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OFFICE OF THE PRESIDENCY

KANTOOR VAN DIE PRESIDENSIE

No. 1400. 19 November 1999

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

No. 56 of 1999: National Student Financial Aid Scheme Act, 1999.

No. 1400. 19 November 1999

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

No. 56 van 1999: Wet op Nasionale Skema vir Finansiële Bystand vir Studente, 1999.

*(English text signed by the President.)
(Assented to 18 November 1999.)*

ACT

To establish the National Student Financial Aid Scheme (NSFAS); to provide for the management, governance and administration of the NSFAS; to provide for the granting of loans and bursaries to eligible students at public higher education institutions and for the administration of such loans and bursaries; to provide for the recovery of loans; to provide for the repeal of the Provision of Special Funds for Tertiary Education and Training Act, 1993; and to provide for matters connected therewith.

PREAMBLE

WHEREAS it is desirable to—

redress past discrimination and ensure representivity and equal access;

respond to human resource development needs of the nation; and

establish an expanded national student financial aid scheme that is affordable and sustainable,

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

CHAPTER 1

DEFINITIONS AND PURPOSE

Definitions

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1. In this Act, unless the context indicates otherwise—

- (i) “board” means the NSFAS board referred to in section 3(2);
- (ii) “borrower” means a student to whom a loan has been granted in terms of this Act;
- (iii) “bursar” means a student to whom a bursary has been granted in terms of this Act; 10
- (iv) “bursary” means that part of the loan granted to a person by the NSFAS which the person is not required to pay back on compliance with the criteria and conditions set in the written agreement;
- (v) “CHE” means the Council on Higher Education established by section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997); 15
- (vi) “Department” means the government department responsible for education at national level;
- (vii) “designated higher education institution” means a higher education institution with which the NSFAS has entered into an agreement in terms of section 20; 20
- (viii) “Director-General” means the Director-General of the Department;

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owerheid, 1995 (Wet No. 58 van 1995), en sluit tersiêre onderwys soos beoog in Bylae 4 by die Grondwet in;

- (ix) "inrigting vir hoër onderwys" 'n inrigting vir hoër onderwys ingestel as, geag ingestel te wees as of verklaar tot, 'n openbare inrigting vir hoër onderwys kragtens die Wet op Hoër Onderwys, 1997 (Wet No. 101 van 1997);
- (x) "lener" 'n student aan wie 'n lening toegestaan is ingevolge hierdie Wet;
- (xi) "lening" 'n lening deur die NSFBS aan 'n persoon toegestaan om die koste in verband met sy of haar onderrig aan 'n aangewese inrigting vir hoër onderwys en dié in verband met die losies van die persoon vir die doel van bywoning van die inrigting te bestry;
- (xii) "Minister" die Minister van Onderwys;
- (xiii) "NSFBS" die Nasionale Skema vir Finansiële Bystand vir Studente by artikel 3 ingestel;
- (xiv) "raad" die NSFBS-raad in artikel 3(2) bedoel;
- (xv) "RHO" die Raad vir Hoër Onderwys ingestel by artikel 4 van die Wet op Hoër Onderwys, 1997 (Wet No. 101 van 1997);
- (xvi) "student" enige persoon wat as student ingeskryf is by 'n inrigting vir hoër onderwys;
- (xvii) "werkgewer" enige persoon of liggaam in wie se diens 'n lener is.

20 Oogmerk van Wet

2. (1) Die oogmerk van hierdie Wet is om 'n finansiële bystandskema vir studente by inrigtings vir hoër onderwys in te stel.

(2) Die doelwit van die NSFBS is om finansiële bystand te verleen aan geskikte studente wat aan die vereistes vir toelating tot hoër onderwysprogramme voldoen.

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HOOFSTUK 2

INSTELLING, SAMESTELLING, BEHEER EN WERKSAAMHEDE VAN
NSFBS

Instelling van Nasionale Skema vir Finansiële Bystand vir Studente

3. (1) Die Nasionale Skema vir Finansiële Bystand vir Studente (NSFBS) word hierby ingestel as 'n regspersoon.

(2) Die NSFBS word bestuur, beheer en geadministreer deur die raad van die NSFBS.

Werksaamhede van NSFBS

4. Die werksaamhede van die NSFBS is om—
- (a) fondse vir lenings en beurse aan geskikte studente toe te wys;
 - (b) kriteria en voorwaardes vir die toestaan van lenings en beurse aan geskikte studente in oorleg met die Minister te ontwikkel;
 - (c) fondse in te samel soos in artikel 14(1) beoog;
 - (d) lenings terug te vorder;
 - (e) 'n databasis in stand te hou en te ontleed en navorsing in verband met die beter aanwending van finansiële hulpbronne te onderneem;
 - (f) die Minister van advies te dien met betrekking tot finansiële hulp aan studente; en
 - (g) die ander werksaamhede deur hierdie Wet of deur die Minister aan hom toegewys, te verrig.

Samestelling van raad

5. (1) Behoudens subartikel (4) bestaan die raad uit—
- (a) 13 lede aangestel deur die Minister van wie—
 - (i) een lid by die Departement in diens moet wees;
 - (ii) een lid deur die Minister van Finansies benoem moet word;
 - (iii) een lid deur die Minister as voorsitter van die raad aangewys moet word;
- en

