

REPUBLIC OF SOUTH AFRICA

NATIONAL SPACE AGENCY BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. 29359 of 5 November 2006) (The English text is the official text of the Bill)*  
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(MINISTER OF SCIENCE AND TECHNOLOGY)

[B —2007]

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## B I L L

**To establish the National Space Agency; to determine its objects and functions; to prescribe the manner in which it is to be managed and governed; to regulate its staff matters and financial affairs; and to provide for matters connected therewith.**

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

### *Arrangement of Sections*

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## **Definitions**

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

"Agency" means the National Space Agency established by section 2(1);

"Board" means the Board contemplated in section 5;

"Chief Executive Officer" means the chief executive officer appointed in terms of section 12(1);

"Department" means the Department of Science and Technology;

"GEPF" means the Government Employees Pension Fund

"GEPL" means the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996)

"Minister" means the Minister of Science and Technology;

"space" means the area beyond the earth's measurable atmosphere;

"space mission applications" means the day-to-day management of the spacecraft

"this Act" includes any regulation made in terms of section 16.

## **Establishment of National Space Agency**

2. (1) There is hereby established a juristic person to be known as the National Space Agency.

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

## **Objects of Agency**

3. The objects of the Agency are to—
- (a) promote peaceful use of outer space;
  - (b) support the creation of an environment conducive to industrial development in space technologies;
  - (c) foster research in astronomy, earth observation, communications, navigation and space physics;
  - (d) advance scientific, engineering and technological competencies and capabilities through human capital development and outreach programmes; and
  - (e) foster international co-operation in space related activities.

## **Functions of Agency**

4. (1) The Agency must—
- (a) implement any space programme in line with the Space Affairs Act, 1993 (Act No. 84 of 1993);

(b) develop and implement the national space science and technology strategy; and

(c) acquire, assimilate and disseminate space satellite data for any organ of state.

(2) The Agency may, in order to perform any duty contemplated in subsection (1) and in order to achieve its objects—

(a) enter into an agreement with any person, government or administration on the terms and conditions agreed upon by the Agency and that person, government or administration;

(b) purchase or otherwise acquire, or dispose of, any property and may hire out, let, pledge or otherwise encumber that property;

(c) borrow money by way of loans from any source on such terms and such conditions and against such security as the Agency may deem fit;

(d) for the purposes of developing or exploiting any invention or technological space expertise—

(i) establish a company or in association with any person establish a company; and

(ii) acquire control over or an interest in a company; and

(e) establish any programme in respect of—

(i) enabling technologies in order to provide leadership in, coordination in and support for applied research;

(ii) mission development in order to provide coordination to and support for the development of space and astronomy missions;

(iii) space mission operations; and

(iv) space mission applications.

## Board of Agency

5. (1) The Agency acts through a Board consisting of—
- (a) a chairperson appointed and designated by the Minister;
  - (b) not less than 10 and not more than 15 members; and
  - (c) the Chief Executive Officer, who is an *ex officio* member.

(2) (a) The Minister must appoint a panel that must compile a shortlist of candidates to be appointed as members contemplated in subsection (1) (a) and (b).

(b) The panel must act in a transparent and fair manner and must ensure that the candidates are competent and broadly representative of the South African population, according to race, gender and disability.

(3) Members contemplated in subsections (1)(a) and (b) are appointed by the Minister in their personal capacities and must be—

- (a) persons who—
  - (i) have distinguished themselves in the field of space science and technology or who possess special qualifications, experience or skills in relation to some aspect of the functions of the Agency; and
  - (ii) are citizens of the Republic or who have the right of permanent residence in the Republic; and
- (b) broadly representative of the various sectors in the field of the space science and technology, and at least one of the members must have financial expertise.

