



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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OFFICE OF THE PRESIDENT

No. 1541.

27 November 1998

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

No. 108 of 1998: National Development Agency Act, 1998.

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KANTOOR VAN DIE PRESIDENT

No. 1541.

27 November 1998

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

No. 108 van 1998: Wet op die Nasionale Ontwikkelingsagentskap, 1998.

*(English text signed by the President.)  
(Assented to 19 November 1998.)*

# ACT

To establish a National Development Agency aimed at promoting an appropriate and sustainable partnership between the Government and civil society organisations to eradicate poverty and its causes; to determine the objects and functions of the Agency; to determine the manner in which it is to be managed and governed; to regulate its staff matters and financial affairs; and to provide for connected matters.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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## Definitions

1. In this Act, unless the context indicates otherwise—
  - (i) **“Board”** means the board of the NDA referred to in section 5(1); (vii) 20
  - (ii) **“chief executive officer”** means the chief executive officer appointed in terms of section 9(1); (iv)
  - (iii) **“civil society organisation”** means a trust, company or voluntary association established for a public purpose, but does not include an organ of state; (ii)
  - (iv) **“financial year”** means the period from 1 April in any year to 31 March in the next year; (i) 25
  - (v) **“Minister”** means the Minister of Finance; (v)
  - (vi) **“NDA”** means the National Development Agency, established by section 2; (vi)
  - (vii) **“this Act”** includes any regulation made and in force in terms of section 13. 30

## Establishment of National Development Agency

2. A juristic person to be known as the National Development Agency is hereby established.

*(Engelse teks deur die President geteken.)  
(Goedgekeur op 19 November 1998.)*

# WET

Om 'n Nasionale Ontwikkelingsagentskap in te stel wat die bevordering van 'n toepaslike en volhoubare vennootskap tussen die Regering en burgerlike sameleavingsorganisasies beoog ten einde armoede en die oorsake daarvan uit te roei; om die oogmerke en funksies van die Agentskap te bepaal; om die wyse waarop dit bestuur en beheer moet word, te bepaal; om sy werknemersaangeleenthede en finansiële sake te reël; en om voorsiening te maak vir verbandhoudende aanleenthede.

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

## INHOUD VAN WET

1. Woordoms krywing
- 5 2. Instelling van Nasionale Ontwikkelingsagentskap
3. Oogmerke van NOA
4. Pligte en bevoegdhede van NOA
5. Samestelling van NOA se Raad, vul van vakatures en vergoeding
6. Ampstermyn en diskwalifikasies van lede van Raad
- 10 7. Vergaderings van Raad
8. Bestuurskomitee
9. Hoof- uitvoerende beampte en ander personeel
10. Finansiering
11. Oudit en jaarverslag
- 15 12. Delegering
13. Regulasies
14. Kort titel en inwerkingtreding

## Woordoms krywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 20 (i) **“boekjaar”** die tydperk van 1 April in enige jaar tot 31 Maart in die volgende jaar; (iv)
- (ii) **“burgerlike sameleavingsorganisasie”** 'n trust, maatskappy of vrywillige organisasie wat vir 'n openbare doel ingestel is, maar nie ook 'n staatsorgaan nie; (iii)
- 25 (iii) **“hierdie Wet”** ook enige regulasie uitgevaardig en van krag ingevolge artikel 13; (vii)
- (iv) **“hoof- uitvoerende beampte”** die hoof- uitvoerende beampte wat ingevolge artikel 9(1) aangestel is; (ii)
- (v) **“Minister”** die Minister van Finansies; (v)
- 30 (vi) **“NOA”** die Nasionale Ontwikkelingsagentskap, by artikel 2 ingestel; (vi)
- (vii) **“Raad”** die raad van die NOA bedoel in artikel 5(1). (i)

## Instelling van Nasionale Ontwikkelingsagentskap

2. 'n Regspersoon met die naam die Nasionale Ontwikkelingsagentskap word hierby ingestel.

## Objects of NDA

3. (1) The primary object of the NDA is to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of—

- (a) carrying out projects or programmes aimed at meeting development needs of poor communities; and 5
- (b) strengthening the institutional capacity of other civil society organisations involved in direct service provision to poor communities.