- (iv) three members must be nominated by national organisations representing students;
- (b) not more than four members who may be co-opted by the board; and
- (c) the executive officer contemplated in section 9(1), who is the secretary and who has no voting rights. 5
- (2) The selection of the appointed members and co-opted members must be undertaken in such a manner as to ensure, insofar as is practically possible, that—
 - (a) the functions of the NSFAS in terms of this Act are performed according to the highest professional standards;
 - (b) the membership taken as a whole— 10
 - (i) is broadly representative of the higher education system and related interests;
 - (ii) has deep knowledge and understanding of higher education;
 - (iii) has financial expertise and experience;
 - (iv) appreciates the role of the higher education system in reconstruction and development; and 15
 - (v) has known and attested commitment to the interests of higher education; and
 - (c) due attention is given to the representivity of the board on such relevant factors as race, gender and disability. 20
- (3) The Minister must, by notice in the *Gazette* and a national newspaper circulating in every province of the Republic, and by any other means necessary, invite nominations for the appointed members of the board from—
 - (a) the public;
 - (b) the CHE; 25
 - (c) national organisations representing—
 - (i) students;
 - (ii) academic employees;
 - (iii) employees other than academic employees;
 - (iv) university principals; 30
 - (v) technikon principals;
 - (vi) higher education college principals;
 - (vii) organised business; and
 - (viii) organised labour; and
 - (d) non-governmental organisations. 35
- (4) The Minister must consider the nominations contemplated in subsection (3) in appointing the members contemplated in subsection (1)(a), subject to subsections (2) and (5).
- (5) At least three of the members contemplated in subsection (1) (a) must be appointed on account of their particular financial experience and expertise. 40

Term of office of chairperson and members

- 6. (1) The chairperson and an appointed member of the board hold office for a period of four years.
- (2) A co-opted member of the board holds office for a period determined by the board.
- (3) The chairperson and an appointed member of the board may not serve for more than two consecutive terms of office. 45

Vacation of office

- 7. A person ceases to be a member of the board if he or she—
 - (a) resigns by giving written notice to the chairperson or, in the case of the chairperson, to the Minister; 50
 - (b) is absent from three consecutive meetings of the board without the leave of the chairperson or, in the case of the chairperson, the leave of the executive committee;
 - (c) is declared insolvent, is removed from an office of trust by a court of law or is convicted of an offence involving dishonesty or an offence for which the sentence is imprisonment without the option of a fine; or 55
 - (d) is declared unable to attend to his or her personal affairs by a court of law.

(Engelse teks deur die President geteken.)
(Goedgekeur op 18 November 1999.)

WET

Om die Nasionale Skema vir Finansiële Bystand vir Studente (NSFBS) in te stel; voorsiening te maak vir die bestuur, beheer en administrasie van die NSFBS; voorsiening te maak vir die bestaan van lenings en beurse aan geskikte studente by openbare inrigtings vir hoër onderwys en vir die administrasie van sodanige beurse en lenings; voorsiening te maak vir die terugvordering van lenings; voorsiening te maak vir die herroeping van die Wet op die Voorsiening van Spesiale Fondse vir Tersiëre Onderwys en Opleiding, 1993; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN dit wenslik is om—

diskriminasie van die verlede reg te stel en verteenwoordigendheid en gelyke toegang te verseker;

op die behoeftes van die nasie aan die ontwikkeling van menslike hulpbronne te reageer; en

'n uitgebreide nasionale skema vir finansiële bystand aan studente wat bekostigbaar en volhoubaar is, in te stel,

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

HOOFTUK 1

WOORDOMSKRYWING EN OOGMERK

5 Woordoms krywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “aangewese inrigting vir hoër onderwys” ’n inrigting vir hoër onderwys met wie die NSFBS ’n ooreenkoms aangegaan het ingevolge artikel 20;
 - 10 (ii) “beurs” die gedeelte van ’n lening aan ’n persoon toegeken deur die NSFBS wat die persoon by voldoening aan die kriteria en voorwaardes wat in die skriftelike ooreenkoms gestel is, nie hoef terug te betaal nie;
 - (iii) “beurshouer” ’n student aan wie ’n beurs toegestaan is ingevolge hierdie Wet;
 - (iv) “boekjaar” die tydperk wat begin op die eerste dag van Maart van ’n jaar en
15 eindig op die laaste dag van Februarie van die volgende jaar;
 - (v) “Departement” die staatsdepartement verantwoordelik vir onderwys op nasionale vlak;
 - (vi) “Direkteur-generaal” die Direkteur-generaal van die Departement;
 - (vii) “hierdie Wet” ook die regulasies in artikel 27 beoog;
 - 20 (viii) “hoër onderwys” alle studieprogramme wat tot kwalifikasies hoër as graad 12 of ’n gelykwaardige kwalifikasie lei ingevolge die Nasionale Kwalifikasie-raamwerk soos beoog in die Wet op die Suid-Afrikaanse Kwalifikasie-

- (ix) "employer" means any person or body who employs a borrower;
- (x) "financial year" means the period beginning on the first day of March of a year and ending on the last day of February of the next year;
- (xi) "higher education" means all learning programmes leading to qualifications higher than grade 12 or its equivalent in terms of the National Qualifications Framework as contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and includes tertiary education as contemplated in Schedule 4 to the Constitution; 5
- (xii) "higher education institution" means any higher education institution that is established, deemed to be established or declared as a public higher education institution under the Higher Education Act, 1997 (Act No. 101 of 1997); 10
- (xiii) "loan" means a loan granted to a person by the NSFAS in order to enable the person to defray the costs connected with his or her education at a designated higher education institution, and those connected with the board and lodging of that person for purposes of attending the institution; 15
- (xiv) "Minister" means the Minister of Education;
- (xv) "NSFAS" means the National Student Financial Aid Scheme established by section 3;
- (xvi) "student" means any person registered as a student at a higher education institution; 20
- (xvii) "this Act" includes the regulations contemplated in section 27.

Purpose of Act

2. (1) The purpose of this Act is to establish a financial aid scheme for students at higher education institutions.
- (2) The aim of the NSFAS is to provide financial aid to eligible students who meet the criteria for admission to a higher education programme. 25

CHAPTER 2

ESTABLISHMENT, COMPOSITION, GOVERNANCE AND FUNCTIONS OF NSFAS

Establishment of National Student Financial Aid Scheme 30

3. (1) The National Student Financial Aid Scheme (NSFAS) is hereby established as a juristic person.
- (2) The NSFAS is managed, governed and administered by the NSFAS board.