(4) A member contemplated in subsection (1)(a) or (b) ceases to hold office if—

- (a) the member resigns by written notice to the Minister;
- (b) the member's estate is sequestrated or assigned for the benefit of, or if the member compounds with, the creditors of the member;
- (c) if the member becomes an unrehabilitated insolvent;
- (d) a competent court finds that the member is of unsound mind;
- (e) the member has been convicted of an offence in the Republic other than an offence committed prior to 27 April 1994 associated with political objectives and the member was sentenced to imprisonment without an option of a fine or, in the case of fraud, to a fine or imprisonment;
- (f) the member is absent from three consecutive meetings of the Board without the leave of the Board;
- (g) the member is elected as a member of the National Assembly, a provincial legislature or the council of a municipality, or is appointed as a permanent delegate to the National Council of Provinces;
- (h) the member ceases to be a citizen of or to have the right of permanent residence in the Republic; or
- (i) the member has, as a result of improper conduct, been removed from a position of trust by a competent court of law.

(5) A person may not be appointed as a member of the Board if any provision of subsection (4)(b) to (e) and (g) to (i) applies to that person.

(6) (a) The Minister may remove a member of the Board from office—

- (i) on the grounds of misconduct, incapacity or incompetence; or
- (ii) if the majority of members so recommends.

(b) A decision to remove a member of the Board from office in terms of paragraph (a)(i) must be based on the recommendation of an independent panel appointed by the Minister.

(7) The Minister may dissolve the Board on any reasonable grounds.

(8) If a member of the Board dies, ceases to hold office or is removed from office the Minister may appoint a person in that member's place for the remaining part of the term of office.

(9) A member of the Board holds office for a period not exceeding four years, subject to subsections (5) and (6).

(10) No member may serve more than two consecutive terms.

## **Functions of Board**

**6.** (1) The Board must—

- (a) advise the Minister on any matter relating to space affairs that may influence the functions of the Agency;
- (b) monitor the research priorities and programmes of the Agency;

(2) The Board may, after consultation with the Minister, establish or disestablish any organisational division of the Agency.

## **Remuneration of members of Board**

7. A member of the Board who is not in the full-time employment of the State must be paid such allowances out of the funds of the Agency as may be determined by the Minister, with the concurrence of the Minister of Finance.

### **Meetings of Board**

8. (1) The Board must meet at least four times a year at such times and places as the Board may determine.

(2) The Board may determine the procedure for its meetings.

(3) The chairperson—

(a) may convene a special meeting of the Board; and

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

(4) The chairperson or, in the chairperson's absence, a member of the Board elected by the members present presides at a meeting of the Board.

(5) The quorum for a meeting of the Board is two thirds of its voting members.

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

(7) A member of the Board may not vote or in any manner be present during or participate in the proceedings at any meeting of the Board if, in relation to any matter before the Board, she or he may have any interest that precludes her or him from performing her or his functions as a member of the Board in a fair, unbiased and proper manner.

### **Committees of Board**

9. (1) The Board may establish one or more committees to perform such functions of the Agency as the Board may determine.

(2) The Board may appoint as members of any such committee any—

- (a) member of the Board;
- (b) employee of the Agency; or
- (c) other person with suitable skills or experience who must be paid such allowances as the Minister may determine, subject to section 7.

(3) A member of the Board may not serve on more than two committees at a time.

(4) The Board is not absolved from the performance of any function entrusted to any committee in terms of this section.

### **Governance Committee**

10. The Board—

- (a) must establish a Governance Committee in order to—

- (i) assist Board in the performance of any of its functions and to advise it in connection with any matter relating to the proper governance of the Agency;
  - (ii) establish policies for and guidelines on Board practices; and
  - (iii) monitor and evaluate the performance of the Board using any appropriate method and must provide the results to the Board annually;
- (b) must appoint as members of the Governance Committee—
- (i) a chairperson, who must be a member of the Board other than the chairperson contemplated in section 5(1)(a); and
  - (ii) at least two other persons who may be members of the Board; and
- (c) may not appoint any employee of the Agency as a member of the Governance Committee.

### **Chief Executive Officer of Agency**

11. (1) The Board must, with the approval of the Minister, appoint a suitably skilled and qualified person as the Chief Executive Officer of the Agency.

(2) The appointment of the Chief Executive Officer must be made after following such transparent and competitive selection process as may be prescribed by the Minister by regulation.

(3) The Chief Executive Officer is appointed for a term not exceeding five years and is subject to such conditions relating to the payment

of remuneration and allowances as the Board, subject to section 13(2)(b), may determine.