(2) The secondary objects of the NDA are—

- (a) to promote— 10
  - (i) consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state; and
  - (ii) debate on development policy; and
- (b) to undertake research and publication aimed at providing the basis for development policy. 15

## Duties and powers of NDA

4. (1) The NDA must—

- (a) act as a key conduit for funding from the Government of the Republic, foreign governments and other national and international donors for development work to be carried out by civil society organisations; 20
- (b) develop, conduct and co-ordinate policy relevant to its objects referred to in section 3;
- (c) contribute towards building the capacity of civil society organisations to enable them to carry out development work effectively; and
- (d) create and maintain a database on civil society organisations, including, but not limited to, the scope and subject matter of their work and their geographical distribution, and share the information in that database with relevant organs of state and other stakeholders. 25

(2) The NDA may—

- (a) grant money from its funds— 30
  - (i) in accordance with such criteria and procedures as the NDA determines; and
  - (ii) with due regard to the NDA's primary object referred to in section 3(1), to any civil society organisation for any project or programme that organisation intends to undertake or is undertaking; 35
- (b) make recommendations with regard to legislation and policies directly or indirectly constraining effective development in the Republic;
- (c) exercise any power conferred by any other provision of this Act; and
- (d) generally, do everything which is necessary to achieve its objects referred to in section 3. 40

(3) Any grant in terms of subsection (2)(a) to any civil society organisation may not be distributed to its members or office bearers except as reasonable compensation for services rendered.

(4) Any civil society organisation to which a grant is made in terms of subsection (2)(a) must submit to the NDA— 45

- (a) audited financial statements regarding the use of that grant at the intervals and in the form prescribed by regulation in terms of section 13; and
  - (b) in respect of each financial year of the organisation, a comprehensive, narrative report containing—
    - (i) an analysis of every project or programme in respect of which that grant is made and a description of all other activities of the organisation; and 50
    - (ii) an audited financial report,
- not later than the date prescribed by regulation in terms of section 13.

WET OP DIE NASIONALE  
ONTWIKKELINGSAGENTSAP, 1998

Wet No. 108, 1998

**Oogmerke van NOA**

3. (1) Die primêre oogmerk van die NOA is om tot die uitroei van armoede en sy oorsake by te dra deur die toestaan van fondse aan burgerlike samelewingsorganisasies vir die doeleindes van—

- 5 (a) die uitvoer van projekte of programme wat beoog om aan die ontwikkelingsbehoefte van arm gemeenskappe te voldoen; en
- (b) die versterking van die institusionele vermoë van ander burgerlike samelewingsorganisasies betrokke by direkte diensverskaffing aan arm gemeenskappe;
- 10 (2) Die sekondêre oogmerke van die NOA is—
  - (a) die bevordering van—
    - (i) oorlegpleging, dialoog en deel van ontwikkelingservaring tussen burgerlike samelewingsorganisasies en tersaaklike staatsorgane; en
    - (ii) debat oor ontwikkelingsbeleid; en
  - 15 (b) die onderneem van navorsing en publikasie wat beoog om die grondslag vir ontwikkelingsbeleid te verskaf.

**Pligte en bevoegdheids van NOA**

4. (1) Die NOA moet—
  - 20 (a) optree as 'n hoofkanaal vir die befondsing vanaf die Regering van die Republiek, buitelandse regerings en ander nasionale en internasionale skenkers vir ontwikkelingswerk wat deur burgerlike samelewingsorganisasies uitgevoer moet word;
  - (b) beleid, wat met sy oogmerke bedoel in artikel 3 verband hou, ontwikkel, beoefen en koördineer;
  - 25 (c) tot die opbou van die vermoë van burgerlike samelewingsorganisasies bydra om hulle in staat te stel om ontwikkelingswerk doeltreffend uit te voer; en
  - (d) 'n databasis oor burgerlike samelewingsorganisasies, insluitende, maar nie beperk nie tot, die omvang en onderwerp van hulle werk en hul geografiese verspreiding, skep en in stand hou, en die inligting in daardie databasis met tersaaklike staatsorgane en ander belanghebbendes deel.
- 30 (2) Die NOA kan—
  - (a) geld uit sy fondse, toestaan—
    - (i) ooreenkomstig die kriteria en prosedures wat die NOA vasstel; en
    - 35 (ii) met behoorlike inagneming van die NOA se primêre oogmerk bedoel in artikel 3(1),
 aan enige burgerlike samelewingsorganisasie vir enige projek of program wat die organisasie beoog om te onderneem of onderneem;
  - (b) aanbevelings doen met betrekking tot wetgewing en beleid wat regstreeks of onregstreeks doeltreffende ontwikkeling in die Republiek belemmer;
  - 40 (c) enige bevoegdheid wat by enige ander bepaling van hierdie Wet verleen word, uitoefen; en
  - (d) oor die algemeen alles doen wat nodig is om sy oogmerke bedoel in artikel 3 te bereik.
- (3) Enige toekenning ingevolge subartikel (2)(a) aan enige burgerlike samelewings-
 45 organisasie mag nie aan sy lede of ampsdraers, behalwe as redelike vergoeding vir dienste gelewer, uitgekeer word nie.
- (4) Enige burgerlike samelewingsorganisasie aan wie 'n toekenning ingevolge subartikel (2)(a) gedoen word, lê aan die NOA voor—
  - 50 (a) geouditeerde finansiële state betreffende die gebruik van daardie toekenning met die tussenposes en in die vorm wat by regulasie ingevolge artikel 13 voorgeskryf word; en
  - (b) ten opsigte van elke boekjaar van die organisasie, 'n uitvoerige, beskrywende verslag bevattende—
    - 55 (i) 'n ontleding van elke projek of program ten opsigte waarvan daardie toekenning gedoen word en 'n beskrywing van alle ander aktiwiteite van die organisasie; en
    - (ii) 'n geouditeerde finansiële verslag,
 nie later as die dag wat by regulasie ingevolge artikel 13 voorgeskryf word nie.