Functions of NSFAS

4. The functions of the NSFAS are— 35
- (a) to allocate funds for loans and bursaries to eligible students;
 - (b) to develop criteria and conditions for the granting of loans and bursaries to eligible students in consultation with the Minister;
 - (c) to raise funds as contemplated in section 14(1);
 - (d) to recover loans; 40
 - (e) to maintain and analyse a database and undertake research for the better utilisation of financial resources;
 - (f) to advise the Minister on matters relating to student financial aid; and
 - (g) to perform other functions assigned to it by this Act or by the Minister.

Composition of board 45

5. (1) Subject to subsection (4), the board consists of—
- (a) 13 members appointed by the Minister of whom—
 - (i) one member must be employed by the Department;
 - (ii) one member must be nominated by the Minister of Finance;
 - (iii) one member must be designated by the Minister as chairperson of the board; and 50

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- (iv) drie lede deur nasionale organisasies wat studente verteenwoordig, benoem moet word;
- (b) hoogstens vier lede wat deur die raad gekoöpteer kan word; en
- (c) die uitvoerende beampte beoog in artikel 9(1), wat die sekretaris is en wat nie stemreg het nie.
- 5 (2) Die keuring van die aangestelde lede en gekoöpteerde lede word onderneem op 'n wyse wat, so ver doenlik, verseker dat—
- (a) die werksaamhede van die NSFBS ingevolge hierdie Wet volgens die hoogste professionele standaard verrig word;
- 10 (b) die lidmaatskap in sy geheel—
- (i) in die breë verteenwoordigend is van die hoër onderwysstelsel en verwante belange;
- (ii) oor diepgaande kennis en begrip van hoër onderwys beskik;
- (iii) oor finansiële kundigheid en ervaring beskik;
- 15 (iv) die rol van die hoër onderwysstelsel in heropbou en ontwikkeling begryp; en
- (v) oor bekende en bewese verbintenis tot die belange van hoër onderwys beskik; en
- (c) behoorlike aandag gegee word aan die verteenwoordigendheid van die raad op grond van toepaslike faktore soos ras, geslag en gestremdheid.
- 20 (3) Die Minister vra, by kennisgewing in die *Staatskoerant* en 'n nasionale koerant wat in elke provinsie van die Republiek sirkuleer, en op enige ander wyse wat nodig is, benoemings vir die aangestelde lede van die raad van—
- (a) die publiek;
- 25 (b) die RHO;
- (c) nasionale organisasies wat verteenwoordigend is van—
- (i) studente;
- (ii) akademiese werknemers;
- (iii) werknemers anders as akademiese werknemers;
- 30 (iv) hoofde van universiteite;
- (v) hoofde van teknikons;
- (vi) hoofde van kolleges vir hoër onderwys;
- (vii) die georganiseerde sakesektor; en
- (viii) die georganiseerde arbeid; en
- 35 (d) nie-regeringsorganisasies.
- (4) Die Minister oorweeg die benoemings in subartikel (3) beoog, in die aanstelling van die lede in subartikel (1)(a) beoog, onderworpe aan subartikels (2) en (5).
- (5) Minstens drie van die lede in subartikel (1)(a) beoog moet op grond van hulle besondere finansiële ervaring en kundigheid aangestel word.

40 **Ampstermyn van voorsitter en lede**

6. (1) Die voorsitter en 'n aangestelde lid van die raad beklee die amp vir 'n tydperk van vier jaar.
- (2) 'n Gekoöpteerde lid van die raad beklee die amp vir 'n tydperk deur die raad bepaal.
- 45 (3) Die voorsitter en 'n aangestelde lid van die raad mag nie vir meer as twee opeenvolgende ampstermyne dien nie.

Ontruiming van amp

7. 'n Persoon se lidmaatskap van die raad word beëindig indien hy of sy—
- (a) bedank deur skriftelik aan die voorsitter kennis te gee of, in die geval van die voorsitter, aan die Minister;
- 50 (b) van drie opeenvolgende vergaderings van die raad afwesig is sonder die verlof van die voorsitter of, in die geval van die voorsitter, die verlof van die uitvoerende komitee;
- (c) bankrot verklaar word, deur 'n geregshof uit 'n vertrouensposisie verwyder word of skuldig bevind word aan 'n misdryf wat oneerlikheid behels of 'n misdryf waarvoor die vonnis tronkstraf sonder die keuse van 'n boete is; of
- 55 (d) deur 'n geregshof onbevoeg verklaar word om sy of haar persoonlike sake te behartig.

Filling of vacancies

8. If the chairperson or a member vacates his or her office, the resultant vacancy must be filled by appointment or co-option in accordance with section 5.

Executive officer and employees of NSFAS

9. (1) The board must appoint an executive officer— 5
- (a) to manage and administer the affairs of the NSFAS under the authority of the board;
 - (b) to perform the functions determined by the board;
 - (c) to supervise the employees of the NSFAS; and
 - (d) to account for the assets and liabilities of the NSFAS. 10
- (2) The board may appoint such other employees as it deems necessary to assist the executive officer.
- (3) The board must, with the concurrence of the Minister and the Minister of Finance, determine the conditions of service of the executive officer and the other employees of the NSFAS. 15

Executive committee

10. (1) The board must establish an executive committee and determine its functions.
- (2) The executive committee consists of—
- (a) the chairperson of the board;
 - (b) the member appointed from the Department as contemplated in section 5(1)(a)(i); and 20
 - (c) three other members of the board appointed by the board.
- (3) A decision of the executive committee must be regarded as a decision of the board, unless such decision is revoked at the next meeting of the board.
- (4) Anything done in consequence of a decision of the executive committee before its revocation, is not invalid by reason only of the fact that the decision is revoked by the board under subsection (3). 25

