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No. 25763

THE PRESIDENCY

No. 1732

26 November 2003

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

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

DIE PRESIDENSIE

No. 1732

26 November 2003

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 26 van 2003: Nasionale Kleinsakewysigingswet, 2003.



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GENERAL EXPLANATORY NOTE:

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

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

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

ACT

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

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

Amendment of section 1 of Act 102 of 1996

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

Substitution of Chapter 2 of Act 102 of 1996

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

“CHAPTER 2

Minister’s power to facilitate and establish Advisory Body 10

Minister’s power to facilitate and establish Advisory Body

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

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 21 November 2003.)

WET

Tot wysiging van die Nasionale Kleinsakewet, 1996, ten einde alle bepalings met betrekking tot die Nasionale Kleinsakeraad te herroep; die Minister te magtig om 'n Adviesliggaam te fasiliteer en in te stel om die belange van kleinsake te verteenwoordig; die Wet op Openbare Finansiële Bestuur, 1999, op die Agentskap van toepassing te maak; verder voorsiening te maak ten opsigte van die werksaamhede van die Agentskap; die vereiste vir die aanvra van nominasies vir direkteure van die Direksie by kennisgewing in die *Staatskoerant* te skrap; die bepalings rakende alternatiewe direkteure te herroep; en die Bylae by daardie Wet te vervang ten einde die heersende ekonomiese posisie te reflekteer; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 102 van 1996

1. Artikel 1 van die Nasionale Kleinsakewet, 1996 (hierna die Hoofwet genoem), word hierby gewysig deur die omskrywings van “konstitusie van die Raad”, “Nasionale Koördineerder”, “provinsiale raad” en “Raad” te skrap.

Vervanging van Hoofstuk 2 van Wet 102 van 1996

2. Hoofstuk 2 van die Hoofwet word hierby deur die volgende Hoofstuk vervang:

“HOOFSTUK 2

10 *Minister se bevoegdheid om Adviesliggaam te fasiliteer en in te stel*

Minister se bevoegdheid om adviesliggaam te fasiliteer en in te stel

15 2. Die Minister moet, binne 'n redelike tydperk, 'n proses fasiliteer ten einde 'n Adviesliggaam in te stel om die belange van kleinsake te verteenwoordig en te bevorder soos beoog in die “National Strategy for the Development and Promotion of Small Business in South Africa”, soos vermeld in die woordomskrywing van “Nasionale Kleinsakesteunstrategie” in artikel 1.

Minister's duty to determine Constitution of Advisory Body

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

Amendment of section 9 of Act 102 of 1996

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

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

Amendment of section 10 of Act 102 of 1996

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

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

Minister se plig om Konstitusie vir Adviesliggaam te bepaal

3. (1) Die Minister moet deur 'n oop en deursigtige proses van raadpleging 'n konstitusie vir die Adviesliggaam in artikel 2 vermeld, bepaal.

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(2) Die konstitusie van die Adviesliggaam moet—

- (a) in die algemeen voorsiening maak vir—
- (i) die samestelling van die Adviesliggaam;
 - (ii) die kworum van die vergaderings van die Adviesliggaam;
 - (iii) die prosedure vir die funksionering van die Adviesliggaam;
 - 10 (iv) interaksie met die Parlement, die Departement van Handel en Nywerheid en statutêre liggame; en
 - (v) enige ander aangeleentheid wat nodig mag wees om die verrigtinge, aktiwiteite en werksaamhede van die Adviesliggaam te fasiliteer; en
 - 15 (b) in besonder van die Adviesliggaam vereis om die Minister te adviseer oor—
 - (i) strategieë om geïdentifiseerde markmislukkings wat die sektor affekteer, aan te spreek;
 - (ii) die impak van heersende en nuwe wetgewing op kleinsake;
 - 20 (iii) nasionale standaarde met betrekking tot ontwikkeling en regulering van kleinsake;
 - (iv) maatreëls om die skepping van fisiese besigheidsinfrastruktuur deur lewensvatbare besigheidspersele te verseker;
 - (v) die ontwikkeling van vaardighede in alle aspekte van die dryf van 'n besigheid;
 - 25 (vi) stappe wat gedoen moet word om toegang vir kleinsake in waardekettings te skep;
 - (vii) beletsels wat die lewensvatbaarheid van die kleinsake-gemeenskap belemmer;
 - 30 (viii) metodes om met die kleinsakegemeenskap te raadpleeg om hul behoeftes te identifiseer;
 - (ix) metodes om die voorsiening van ondersteuningsdienste aan die kleinsakesektor te monitor en te beïnvloed; en
 - (x) enige ander aangeleentheid wat die Minister wenslik mag ag.”.