(4) The Chief Executive Officer must enter into a performance agreement with the Board within three months of taking up the post as chief executive officer.

(5) The Chief Executive Officer is responsible for the administration and general management and control of the day-to-day functioning of the Agency, subject to the written directions issued by the Board.

(6) The Chief Executive Officer is responsible for and accountable to the Board for—

- (a) all money received by the Agency and the utilisation of that money; and
- (b) the property of the Agency.

(7) The Chief Executive Officer must report to the Board on any matter that the Board may require.

(8) If the Chief Executive Officer is absent for a period of more than two months or is unable to carry out her or his duties, or if there is a vacancy in the office of the chief executive officer, the Board may, with the concurrence of the Minister, appoint any person to act as chief executive officer.

(9) If the Chief Executive Officer is absent for a period of less than two months the Board may, without the concurrence of the Minister, appoint any person to act as Chief Executive Officer during that period.

(10) The acting Chief Executive Officer has all the powers and must perform all the duties of the Chief Executive Officer.

(11) The Chief Executive Officer may not serve for more than two consecutive terms.

## **Employees of Agency**

- 12.** (1) Subject to subsection (2), the Chief Executive Officer—
- (a) must on such conditions as she or he may determine, appoint such number of employees or receive on secondment such number of persons as are necessary to enable the Agency to perform its functions efficiently;
  - (b) is responsible for the administrative control of the employees and persons contemplated in paragraph (a); and
  - (c) must ensure compliance with applicable labour legislation in appointing employees and receiving persons contemplated in paragraph (a).

- (2) The Board must approve—
- (a) the general terms and conditions of employment of the employees contemplated in subsection (1);
  - (b) a human resource policy; and
  - (c) structures for the remuneration, allowances, subsidies and other benefits and terms of conditions for employees contemplated in subsection (1) in accordance with such system as may be approved by the Minister and with the concurrence of the Minister of Finance.

(3) The terms and conditions of employment contemplated in subsection (2) (c) must be broadly in line with the guidelines issues from time to time by the Minister of Public Service and Administration

## **Pensions**

**13.** (1) The Agency may, under the Pensions Fund Act, 1956 (Act No. 24 of 1956), establish any pension fund for its employees.

(2) An employee of the Agency who was, prior to the commencement of this Act, a member of the GEPF may

- (a) remain a member of the GEPF,
- (b) terminate her or his membership of the GEPF and join any pension fund established in terms of subsection 1, or
- (c) elect a dormant membership of the GEPF in accordance with section 27 of the GEPL.

## **Funds of Agency**

**14.** (1) The funds of the Agency consist of—

- (a) money appropriated by Parliament;
- (b) fees, royalties or other revenue obtained in terms of this Act;
- (c) donations or contributions received by the Agency; and
- (d) revenue accruing to the Agency from any other source.

(2) The Agency must utilise its funds to defray the expenses incurred by the Agency in the performance of its functions under this Act.

(3) Money received by way of donation or contribution must be utilised in accordance with any conditions imposed by the donor or contributor concerned.

(4) The Agency may, subject to the approval of the Minister and in terms of Public Finance Management Act, 1999 (Act No. 1 of 1999), invest any of its funds not immediately required.

## **Delegation**

**15.** (1) The Chief Executive Officer may, subject to such conditions as she or he may determine, delegate to any employee of the Agency any function entrusted to the Chief Executive Officer under this Act or delegated to the Chief Executive Officer by the Board

(2) A delegation in terms of subsection (1) does not prohibit the performance of the function in question by the Chief Executive Officer.

## **Regulations**

**16.** The Minister may, after consultation with the Board, make regulations regarding—

- (a) the method of reporting to the Minister on Board meetings and the frequency of those reports;
- (b) interim measures for the continued management and functioning of the Agency in the event that the Minister dissolves the Board in terms of section 5(7); and
- (c) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

## **Act binds State**

- 17.** This Act binds the State.

## **Short title and commencement**

- 18.** This Act is called the National Space Agency Act, 2007, and comes into operation on a date to be fixed by the President by proclamation in the Gazette.