Finance committee

11. (1) The board must appoint a finance committee consisting of— 30
- (a) the chairperson of the board;
 - (b) the member appointed from the Department as contemplated in section 5(1)(a)(i);
 - (c) the member nominated by the Minister of Finance as contemplated in section 5(1)(a)(ii); and
 - (d) not more than five financial experts who may be from the private sector or members of the board. 35
- (2) The finance committee must advise the board on the financial management of the NSFAS, which includes, but is not limited to, loan recovery, fund raising and investment of repayments.
- (3) The finance committee performs such other functions as the board may delegate or assign to it. 40

Other committees

12. (1) The board may establish other committees in addition to the executive committee and the finance committee, to assist it in the performance of its functions.
- (2) Any committee other than the executive committee may include persons who are not members of the board. 45
- (3) The chairperson of a committee must be appointed by the board.
- (4) Members of the committees contemplated in subsection (2) may be appointed for such periods as the board may determine.

Meetings of board and committees

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13. (1) Meetings of the board and its committees must be held at such times and places as may be determined by the chairperson concerned, but the chairperson must convene

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Vul van vakatures

8. Indien die voorsitter of 'n lid sy of haar amp ontruim, moet die gevolglike vakature by wyse van aanstelling of koöptering gevul word in ooreenstemming met artikel 5.

5 Uitvoerende beampte en werknemers van NSFBS

9. (1) Die raad moet 'n uitvoerende beampte aanstel om—
- (a) die sake van die NSFBS kragtens die gesag van die raad te bestuur;
 - (b) die werksaamhede deur die raad bepaal, te verrig;
 - (c) oor die werknemers van die NSFBS toesig te hou; en
- 10 (d) verantwoording te doen van die bates en laste van die NSFBS.
- (2) Die raad kan die ander werknemers wat hy nodig ag, aanstel om die uitvoerende beampte by te staan.
- (3) Die raad bepaal, met die instemming van die Minister en die Minister van Finansies, die diensvoorwaardes van die uitvoerende beampte en die ander werknemers
- 15 van die NSFBS.

Uitvoerende komitee

10. (1) Die raad stel 'n uitvoerende komitee in en bepaal sy werksaamhede.
- (2) Die uitvoerende komitee bestaan uit—
- (a) die voorsitter van die raad;
- 20 (b) die lid uit die Departement aangestel soos in artikel 5(1)(a)(i) beoog; en
- (c) drie ander lede van die raad deur die raad aangestel.
- (3) 'n Besluit van die uitvoerende komitee word beskou as 'n besluit van die raad, tensy die besluit by die volgende vergadering van die raad herroep word.
- (4) Enigiets wat gedoen word as gevolg van 'n besluit van die uitvoerende komitee
- 25 voor die herroeping daarvan is nie slegs uit hoofde van die feit dat die besluit kragtens subartikel (3) deur die raad herroep is, ongeldig nie.

Finansiële komitee

11. (1) Die raad stel 'n finansiële komitee aan bestaande uit—
- (a) die voorsitter van die raad;
- 30 (b) die lid uit die Departement aangestel soos in artikel 5(1)(a)(i) beoog;
- (c) die lid deur die Minister van Finansies benoem soos in artikel 5(1)(a)(ii) beoog; en
- (d) hoogstens vyf finansiële kundiges wat uit die private sektor of lede van die raad kan wees.
- 35 (2) Die finansiële komitee adviseer die raad oor die finansiële bestuur van die NSFBS, wat die terugvordering van lenings, fondsinsameling en die belegging van terugbetalings insluit, maar nie daartoe beperk is nie.
- (3) Die finansiële komitee verrig die ander werksaamhede wat die raad aan hom delegeer of toewys.

40 Ander komitees

12. (1) Die raad kan, benewens die uitvoerende komitee en die finansiële komitee, ander komitees instel om hom in die verrigting van sy werksaamhede by te staan.
- (2) Enige komitee behalwe die uitvoerende komitee kan persone insluit wat nie lede van die raad is nie.
- 45 (3) Die voorsitter van 'n komitee word deur die raad aangestel.
- (4) Lede van die komitees in subartikel (2) beoog, kan aangestel word vir die tydperke wat die raad bepaal.

Vergaderings van raad en komitees

13. (1) Vergaderings van die raad en sy komitees word gehou op die tye en plekke
- 50 wat deur die betrokke voorsitter bepaal word, maar die voorsitter moet minstens twee keer per jaar of wanneer hy of sy skriftelik daartoe versoek word deur minstens een

a meeting of the board at least twice a year or if asked to do so in writing by at least one third of the members of the board or by the Minister, as the case may be.

(2) Whenever the chairperson is absent from any meeting of the board or a committee, the members present must appoint a person from among themselves to preside at that meeting.

(3) The board may make rules relating to the procedure at meetings of the board and its committees, including the quorum for such meetings, and any other matter necessary or expedient for the performance of the functions of the board or its committees.

(4) The proceedings at a meeting of the board or of a committee are not invalid by reason only of the fact that a vacancy exists on the board or such committee, as the case may be, at the time of such meeting.

Funds of NSFAS

14. (1) The funds of the NSFAS consist of—

- (a) money appropriated by Parliament;
- (b) donations or contributions;
- (c) interest;
- (d) money repaid or repayable by borrowers; and
- (e) any other income received by the NSFAS.

(2) The board—

- (a) must keep a record of all funds received and spent and of all assets, liabilities and financial transactions;
- (b) must in each financial year, at such time and in such manner as the Minister may determine, submit a statement of its estimated income and expenditure for the ensuing financial year to the Minister for his or her approval granted with the concurrence of the Minister of Finance;
- (c) may in any financial year submit adjusted statements of its estimated income and expenditure to the Minister for his or her approval, granted with the concurrence of the Minister of Finance; and
- (d) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (b) and (c).