(5) Any grant in terms of subsection (2)(a) must be sufficient to defray the expenses which the civil society organisation in question will have to incur in order to comply with subsection (4).

### Composition of NDA's Board, filling of vacancies and remuneration

5. (1) The NDA acts through a board consisting of— 5
- (a) six members to represent the Government appointed by the Minister of Finance after consultation with the Ministers of Education, Health, Housing, Public Works, Trade and Industry, Welfare and Population Development, and Water Affairs and Forestry and such other Ministers as the Minister of Finance considers necessary to consult; and 10
  - (b) nine members to represent civil society organisations appointed by the Minister after an open and transparent process of considering a short list of candidates presented to the Minister by a panel, comprising an equal number of representatives from State Departments and of experts in the development field, established by the Minister for that purpose. 15
- (2) For the purpose of the appointment of the members of the Board referred to in subsection (1)(b), the Minister must through the media and by notice in the *Gazette* invite nominations of persons as candidates for such appointment.
- (3) At least two members of the Board must have proven knowledge or experience of financial management. 20
- (4) When the members of the Board are appointed and the panel is established, the need for the Board and the panel to reflect broadly the race, gender and geographic composition of the Republic must be considered.
- (5) (a) The first meeting of the Board must be held at such time and place and chaired by such member as the Minister determines. 25
- (b) At that meeting the members of the Board must elect—
    - (i) a chairperson from among the members referred to in subsection (1)(b); and
    - (ii) a deputy chairperson from among the members referred to in subsection (1)(a) and (b).
- (6) Any vacancy on the Board must be filled in the same manner in which the member who vacates the office was appointed. 30
- (7) If the office of chairperson or deputy chairperson of the Board becomes vacant, a chairperson or deputy chairperson, as the case may be, must be elected in accordance with subsection (5).
- (8) If both the chairperson and deputy chairperson of the Board are absent or unable to perform any function of the chairperson, the Minister may designate any other member to act as chairperson during such absence or incapacity. 35
- (9) No vacancy in the office of the chief executive officer or a deficiency in the number of members of the Board affects or impairs the corporate existence of the NDA or any rights, duties or powers conferred or imposed by this Act upon the NDA or the Board. 40
- (10) No decision of the Board is valid unless passed at a meeting—
- (a) at which the quorum required by section 7(3) was present; and
  - (b) held in accordance with the other provisions of section 7.
- (11) A member of the Board who is not in the full-time employment of the State is paid such remuneration and allowances as the Minister determines. 45

### Term of office, and disqualifications, of members of Board

6. (1) The Board must be reconstituted every three years in accordance with section 5(1) to (4).
- (2) A member of the Board is eligible for reappointment but may not serve as member of the Board for more than two consecutive terms. 50
- (3) A person who has been appointed to fill a vacancy on the Board is regarded as having served the full term of three years for which the Board was constituted.
- (4) A member of the Board must vacate office if—
- (a) the Minister, on the recommendation of the Board, terminates the member's office for reasons which are just and fair; 55

(5) Enige toekenning ingevolge subartikel (2)(a) moet voldoende wees om die uitgawes te dek wat die betrokke burgerlike samelewingsorganisasie sal moet aangaan om aan subartikel (4) te voldoen.