35 Wysiging van artikel 9 van Wet 102 van 1996

3. Artikel 9 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande subartikel subartikel (1) word:

“(2) Die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is op die Agentskap van toepassing.”.

40 Wysiging van artikel 10 van Wet 102 van 1996

4. Artikel 10 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
- “(a) om die lewering van opleiding, advies[,] en voorligting [**en enige ander nie-finansiële dienste**] aan kleinsake ooreenkomstig die Nasionale Kleinsakesteunstrategie uit te brei, te koördineer en te monitor.”;
- 45 (b) deur in subartikel (1)(c) die woorde wat subparagraaf (1) voorafgaan, deur die volgende woorde te vervang:
- “om oorleg te pleeg met enige regeringsorgaan, die [**Raad**] Adviesliggaam of 'n diensverskaffer ten einde—”;
- 50 (c) deur paragraaf (d) van subartikel (1) deur die volgende paragraaf te vervang:
- “(d) die fasilitering en koördinerende navorsing met betrekking tot die ondersteuningsprogramme van die Agentskap.”; en
- (d) deur in subartikel (2) die woord “en” by paragraaf (b) te voeg en paragraaf (c) te skrap.

Amendment of section 11 of Act 102 of 1996

5. Section 11 of the principal Act is hereby amended—

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

“(a) The Minister must, by notice in [**the Gazette and in**] two newspapers which have general circulation throughout the national territory of the Republic, invite nominations for directors to the Board referred to in subsection (1)(a) and (b).”;

(b) by the deletion of subsection (4); and

(c) by the substitution in subsection (6) for paragraph (a) of the following paragraph:

“(a) The Minister, with the concurrence of the Minister of Finance, determines the remuneration and allowances of directors [, **alternate directors and co-opted directors of the Board**] who are not in the full-time service of the State.”.

Amendment of section 19 of Act 102 of 1996

6. Section 19 of the principal Act is hereby amended—

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

“(a) As soon as practicable after the end of every financial year the [**Council**] Advisory Body and the Agency must each compile a report on their respective activities during that year.”;

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

“(2) The [**Council**] Advisory Body and the Agency must furnish the Minister with any such other reports as the Minister may request.”;

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

“(a) particulars of the work performed by the Agency and [**Council**] Advisory Body and of progress achieved in furtherance of the objects of the National Small Business Support Strategy;”;

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

“[(3)] (4) The Director-General must submit the Annual Review of Small Business to the Minister before the end of [**February**] June of each year and the Minister must table it in Parliament.”.

Substitution of Schedule to Act 102 of 1996

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

Substitution of long title of Act 102 of 1996

8. The following long title is hereby substituted for the long title to the principal Act:

“To provide for the establishment of the [**National Small Business Council**] Advisory Body and the Ntsika Enterprise Promotion Agency; [**and**] to provide guidelines for organs of state in order to promote small business in the Republic; and to provide for matters incidental thereto.”.

Short title

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

Wysiging van artikel 11 van Wet 102 van 1996

5. Artikel 11 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
 5 “(a) Die Minister moet, by kennisgewing in [**die Staatkoerant en in**]
 twee koerante wat algemeen deur die hele nasionale grondgebied
 van die Republiek versprei word, nominasies vra vir direkteure van
 die Direksie bedoel in subartikel (1)(a) en (b).”;
- (b) deur subartikel (4) te skrap; en
- (c) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te vervang:
 10 “(a) Die Minister, met die instemming van die Minister van Finansies,
 bepaal die vergoeding en toelaes van direkteure [**alternatiewe**
direkteure en gekoöpteerde direkteure van die Direksie] wat nie
 in die voltydse diens van die Staat is nie.”.

Wysiging van artikel 19 van Wet 102 van 1996

- 15 6. Artikel 19 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
 “(a) So gou doenlik na die einde van elke boekjaar moet die [**Raad**]
 Adviesliggaam en die Agentskap elk ’n verslag oor hulle onderskeie
 aktiwiteite gedurende daardie jaar opstel.”;
- 20 (b) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Die [**Raad**] Adviesliggaam en die Agentskap moet die Minister
 van die ander verslae voorsien wat die Minister versoek.”;
- (c) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
 25 “(a) besonderhede van die werk deur die Agentskap en die [**Raad**]
 Adviesliggaam gedoen en van vordering gemaak in die bevordering
 van die oogmerke van die Nasionale Kleinsakesteunstrategie;” en
- (d) deur die tweede subartikel (3) deur die volgende subartikel te vervang:
 30 “[**(3)**] (4) Die Direkteur-generaal moet die Jaarlikse Kleinsakeoorsig
 voor die einde van [**Februarie**] Junie van elke jaar aan die Minister
 voorlê en die Minister moet dit in die Parlement ter tafel lê.”.