(3) If the Minister does not approve the board's statement of its estimated income and expenditure, the Minister must require the board to provide a revised statement to him or her within a specified period.

(4) The money contemplated in subsection (1) must be used by the NSFAS in accordance with the approved statement referred to in subsection (2), and any unexpended balance must be carried forward as a credit to the following financial year.

(5) Subject to subsection (4), the board may invest any portion of its funds in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

Annual audit

15. The books of account and financial statements of the NSFAS must be audited by the Auditor-General at the end of each financial year.

Annual report

16. (1) The board must, within three months after the end of each financial year, submit a report to the Minister which must at least include a financial statement on the performance of its functions during the preceding financial year.

(2) The Minister must table copies of the report in Parliament as soon as is reasonably practicable.

Remuneration and allowances of members of board and committees

17. The chairperson of the board, every other member and any person appointed as a member of a committee, who is not in the full-time service of the State may, in respect of services rendered by him or her in connection with the affairs of the board or a committee, be paid by the NSFAS—

- (a) such travelling, subsistence and other allowances; and

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derde van die lede van die raad of deur die Minister, na gelang van die geval, 'n vergadering belê.

(2) Wanneer die voorsitter afwesig is van 'n vergadering van die raad of 'n komitee, stel die teenwoordige lede 'n persoon uit hulle geledere aan om by die vergadering as voorsitter op te tree.

(3) Die raad kan reëls ten opsigte van die prosedure by vergaderings van die raad en sy komitees uitvaardig, met inbegrip van die kworum vir die vergaderings en enige ander sake wat nodig of dienstig is vir die verrigting van die werksaamhede van die raad of sy komitees.

(4) Die verrigtinge by 'n vergadering van die raad of van 'n komitee is nie ongeldig slegs vanweë die feit dat daar, ter tyde van die vergadering, 'n vakature in die raad of die komitee, na gelang van die geval, is nie.

Fondse van NSFBS

14. (1) Die fondse van die NSFBS bestaan uit—

- (a) geld deur die Parlement bewillig;
- (b) skenkings of bydraes;
- (c) rente;
- (d) geld terugbetaal of terugbetaalbaar deur leners; en
- (e) enige ander inkomste deur die NSFBS ontvang.

(2) Die raad—

- (a) moet boekhou van alle fondse ontvang en bestee en van alle bates, laste en finansiële transaksies;
- (b) moet gedurende elke boekjaar, op die tyd en op die wyse wat die Minister bepaal, 'n staat van sy verwagte inkomste en uitgawes vir die volgende boekjaar aan die Minister voorlê vir sy of haar goedkeuring, wat verleen word met die instemming van die Minister van Finansies;
- (c) kan in enige boekjaar gewysigde state van sy verwagte inkomste en uitgawes aan die Minister voorlê vir sy of haar goedkeuring, wat verleen word met die instemming van die Minister van Finansies; en
- (d) mag nie enige uitgawes aangaan wat die totale bedrag wat ingevolge paragrafe (b) en (c) goedgekeur is, oorskry nie.

(3) Indien die Minister nie die raad se staat van sy verwagte inkomste en uitgawes goedkeur nie, moet die Minister van die raad vereis om 'n hersiene staat binne 'n vasgestelde tydperk aan hom of haar te voorsien.

(4) Die geld in subartikel (1) beoog moet deur die NSFBS aangewend word in ooreenstemming met die goedgekeurde staat in subartikel (2) bedoel, en enige onbestede balans moet as 'n krediet oorgedra word na die volgende boekjaar.

(5) Behoudens subartikel (4) kan die raad enige gedeelte van sy fondse belê op die wyse wat die Minister met die instemming van die Minister van Finansies goedkeur.

Jaarlikse ouditering

15. Die boekhouding en die finansiële state van die NSFBS moet aan die einde van elke boekjaar deur die Ouditeur-generaal geouditeer word.

Jaarverslag

16. (1) Die raad moet binne drie maande na die einde van elke boekjaar 'n verslag, wat minstens 'n finansiële staat moet insluit, aan die Minister voorlê oor die verrigting van sy werksaamhede gedurende die voorafgaande boekjaar.

(2) Die Minister moet so gou as redelikerwys moontlik afskrifte van die verslag in die Parlement ter tafel lê.

Besoldiging en toelaes van lede van raad en komitees

17. Die voorsitter van die raad, elke ander lid en enige persoon wat as lid van 'n komitee aangestel is, wat nie in die voltydse diens van die Staat is nie, kan ten aansien van dienste deur hom of haar gelewer in verband met die sake van die raad of 'n komitee deur die NSFBS—

- (a) die reis-, verblyf- en ander toelaes; en

(b) in the case of the chairperson of the board, such additional remuneration, as the Minister, with the concurrence of the Minister of Finance, may determine.

CHAPTER 3

ADMINISTRATION OF LOANS AND BURSARIES

Application for loan or bursary 5

18. Any student may, subject to the provisions of this Act, apply in writing to the NSFAS for a loan or a bursary on an application form determined by the board.

Conditions of loans and bursaries

19. (1) Loans or bursaries granted by the board may be subject to such conditions as it may determine, either generally or in respect of a particular loan or bursary. 10

(2) A loan or bursary is granted in respect of a particular course of study, which must be specified in the loan or bursary agreement in question, and may not be used for any other purpose.

(3) A written agreement must be entered into between the NSFAS and every borrower or bursar. 15

(4) The board must impose a condition in respect of any loan or bursary to the effect that if the borrower or bursar does not perform satisfactorily in his or her studies, the board may terminate the granting of finance in terms of the agreement and that the borrower or bursar must comply with any obligation as a result of the granting of the loan or bursary on or with effect from the date specified by the board. 20

(5) The amount of the loan or bursary is paid by the NSFAS to the designated higher education institution concerned by way of allocations in respect of amounts payable to the institution by the borrower or bursar.