#### **Samestelling van NOA se Raad, vul van vakatures en vergoeding**

- 5     **5.** (1) Die NOA tree op deur 'n raad wat bestaan uit—
- (a) ses lede om die Regering te verteenwoordig wat, aangestel word deur die Minister van Finansies, na oorleg met die Ministers van Onderwys, Gesondheid, Behuising, Openbare Werke, Handel en Nywerheid, Welsyn en Bevolkingsontwikkeling, en Waterwese en Bosbou en die ander Ministers wat die
- 10     Minister nodig ag om te raadpleeg; en
- (b) nege lede om burgerlike samelewingsorganisasies te verteenwoordig wat deur die Minister van Finansies aangestel is na 'n oop en deursigtige proses van die oorweging van 'n kortlys van kandidate wat aan die Minister voorgelê is deur 'n paneel, wat bestaan uit 'n gelyke aantal van verteenwoordigers van Staatsdepartemente en van kenners in die ontwikkelingsveld,
- 15     daargestel deur die Minister vir daardie doel.
- (2) Vir die doeleindes van die aanstelling van die lede van die Raad bedoel in subartikel (1)(b) moet die Minister deur middel van die media en by kennisgewing in die *Staatskoerant* nominasies van persone as kandidate vir sodanige aanstelling uitnooi.
- 20     (3) Minstens twee lede van die Raad moet bewese kennis of ondervinding van finansiële bestuur hê.
- (4) Wanneer die lede van die Raad aangestel word en die raad daargestel word, moet die behoefte dat die Raad en die paneel in die breë die rasse-, geslag- en geografiese samestelling van die Republiek weerspieël in aanmerking geneem word.
- 25     (5) (a) Die eerste vergadering van die Raad moet gehou word op die tyd en plek en onder voorsitterskap van die lid wat die Minister bepaal.
- (b) By daardie vergadering moet die lede van die Raad—
- (i) 'n voorsitter uit die geledere van die lede bedoel in subartikel (1)(b); en
- (ii) 'n adjunkvoorsitter uit die geledere van die lede bedoel in subartikel (1)(a) en
- 30     (b),
- verkies.
- (6) Enige vakature in die Raad moet gevul word op dieselfde wyse waarop die lid wie se amp vakant geword het, aangestel is.
- (7) Indien die amp van voorsitter of adjunkvoorsitter van die Raad vakant word,
- 35     moet 'n voorsitter of adjunkvoorsitter, na gelang van die geval, ooreenkomstig subartikel (5) verkies word.
- (8) Indien beide voorsitter en adjunkvoorsitter van die Raad afwesig is of nie in staat is om enige funksie van die voorsitter te verrig nie, kan die Minister enige ander lid aanwys om as voorsitter op te tree tydens sodanige afwesigheid of onvermoë.
- 40     (9) Die korporatiewe bestaan van die NOA of enige regte, pligte of bevoegdhede by hierdie Wet aan die NOA of die Raad verleen of opgelê, word nie geraak of aangetas nie deur 'n vakature in die amp van die hoof- uitvoerende beampte of 'n tekort in die getal lede van die Raad.
- (10) Geen besluit van die Raad is geldig nie tensy dit by 'n vergadering aangeneem
- 45     is—
- (a) waarby die kworum wat deur artikel 7(3) vereis word, aanwesig was; en
- (b) wat ooreenkomstig die ander bepalings van artikel 7 gehou is.
- (11) 'n Lid van die Raad, wat nie in die voltydse diens van die Staat is nie, word die vergoeding en toelaes betaal wat die Minister bepaal.

#### **50 Ampstermyn en diskwalifikasies van lede van Raad**

- 6.** (1) Die Raad moet elke drie jaar ooreenkomstig artikel 5(1) tot (4) hersaamgestel word.
- (2) 'n Lid van die Raad is geregtig om weer aangestel te word, maar mag nie vir meer as twee opeenvolgende termyne as lid van die Raad dien nie.
- 55     (3) 'n Persoon wat aangestel is om 'n vakature in die Raad te vul, word geag die volle termyn van drie jaar waarvoor die Raad saamgestel is, te gediën het.
- (4) 'n Lid van die Raad moet sy of haar amp ontruim indien—
- (a) die Minister, op aanbeveling van die Raad, die lid se amp beëindig om redes wat regverdig en billik is;

- (b) the member is convicted of an offence of which dishonesty is an element;
- (c) the member is absent from two or more meetings in one calendar year without the chairperson's permission;
- (d) the member resigns after giving at least 30 days notice in writing of the resignation to the chairperson.

