions of this section shall not apply in respect of a discovery or an invention or improvement contemplated in subsection (1) if, in the opinion of the Board, such discovery, invention or improvement was made by the person concerned otherwise than—
- (a) in the course of his or her employment as an employee of the Council;
  - (b) during the performance of functions in respect of which he or she has been placed at the disposal of the Council in terms of section 19(2);
  - (c) in the course of any investigation or research with which he or she assisted the Council; or
  - (d) in the course of any research in respect of which he or she receives a bursary or grant-in-aid from the Council,

and which is not connected with such employment, investigation or research.

*[subsection (6) substituted by section 24(a) of [Act 16 of 2010](#)]*

## 25. Regulations

- (1) The Minister may, after consultation with the Board, make regulations as to—
- (a) the manner in which meetings of the Executive Management Committee or any other committee nominated by the Management Board shall be convened, the procedure at such meetings, the functions of such committees and the manner in which the minutes of such meetings shall be kept;
  - (b) the matters in respect of which fees shall be payable to the Council, the amount of such fees, the persons who shall be liable for the payment thereof, and the circumstances in which any fees so paid shall be refunded;
  - (c) the procedure at meetings of the Board;
  - (d) the preservation of secrecy in respect of the affairs of the Council; and
  - (e) generally, any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the objectives of this Act, and the generality of this provision shall not be limited by the preceding paragraphs.

*[subsection (1) amended by section 25(a) of [Act 16 of 2010](#)]*

- (2) Any regulation made under subsection (1) may provide that any person contravening such regulation or failing to comply therewith, shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding two years, or to both a fine and such imprisonment.

## 26. Transfer of certain assets and obligations to Council

- (1) Movable and immovable property—
- (a) belonging to the State; and
  - (b) which immediately prior to the commencement of this Act was being utilised by the Geological Survey Branch of the Department of Mineral Resources; and

*[paragraph (b) substituted by section 26(a) of [Act 16 of 2010](#)]*

- (c) which the Minister, with concurrence of the Minister of Finance, and where applicable, the Minister of Public Works, may designate,

*[paragraph (c) substituted by section 26(a) of [Act 16 of 2010](#)]*

shall be deemed to have devolved upon the Council, as from the date of commencement of this Act, without any compensation being payable in respect thereof by the Council.

*[subsection (1) substituted by section 1(a) of [Act 11 of 2003](#)]*

- (2) The Registrar of Deeds concerned shall, at the request of the Council and on the submission of a certificate by the Minister that such immovable property has passed to the Council under this section, make the necessary endorsements in his registers and on the title deeds and other documents concerned to give effect to a transfer in terms of subsection (1).
- (3) No transfer duties, stamp duty, office fees or other fees shall be payable in respect of a registration contemplated in subsection (2).
- (4) As from the date of commencement of this Act all rights and obligations of the State in respect of the aforesaid Geological Survey Branch shall, subject to the provisions of this Act, be deemed to have passed to the Council and any reference in any law or document to the said Geological Survey Branch shall be construed as a reference to the Council.

*[subsection (4) substituted by section 1(b) of [Act 11 of 2003](#)]*

- (5) The Council may, with the approval of the Minister, granted with the concurrence of the Minister of Finance and the Minister of public Works, alienate immovable property that has passed to the Council in terms of subsection (1).

*[subsection (5) substituted by section 26(b) of [Act 16 of 2010](#)]*

## 27. Short title and commencement

This Act shall be called the Geoscience Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.