(6) A right to obtain a loan or bursary from the NSFAS cannot be construed from any provision of this Act. 25

Designated higher education institution

20. (1) The board may enter into an agreement with a higher education institution which agrees to become a designated higher education institution for purposes of administering loans and bursaries to students of that institution on behalf of the NSFAS.

(2) The agreement referred to in subsection (1) must authorise the institution on behalf of the NSFAS— 30

- (a) to administer loans and bursaries granted to students of the institution;
- (b) to receive loan and bursary applications from students;
- (c) to consider and assess the applications in the light of the criteria for the granting of loans and bursaries determined by the NSFAS; 35
- (d) to grant loans and bursaries if the criteria are met, after ascertaining that funds are available; and
- (e) to enter into a written agreement with a borrower or bursar in accordance with the provisions of this Act and on the terms and conditions determined by the NSFAS. 40

(3) A designated higher education institution must—

- (a) at such intervals as are agreed on by the institution and the board, report to the board on the progress made by a borrower or bursar with regard to the course of study followed by him or her; and
- (b) immediately notify the board if a borrower or bursar discontinues his or her studies. 45

(b) in die geval van die voorsitter van die raad, die bykomende besoldiging, wat die Minister met die instemming van die Minister van Finansies bepaal, betaal word.

HOOFSTUK 3

5 ADMINISTRASIE VAN LENINGS EN BEURSE

Aansoek om lening of beurs

18. Enige student kan, behoudens die bepalings van hierdie Wet, skriftelik by die NSFBS om 'n lening of 'n beurs aansoek doen op 'n aansoekvorm deur die raad bepaal.

Voorwaardes van lenings en beurse

10 19. (1) Lenings of beurse deur die raad toegestaan kan onderworpe wees aan die voorwaardes wat die raad bepaal, in die algemeen of ten opsigte van 'n bepaalde lening of beurs.

(2) 'n Lening of 'n beurs word toegestaan ten opsigte van 'n bepaalde studiekursus, wat in die betrokke lenings- of beursooreenkoms gespesifiseer moet word, en mag nie 15 vir enige ander doel aangewend word nie.

(3) 'n Skriftelike ooreenkoms moet tussen die NSFBS en elke lener of beurshouer aangegaan word.

(4) Die raad moet 'n voorwaarde ten opsigte van enige lening of beurs stel te dien effekte dat, indien die lener of beurshouer nie bevredigend presteer in sy of haar studies 20 nie, die raad ingevolge die ooreenkoms die toekenning van finansiering kan staak en dat die lener of beurshouer aan enige verpligting as gevolg van die bestaan van die lening of beurs moet voldoen op of met ingang van die datum deur die raad gespesifiseer.

(5) Die bedrag van die lening of beurs word deur die NSFBS aan die betrokke 25 aangewese inrigting vir hoër onderwys betaal by wyse van toewysings ten aansien van die bedrae deur die lener of beurshouer aan die inrigting betaalbaar.

(6) 'n Reg om 'n lening of beurs van die NSFBS te verkry, kan nie uit enige bepaling van hierdie Wet afgelei word nie.

Aangewese inrigting vir hoër onderwys

30 20. (1) Die raad kan 'n ooreenkoms aangaan met 'n inrigting vir hoër onderwys wat instem om 'n aangewese inrigting vir hoër onderwys te word vir die doel van die administrasie van lenings en beurse aan studente van daardie inrigting namens die NSFBS.

(2) Die ooreenkoms in subartikel (1) bedoel magtig die inrigting om namens die 35 NSFBS—

(a) lenings en beurse wat aan studente van die inrigting toegeken is, te administreer;

(b) aansoeke om lenings en beurse van studente te ontvang;

(c) die aansoeke te oorweeg en te evalueer in die lig van die kriteria vir die 40 bestaan van lenings en beurse wat deur die NSFBS bepaal is;

(d) lenings en beurse toe te staan indien daar aan die kriteria voldoen word, nadat vasgestel is of fondse beskikbaar is; en

(e) 'n skriftelike ooreenkoms met die lener of beurshouer aan te gaan in ooreenstemming met die bepalings van hierdie Wet en volgens die bedinge 45 en voorwaardes deur die NSFBS bepaal.

(3) 'n Aangewese inrigting vir hoër onderwys moet—

(a) met die tussenposes wat deur die inrigting en die raad ooreengekom is, aan 50 die raad verslag doen oor die vordering wat deur 'n lener of 'n beurshouer gemaak word ten aansien van die studiekursus wat deur hom of haar gevolg word; en

(b) die raad onmiddellik in kennis stel indien 'n lener of 'n beurshouer sy of haar studies staak.

CHAPTER 4

RECOVERY OF LOANS

Repayment of loans

21. (1) Subject to this section, a loan must be repaid as provided in the loan agreement. 5
- (2) A borrower may repay a loan wholly or in part before the due date.
- (3) If a borrower fails to make repayments as provided in this Act, his or her name may be placed by the board on any list of defaulting debtors published by any person or body whose business it is to compile and publish such lists.
- (4) The name of a borrower may not be placed on a list contemplated in subsection (3) 10 by the board unless he or she—
- (a) has been notified by the board by registered letter addressed to his or her chosen *domicilium citandi et executandi*, of the failure to make repayments and of the intention of the board to act in terms of subsection (3); and
 - (b) has been afforded a reasonable opportunity to pay the arrear amount and has 15 failed to do so.

Obligations of borrower

22. (1) A borrower must for as long as he or she is indebted to the NSFAS—
- (a) at such intervals as may be fixed by the board, furnish the board— 20
 - (i) with his or her postal and residential addresses, as well as his or her chosen *domicilium citandi et executandi*;
 - (ii) with information regarding his or her employment status;
 - (iii) if he or she is employed, with the name and address of the employer; and
 - (iv) with any other relevant information required by the board; and
 - (b) immediately notify the board of— 25
 - (i) any change of address and furnish the new address;
 - (ii) any change in his or her employment status; and
 - (iii) any change of employer and furnish the name and address of the new employer.
- (2) Any failure by a borrower to comply with the obligations referred to in subsection 30 (1) renders the loan immediately repayable.