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### Meetings of Board

7. (1) The Board must meet at least four times a year at such times and places as the Board determines.

(2) The chairperson, or in the absence of the chairperson, the deputy chairperson—

- (a) may convene a special meeting of the Board;
- (b) must convene such meeting within 14 days of the receipt of a written request signed by at least five members of the Board to convene such meeting.

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(3) The quorum for a meeting of the Board is at least eight members of the Board.

(4) The Board determines the procedure at its meetings.

(5) The chief executive officer may attend and take part, but may not vote, in a meeting of the Board.

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(6) A decision of the Board must be taken by resolution of the majority of members present at any meeting of the Board and, in the event of equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote.

(7) A member of the Board must, as such member, act impartially and in good faith and without fear, favour or prejudice and subject only to the Constitution and other applicable law.

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(8) If a member of the Board has, in relation to any matter to be considered at a meeting of the Board, any interest which precludes that member from acting in a fair, unbiased and proper manner in respect of his or her membership of the Board, the member may not—

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- (a) vote or in any other manner participate in that meeting of the Board;
- (b) be present at the venue where the meeting is held.

### Management committee

8. (1) At its first meeting or as soon as possible thereafter, the Board must establish a management committee consisting of—

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- (a) the chairperson and deputy chairperson of the Board;
- (b) two members of the Board referred to in section 5(1)(a), appointed by the Board; and
- (c) two members of the Board referred to in section 5(1)(b), appointed by the Board.

35

(2) At least one member of the management committee must have proven knowledge or experience of financial management.

(3) The chairperson and deputy chairperson of the Board are the chairperson and deputy chairperson, respectively, of the management committee.

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(4) The management committee must perform such duties and may exercise such powers of the Board as it delegates to that committee in terms of section 12(2).

(5) The management committee must meet as often as is necessary to perform and exercise its duties and powers at such times and places, and in accordance with such procedure, as that committee determines.

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(6) The chief executive officer may attend and take part in, but may not vote at, a meeting of the management committee.

### Chief executive officer and other staff

9. (1) The Board must appoint a chief executive officer for the NDA, who is also the accounting officer of the NDA.

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(2) The chief executive officer—

- (a) must manage the affairs of the NDA and report on those affairs to the Board as often as the Board requires;

- (b) die lid skuldig bevind word aan 'n misdryf waarvan oneerlikheid 'n element is;
- (c) die lid sonder die voorsitter se toestemming van twee of meer vergaderings in een kalenderjaar afwesig is;
- 5 (d) die lid bedank nadat minstens 30 dae skriftelike kennisgewing van die bedanking aan die voorsitter gegee is.

### Vergaderings van Raad

- 7. (1) Die Raad moet minstens vier maal per jaar op die tye en plekke wat die Raad bepaal, vergader.
- 10 (2) Die voorsitter, of in die afwesigheid van die voorsitter, die adjunkvoorsitter—
  - (a) kan 'n spesiale vergadering van die Raad belê;
  - (b) moet sodanige vergadering, belê binne 14 dae van die ontvangs van 'n skriftelike versoek, onderteken deur minstens vyf lede van die Raad, om sodanige vergadering te belê.
- 15 (3) Die kworum vir 'n vergadering van die Raad is minstens agt lede van die Raad.
- (4) Die Raad bepaal die prosedures by sy vergaderings.
- (5) Die hoof- uitvoerende beampte kan 'n vergadering van die Raad bywoon en daaraan deelneem, maar mag nie daarin stem nie.
- (6) 'n Besluit van die Raad moet geskied by wyse van 'n besluit van die meerderheid
- 20 van die lede wat op enige vergadering van die Raad aanwesig is en by 'n staking van stemme het die persoon wat voorsit 'n beslissende stem benewens sy of haar beraadslagende stem.
- (7) 'n Lid van die Raad moet, as sodanige lid, onpartydig en te goeder trou en sonder vrees, begunstiging of vooroordeel, en slegs onderworpe aan die Grondwet en ander
- 25 toepaslike reg, optree.
- (8) Indien 'n lid van die Raad, met betrekking tot enige aangeleentheid wat by 'n vergadering van die Raad oorweeg moet word, enige belang het wat daardie lid verhoed om op 'n billike, onbevooroordeelde en behoorlike wyse ten opsigte van sy of haar lidmaatskap van die Raad op te tree, mag die lid—
- 30 (a) nie stem of op enige wyse aan daardie vergadering van die Raad deelneem nie;
- (b) nie aanwesig wees nie by die plek waar die vergadering gehou word.