Vervanging van Bylae by Wet 102 van 1996

7. Die Bylae by die Hoofwet word hierby deur die Bylae by hierdie Wet vervang.

Vervanging van lang titel van Wet 102 van 1996

8. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:
 35 “Om voorsiening te maak vir die instelling van die [**Nasionale Kleinsakeraad**]
 Adviesliggaam en die Ntsika-ondernemingontwikkelingsagentskap; [**en**] om
 riglyne vir staatsorgane te verskaf ten einde kleinsake in die Republiek te bevorder;
 en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”.

Kort titel

- 40 9. Hierdie Wet heet die Nasionale Kleinsakewysigingswet, 2003.

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

SCHEDULE**“SCHEDULE***(See definition of ‘small business’ in section 1)*

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

"BYLAE

(Kyk omskrywing van 'kleinsaak' in artikel 1)

Kolom 1	Kolom 2	Kolom 3	Kolom 4	Kolom 5
Sektor of subsektore in ooreenstemming met die Standaard Industriële Klassifikasie	Grootte van Klas	Totale voltydse ekwivalent van betaalde werknemers	Totale jaarlikse omset	Totale bruto batewaarde (vaste bates uitgesluit)
Landbou	Medium	100	R5m	R5m
	Klein	50	R3m	R3m
	Baie klein	10	R0.50m	R0.50m
	Mikro	5	R0.20m	R0.10m
Mynbou en Groefmynbou	Medium	200	R39m	R23m
	Klein	50	R10m	R6m
	Baie klein	20	R4m	R2m
	Mikro	5	R0.20m	R0.10m
Vervaardiging	Medium	200	R51m	R19m
	Klein	50	R13m	R5m
	Baie klein	20	R5m	R2m
	Mikro	5	R0.20m	R0.10m
Elektrisiteit, Gas en Water	Medium	200	R51m	R19m
	Klein	50	R13m	R5m
	Baie klein	20	R5.10m	R1.90m
	Mikro	5	R0.20m	R0.10m
Konstruksie	Medium	200	R26m	R5m
	Klein	50	R6m	R1m
	Baie klein	20	R3m	R0.50m
	Mikro	5	R0.20m	R0.10m
Kleinhandel, Motorhandel en Hersteldienste	Medium	200	R39m	R6m
	Klein	50	R19m	R3m
	Baie klein	20	R4m	R0.60m
	Mikro	5	R0.20m	R0.10m
Groothandel, Komersiële Agente en Aanverwante Dienste	Medium	200	R64m	R10m
	Klein	50	R32m	R5m
	Baie klein	20	R6m	R0.60m
	Mikro	5	R0.20m	R0.10m
Spyseniering, Huisvesting en ander Handel	Medium	200	R13m	R3m
	Klein	50	R6m	R1m
	Baie klein	20	R5.10m	R1.90m
	Mikro	5	R0.20m	R0.10m

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

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

Kolom 1	Kolom 2	Kolom 3	Kolom 4	Kolom 5
Sektor of subsektore in ooreenstemming met die Standaard Industriële Klassifikasie	Grootte van Klas	Totale voltydse ekwivalent van betaalde werknemers	Totale jaarlikse omset	Totale bruto batewaarde (vaste bates uitgesluit)
Vervoer, Berging en Kommunikasie	Medium	200	R26m	R6m
	Klein	50	R13m	R3m
	Baie klein	20	R3m	R0.60m
	Mikro	5	R0.20m	R0.10m
Finansiering en Besigheidsdienste	Medium	200	R26m	R5m
	Klein	50	R13m	R3m
	Baie klein	20	R3m	R0.50m
	Mikro	5	R0.20m	R0.10m
Gemeenskaps-, Welsyns- en Persoonlike Dienste	Medium	200	R13m	R6m
	Klein	50	R6m	R3m
	Baie klein	20	R1m	R0.60m
	Mikro	5	R0.20m	R0.10m".