Obligations of employer

23. (1) The board may by written notice sent by registered mail inform the employer of a borrower—
- (a) that the borrower is indebted to the NSFAS in consequence of a loan granted 35 by the NSFAS to the borrower; and
 - (b) of the deductions that the employer has to make from the remuneration of the borrower.
- (2) Any employer who is given notice in terms of subsection (1) must make deductions from the remuneration payable by him or her to the borrower according to 40 the scales prescribed by regulation.
- (3) Any amount deducted by an employer in terms of subsection (2) must be paid over to the NSFAS, and any amount so paid over must be regarded as a proportionate discharge of the loan by the borrower concerned.
- (4) Any amount deducted in terms of this section must for the purposes of the Income 45 Tax Act, 1962 (Act No. 58 of 1962), or any other applicable law, be regarded as forming part of the remuneration of the borrower.
- (5) Any employer who fails to make a deduction and payment in accordance with this section is guilty of an offence and on conviction may, in addition to a fine, be ordered to 50 make such deduction and payment.
- (6) The administration costs for the deductions must be borne by the NSFAS.

HOOFSTUK 4

TERUGVORDERING VAN LENINGS

Terugbetaling van lenings

21. (1) Behoudens hierdie artikel moet 'n lening terugbetaal word soos in die
5 leningsooreenkoms bepaal.

(2) 'n Lener kan die lening in sy geheel of gedeeltelik terugbetaal voor die datum waarop dit betaalbaar is.

(3) Indien 'n lener versuim om terugbetalings te doen soos deur hierdie Wet bepaal, kan sy of haar naam deur die raad geplaas word op enige lys van wanbetalers,
10 gepubliseer deur enige persoon of liggaam wie se bedryf dit is om sodanige lyste op te stel en te publiseer.

(4) Die naam van 'n lener mag nie deur die raad op 'n lys beoog in subartikel (3) geplaas word nie tensy hy of sy—

(a) per aangetekende brief geadresseer aan sy of haar gekose *domicilium citandi et executandi* deur die raad verwittig is van die versuim om terugbetalings te doen en van die voorneme van die raad om ingevolge subartikel (3) op te
15 tree; en

(b) 'n redelike geleentheid gegun is om die agterstallige bedrag terug te betaal en versuim het om dit te doen.

20 Verpligtings van lener

22. (1) Vir so lank as wat hy of sy in die skuld staan by die NSFBS moet 'n lener—

(a) met die tussenposes deur die raad bepaal, die raad voorsien van—

(i) sy of haar pos- en woonadres, sowel as sy of haar gekose *domicilium citandi et executandi*;
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(ii) inligting in verband met sy of haar werkstatus;

(iii) indien hy of sy werk, die naam en adres van sy of haar werkgever; en

(iv) enige ander toepaslike inligting deur die raad vereis; en

(b) die raad onmiddellik in kennis stel van—

(i) enige adresverandering en die nuwe adres verstrek;
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(ii) enige verandering in sy of haar werkstatus; en

(iii) enige verandering van werkgever en die naam en adres van die nuwe werkgever verstrek.

(2) Enige versuim deur 'n lener om aan die verpligtings bedoel in subartikel (1) te voldoen, kan die lening onmiddellik terugbetaalbaar maak.

35 Verpligtings van werkgever

23. (1) Die raad kan by wyse van skriftelike kennisgewing per aangetekende pos die werkgever van 'n lener in kennis stel—

(a) dat die lener in die skuld is by die NSFBS as gevolg van 'n lening wat deur die NSFBS aan die lener toegestaan is; en

40 (b) van die aftrekkings wat die werkgever van die lener se vergoeding moet maak.

(2) Enige werkgever wat ingevolge subartikel (1) kennis gegee is, moet volgens die skale by regulasie voorgeskryf aftrekkings doen van die vergoeding wat deur hom of haar aan die lener betaalbaar is.

45 (3) Enige bedrag wat ingevolge subartikel (2) deur 'n werkgever afgetrek word, moet aan die NSFBS oorbetal word, en enige bedrag aldus oorbetal word, word geag 'n proporsionele afbetaling van die lening deur die betrokke lener te wees.

(4) Enige bedrag ingevolge hierdie artikel afgetrek, moet vir die doeleindes van die Wet op Inkomstebelasting, 1962 (Wet No. 58 van 1962), of enige ander toepaslike wet,
50 as deel van die vergoeding van die lener beskou word.

(5) Enige werkgever wat versuim om 'n aftrekking en betaling in ooreenstemming met hierdie artikel te doen, is skuldig aan 'n misdryf en kan by skuldigbevinding, benewens 'n boete, beveel word om die aftrekking en betaling te doen.

(6) Die administratiewe kostes vir die aftrekkings moet deur die NSFBS gedra word.

Obligations of South African Revenue Service

24. Despite section 4 of the Income Tax Act, 1962 (Act No. 58 of 1962), the South African Revenue Service must, at the request of the board, furnish it with the name and address of the employer of a borrower, if such information is known to the South African Revenue Service.

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CHAPTER 5**GENERAL****Information to be provided to NSFAS**

25. (1) Every science, research and professional council, every higher education institution and any other person or body who grants loans or bursaries to students must provide the NSFAS with such information as the NSFAS may reasonably require for the performance of its functions in terms of this Act.

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(2) The NSFAS must on request provide such information as may be reasonably required by the science, research and professional councils, higher education institutions and any other persons or bodies who grant loans or bursaries to students.

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Delegation of powers

26. (1) The Minister may, on such conditions as he or she may determine, delegate any of his or her powers under this Act, except the powers conferred upon him or her by sections 5(4) and 27, to the Director-General.