### Bestuurskomitee

- 8. (1) By sy eerste vergadering of so gou moontlik daarna, moet die Raad 'n
- 35 bestuurskomitee instel wat bestaan uit—
  - (a) die voorsitter en adjunkvoorsitter van die Raad;
  - (b) twee lede van die Raad bedoel in artikel 5(1)(a), wat deur die Raad aangestel word; en
  - (c) twee lede van die Raad bedoel in artikel 5(1)(b), wat deur die Raad aangestel word.
- 40 (2) Minstens een lid van die bestuurskomitee moet bewese kennis of ondervinding van finansiële bestuur hê.
- (3) Die voorsitter en adjunkvoorsitter van die Raad is onderskeidelik die voorsitter en adjunkvoorsitter van die bestuurskomitee.
- 45 (4) Die bestuurskomitee moet die pligte, en kan die bevoegdhede van die Raad, verrig en uitoefen wat hy aan daardie komitee ingevolge artikel 12(2) delegeer.
- (5) Die bestuurskomitee moet so dikwels vergader as wat nodig is om sy pligte en bevoegdhede te verrig en uit te oefen op die tye en plekke, en ooreenkomstig die prosedure, wat daardie komitee bepaal.
- 50 (6) Die hoof- uitvoerende beampte kan 'n vergadering van die bestuurskomitee bywoon en daaraan deelneem, maar mag nie daartydens stem nie.

### Hoof- uitvoerende beampte en ander personeel

- 9. (1) Die Raad moet 'n hoof- uitvoerende beampte vir die NOA aanstel wat ook die rekenpligtige beampte van die NOA is.
- 55 (2) Die hoof- uitvoerende beampte moet—
  - (a) die sake van die NOA bestuur en oor daardie sake aan die Raad, verslag doen so dikwels as wat die Raad vereis;

- (b) must as accounting officer, account for all money received by the NDA, the utilisation of such money and the assets of the NDA; and
- (c) must perform such duties and may exercise such powers of the Board as it delegates to the chief executive officer in terms of section 12(2).
- (3) The chief executive officer may do everything which is necessary to perform his or her duties in terms of this Act. 5
- (4) The NDA must enter into a written performance contract, stipulating measurable objectives, with the chief executive officer relating to the performance of that officer's functions in terms of this Act.
- (5) The NDA and the chief executive officer may in writing amend the performance contract from time to time. 10
- (6) The chief executive officer is appointed—
  - (a) for such period, but not exceeding five years, as the Board determines; and
  - (b) subject to such conditions as the Board, subject to subsection (8), determines.
- (7) On such conditions as the Board, subject to subsection (8), determines, the chief executive officer may appoint such employees as are necessary to enable the NDA to perform its duties and exercise its powers. 15
- (8) The NDA must pay to its chief executive officer and employees out of its funds such remuneration, allowances, subsidies and other benefits as the Minister determines.

### Financing

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- 10. (1) The funds of the NDA consist of—
  - (a) money appropriated by Parliament;
  - (b) donations and contributions lawfully received by the NDA from any source;
  - (c) interest on investments of the NDA; and
  - (d) income lawfully derived from any other source. 25
- (2) The NDA must utilise—
  - (a) its funds to cover costs in connection with the performance and exercise of its duties and powers in terms of this Act;
  - (b) any money contemplated in subsection (1)(a) in accordance with the statement referred to in subsection (3); 30
  - (c) any donation or contribution contemplated in subsection (1)(b) in accordance with the conditions imposed by the donor or contributor in question.
- (3) The NDA must, in each financial year at such time as the Minister determines, submit to the Minister for approval—
  - (a) a business plan for the NDA, containing measurable objectives and the other information contemplated in section 11(3)(b) and (c) and such further information as the Minister determines; and 35
  - (b) a statement of the NDA's estimated income and expenditure, in respect of the following three financial years or such longer or shorter period as the Minister determines. 40
- (4) In any financial year the NDA may submit to the Minister for approval supplementary statements of the NDA's estimated income and expenditure for that financial year.
- (5) The NDA may not enter into any financial commitment beyond its approved budget and its accumulated reserves. 45
- (6) The NDA may—
  - (a) invest any unexpended portion of its funds with the Corporation for Public Deposits; or
  - (b) with the approval of the Minister, dispose of that portion in any other manner.
- (7) The NDA may establish such reserve funds, and deposit therein such amounts, as the Minister approves. 50

### Audit and annual report

- 11. (1) The Auditor-General must audit the financial statements of the NDA.
- (2) The NDA must table a report on its activities during a financial year in Parliament within three months after the end of that financial year. 55
- (3) The report must—

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- (b) as rekenpligtige beampte, oor alle geld deur die NOA ontvang, die gebruik van sodanige geld en die bates van die NOA verslag doen; en
  - (c) die pligte van die Raad verrig en kan die bevoegdhede van die Raad uitoefen wat hy aan die hoof- uitvoerende beampte-ingevalge artikel 12(2) delegeer.
- 5 (3) Die hoof- uitvoerende beampte kan alles doen wat nodig is om sy of haar pligte ingevalge hierdie Wet te verrig.
- (4) Die NOA moet 'n skriftelike prestasie-kontrak, wat meetbare doelwitte stipuleer, met die hoof- uitvoerende beampte sluit met betrekking tot die verrigting van daardie beampte se funksies ingevalge hierdie Wet.
- 10 (5) Die NOA en die hoof- uitvoerende beampte kan skriftelik van tyd tot tyd die prestasie-kontrak wysig.
- (6) Die hoof- uitvoerende beampte word aangestel—
- (a) vir die tydperk, maar nie meer as vyf jaar nie, wat die Raad bepaal; en
  - (b) onderhewig aan die voorwaardes wat die Raad behoudens subartikel (8)
- 15 bepaal.
- (7) Op die voorwaardes wat die Raad behoudens subartikel (8) bepaal, kan die hoof- uitvoerende beampte die werknemers aanstel wat nodig is om die NOA in staat te stel om sy pligte te verrig en sy bevoegdhede uit te oefen.
- (8) Die NOA moet aan sy hoof- uitvoerende beampte en werknemers uit sy fondse
- 20 die vergoeding, toelaes, subsidies en ander voordele betaal wat die Minister bepaal.

**Finansiering**

10. (1) Die fondse van die NOA bestaan uit—
- (a) geld wat deur die Parlement bewillig word;
  - (b) skenkings en bydraes wat regmatig deur die NOA vanaf enige bron ontvang
- 25 is;
- (c) rente op beleggings van die NOA; en
  - (d) inkomste regmatig uit enige bron verkry.
- (2) Die NOA moet—
- (a) sy fondse gebruik om sy koste met betrekking tot die verrigting en
- 30 uitoefening van sy pligte en bevoegdhede ingevalge hierdie Wet te dek;
- (b) enige geld beoog in subartikel (1)(a) ooreenkomstig die staat bedoel in subartikel (3) gebruik;
  - (c) enige skenking of bydrae beoog in subartikel (1)(b), gebruik ooreenkomstig die voorwaardes wat deur die betrokke skenker of bydraer opgelê word.
- 35 (3) Die NOA moet, in elke boekjaar op die tydstip wat die Minister bepaal, aan die Minister—
- (a) 'n besigheidsplan vir die NOA, wat meetbare doelwitte en die ander inligting beoog in artikel 11(3)(b) en (c) en die verdere inligting wat die Minister bepaal, bevat; en
- 40 (b) 'n staat van die NOA se geraamde inkomste en uitgawes, ten opsigte van die volgende drie jaar of die langer of korter tydperk wat die Minister bepaal, vir goedkeuring voorlê.
- (4) In enige boekjaar kan die NOA aan die Minister 'n aanvullende staat van die NOA se geraamde inkomste en uitgawes vir daardie boekjaar vir goedkeuring voorlê.
- 45 (5) Die NOA mag nie enige finansiële verbintenis, aangaan wat sy goedgekeurde begroting en sy opgehoopte reserwes te bowe gaan nie.
- (6) Die NOA kan—
- (a) enige onbestede gedeelte van sy fondse by die Korporasie vir Openbare Deposito's belê; of
- 50 (b) met die goedkeuring van die Minister, oor daardie gedeelte op enige ander wyse beskik.
- (7) Die NOA kan die reserwefondse instel, en daarin die bedrae deponeer, wat die Minister goedkeur.