(2) The Director-General may, on such conditions as he or she may determine, delegate any of his or her powers under this Act or delegated to him or her in terms of subsection (1), to an employee of the Department.

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(3) The board may, on such conditions as it may determine, delegate any of its powers under this Act to any of its committees or to any employee of the NSFAS.

Regulations

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27. The Minister may make regulations on any matter which may or must be prescribed by regulation in terms of this Act and any matter which is necessary or expedient to prescribe in order to achieve the objects of this Act.

Repeal of law

28. The Provision of Special Funds for Tertiary Education and Training Act, 1993 (Act No. 121 of 1993), is hereby repealed.

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Transitional arrangements

29. (1) Despite section 28, the Tertiary Education Fund of South Africa, a company recognised in terms of section 2 of the Provision of Special Funds for Tertiary Education and Training Act, 1993 (Act No. 121 of 1993), hereinafter referred to as "TEFSA", continues to perform the functions which it performed prior to the commencement of this Act, until a date determined by the Minister by notice in the *Gazette*.

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(2) Despite section 2(2)(h) of the Provision of Special Funds for Tertiary Education and Training Act, 1993 (Act No. 121 of 1993), all assets which vested in TEFSA immediately prior to the date referred to in subsection (1), vest in the NSFAS on that date.

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(3) Existing agreements of employment between TEFSA and the executive officer of TEFSA and between TEFSA and the employees of TEFSA must on the date referred to in subsection (1), be deemed to be agreements entered into between those employees and the NSFAS and must continue to exist subject to applicable labour laws, and those employees must be deemed to have served continuously under the same employer without interruption.

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Verpligtings van Suid-Afrikaanse Inkomstediens

24. Ondanks artikel 4 van die Wet op Inkomstebelasting, 1962 (Wet No. 58 van 1962), moet die Suid-Afrikaanse Inkomstediens, op versoek van die raad, die naam en adres van die werkgewer van 'n lener aan die raad beskikbaar stel, indien die inligting aan die Suid-Afrikaanse Inkomstediens bekend is.

HOOFTUK 5**ALGEMEEN****Inligting aan NSFBS voorsien te word**

25. (1) Elke wetenskaplike, navorsings- en professionele raad, elke inrigting vir hoër onderwys en enige ander persoon of liggaam wat lenings of beurse aan studente toestaan, moet die NSFBS voorsien van die inligting wat die NSFBS redelikerwys mag vereis vir die verrigting van sy werksaamhede ingevolge hierdie Wet.
- (2) Die NSFBS moet op versoek die inligting verskaf wat redelikerwys deur die wetenskaplike, navorsings- en professionele rade, inrigtings vir hoër onderwys en enige ander persone of liggame wat lenings of beurse aan studente toestaan, benodig word.

Delegering van bevoegdhede

26. (1) Die Minister kan, op die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede kragtens hierdie Wet, behalwe die bevoegdhede by artikels 5(4) en 27 aan hom of haar verleen, aan die Direkteur-generaal delegeer.
- (2) Die Direkteur-generaal kan, op die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede kragtens hierdie Wet, of ingevolge subartikel (1) aan hom of haar gedelegeer, aan 'n werknemer van die Departement delegeer.
- (3) Die raad kan, op die voorwaardes wat hy bepaal, enige van sy bevoegdhede kragtens hierdie Wet aan enige van sy komitees of aan enige werknemer van die NSFBS delegeer.

Regulasies

27. Die Minister kan regulasies uitvaardig oor enige aangeleentheid wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word en enige aangeleentheid wat nodig of dienstig is ten einde die oogmerke van hierdie Wet te bereik.

Herroeping van wet

28. Die Wet op die Voorsiening van Spesiale Fondse vir Tersiêre Onderwys en Opleiding, 1993 (Wet No. 121 van 1993), word hierby herroep.

Oorgangsbepalings

29. (1) Ondanks artikel 28 gaan die Tersiêre Onderwysfonds van Suid-Afrika, 'n maatskappy wat ingevolge artikel 2 van die Wet op die Voorsiening van Spesiale Fondse vir Tersiêre Onderwys en Opleiding, 1993 (Wet No. 121 van 1993), erken word, hieronder "TOFSA" genoem, voort om die werksaamhede te verrig wat hy voor die inwerkingtreding van hierdie Wet verrig het, tot op 'n datum deur die Minister by kennisgewing in die *Staatskoerant* bepaal.
- (2) Ondanks artikel 2(2)(h) van die Wet op die Voorsiening van Spesiale Fondse vir Tersiêre Onderwys en Opleiding, 1993 (Wet No. 121 van 1993), setel alle bates en laste wat in TOFSA gesetel het onmiddellik voor die datum in subartikel (1) bedoel, op daardie datum in die NSFBS.
- (3) Bestaande ooreenkomste van indiensneming tussen TOFSA en die uitvoerende beampte van TOFSA en tussen TOFSA en die werknemers van TOFSA word op die datum in subartikel (1) bedoel, geag ooreenkomste tussen daardie werknemers en die NSFBS te wees en gaan voort om te bestaan behoudens toepaslike arbeidswetgewing, en daardie werknemers word geag aaneenlopend en sonder onderbreking te dien onder dieselfde werkgewer.

Act No. 56, 1999 NATIONAL STUDENT FINANCIAL AID SCHEME ACT, 1999

(4) On or before the date referred to in subsection (1), TEFSA must deregister as a company in terms of the Companies Act, 1973 (Act No. 61 of 1973).

Short title

30. This Act is called the National Student Financial Aid Scheme Act, 1999.

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(4) Op of voor die datum in subartikel (1) bedoel, moet TOFSA as 'n maatskappy deregistreer ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973).

Kort titel

30. Hierdie Wet heet die Wet op die Nasionale Skema vir Finansiële Bystand vir
5 Studente, 1999.