**Oudit en jaarverslag**

- 55 11. (1) Die Ouditeur-generaal moet die finansiële state van die NOA ouditeer.
- (2) Die NOA moet 'n verslag oor sy aktiwiteite gedurende 'n boekjaar in die Parlement ter tafel lê binne drie maande na die einde van daardie boekjaar.
- (3) Die verslag moet—

- (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
- (b) state the extent to which the NDA 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.

### Delegation

12. (1) The Minister may delegate to the Director-General: Finance— 10
- (a) any power conferred on the Minister by this Act, except the power, in terms of section 13, to make regulations;
  - (b) any duty imposed on the Minister by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5 and 6(4)(a). 15
- (2) The Board may delegate to the management committee referred to in section 8(1) or the chief executive officer any power or duty conferred or imposed on the Board by this Act, except the power to grant money as contemplated in section 4(2)(a).
- (3) The chief executive officer may delegate to any employee of the NDA any power or duty conferred or imposed on that officer by this Act, except any duty as accounting officer of the NDA. 20
- (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 in terms of subsection (1), (2) or (3)— 25
- (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;
  - (c) may at any time be withdrawn or amended in writing by that person or body.

### Regulations

13. The Minister may, after consultation with the Board and by notice in the *Gazette*, make regulations which—

- (a) may or must be prescribed in terms of this Act;
- (b) are necessary for the effective administration of this Act.

### Short title and commencement

14. This Act is called the National Development Agency Act, 1998, and takes effect on a date determined by the President by proclamation in the *Gazette*.

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- (a) 'n balansstaat en 'n staat van inkomste en uitgawes deur die Ouditeur-generaal gesertifiseer, insluit;
- (b) die mate waarin die NOA sy oogmerke bedoel in artikel 3 en die meetbare doelwitte soos in sy besigheidsplan uiteengesit gedurende die betrokke boekjaar, bereik of bevorder het, verklaar; en
- (c) tersaaklike prestasie-inligting betreffende die ekonomiese, doeltreffende en effektiewe aanwending van bronne en in besonder 'n vergelyking tussen beplande en werklike prestasie-aanwysers soos in daardie besigheidsplan uiteengesit is, bevat.

**10 Delegering**

12. (1) Die Minister kan aan die Direkteur-generaal: Finansies—
- (a) enige bevoegdheid by hierdie Wet aan die Minister verleen, uitgesonderd die bevoegdheid om, ingevolge artikel 13, regulasies uit te vaardig, delegeer;
- (b) enige plig by hierdie Wet aan die Minister opgelê, uitgesonderd enige plig betreffende die aanstelling, en ampsbeëindiging, van die lede van die Raad beoog in artikels 5 en 6(4)(a), delegeer.
- (2) Die Raad kan aan die bestuurskomitee bedoel in artikel 8(1) of die hoof-uitvoerende beampte enige bevoegdheid of plig by hierdie Wet aan die Raad verleen of opgelê, uitgesonderd die bevoegdheid om geld toe te staan soos beoog in artikel 4(2)(a), delegeer.
- (3) Die hoof-uitvoerende beampte kan aan enige werknemer van die NOA enige bevoegdheid of plig by hierdie Wet aan daardie beampte verleen of opgelê, uitgesonderd die plig as rekenpligtige beampte van die NOA, delegeer.
- (4) Enige bevoegdheid of plig wat ingevolge subartikel (1), (2) of (3) gedelegeer is, moet uitgeoefen of verrig word onderhewig aan die voorwaardes wat die persoon of liggaam wat die delegering gedoen het, nodig ag.
- (5) Enige delegering ingevolge subartikel (1), (2) of (3)—
- (a) moet skriftelik wees;
- (b) verhoed nie die persoon of liggaam wat die delegering gedoen het om daardie bevoegdheid of plig uit te oefen of te verrig nie;
- (c) kan te eniger tyd skriftelik deur sodanige persoon of liggaam ingetrek of gewysig word.

**Regulasies**

13. Die Minister kan, na oorleg met die Raad en by kennisgewing in die *Staatskoerant*, regulasies uitvaardig wat—
- (a) ingevolge hierdie Wet voorgeskryf kan of moet word;
- (b) vir die doeltreffende administrasie van hierdie Wet nodig is.

**Kort titel en inwerkingtreding**

14. Hierdie Wet heet die Wet op die Nasionale Ontwikkelingsagentskap, 1998, en tree in werking op 'n datum wat die President by proklamasie in die *Staatskoerant* bepaal.

