

DRAFT BILL ON THE INSTITUTE FOR THE PROMOTION OF SCIENCES

BILL

To provide for the support and promotion of sciences in the Republic; and for this purpose to provide for the establishment of a juristic person to be known as the Institute for the Promotion of Sciences; and to provide for incidental matters.

1. Definitions

In this Act, unless the context otherwise indicates-

- i. 'Institute' means the Institute established in terms of section 2;
- ii. 'Director-General' means the Director-General of the national Department responsible for Sciences as defined in this Act;
- iii. 'Minister' means the Minister of the national Department responsible for sciences; as defined in this Act
- iv. 'prescribed' means prescribed by regulation made and in force under this Act;
- v. 'regulation' means a regulation made under this Act
- vi. 'sciences' means systematic knowledge which includes natural sciences, engineering sciences, medical sciences, agricultural sciences, social sciences, indigenous sciences, technology, all aspects of the innovation chain and indigenous technologies.

vii. 'this Act' includes a regulation

2. Establishment of Institute

There is hereby established a juristic person to be known as the Institute for the Promotion of Science.

3. Object of the Institute

The object of the Institute is to inquire into, promote and support the understanding and the appreciation of science and technology by broader society through the provision of information, and financial support and the promotion of human resource development.

4. Functions, powers and duties of Institute

(1) The functions of the Institute are:

- (a) In collaboration with the Department, to initiate and support programmes strengthening the public understanding and appreciation of science and technology at all levels of society;
- (b) To act as a consultative body for organs of state in all tiers of government and make recommendation to the Department on matters related to the interface of science and technology with society;
- (c) To promote and support the provision and dissemination of scientific and science related information;

- (d) To foster and promote nationally and internationally, liaison between institutions and experts in the fields of interest to the Institute;
- (e) To obtain funds for its functions, both locally and abroad;
- (f) To foster the deployment of Science and Technology for the achievement of goals as specified by the Minister.

(2) In order to achieve its objects the Institute may:

- (a) Determine its own staff requirements and appoint employees in posts to meet these requirements;
- (b) Obtain the services of any person including any organ of the state or institution to perform any specific act or function;
- (c) Make grants to persons or institutions for investigations, the development of human resources and related infrastructure;
- (d) Procure or otherwise acquire or possess, hire, let, pledge or otherwise encumber movable and with the approval of the Minister, with the concurrence of the Minister of Finance, also immovable property;
- (e) Confer with any person or organ of State;
- (f) Insure itself against any loss, damage risk or liability;
- (g) Perform legal acts or institute or defend any legal action in its own name;
- (h) Do and or commission research and publish reports, journals and other relevant information and organise scientific meetings, seminars and conferences;
- (i) Should the institute deem it necessary, advise the Minister in regard to investigations relating to its object; and
- (j) Generally do everything that is necessary to achieve its objects.

(3) In addition to its other functions in terms of this Act the Institute must:

- (a) undertake or procure the implementation of investigations and programmes related to its object as the Minister may assign to it.
- (b) advise the Minister in regard to investigations relating to its object.
- (c) carry out the following duties:
 - i. hold, preserve and safeguard all movable and immovable property of whatever kind placed in the care of or loaned or belonging to the institute;
 - ii. receive, hold, preserve and safeguard all specimens, collections or other movable property placed under its care and management;
 - iii. raise funds for the institute;
 - iv. manage and control the moneys received by the institute and to utilise those moneys for defraying expenses in connection with the performance of its functions;
 - v. keep a proper record of the property of the institute, to submit to the Director-General any returns required by him or her in regard thereto and to cause proper books of account to be kept;
 - vi. determine, subject to this Act and with the approval of the Minister, the objects of the Institute; and
 - vii. generally, carry out the objects of the Institute.

(4) The Minister must publish the objects of the Institute determined under section 3, in the *Gazette*.

5. Institute to be corporate body

- (1) The Institute is a corporate body and is known under the name under which it has been established in terms of section 2.
- (2) The Minister may, on the recommendation of the Institute, change the name of an Institute by notice in the Gazette.
- (3) The Institute may, unless the Minister otherwise determines -
 - (a) let or exchange any specimen, collection or other movable property belonging to it; and
 - (b) purchase or otherwise acquire, possess or hire any specimen, collection or other movable property.

6. Establishment and constitution of the Board

- (1) The Institute acts through a Board consisting of-
 - (a) at least seven members appointed by the Minister, one of whom shall be a member of the Department;
 - (b) the chief executive officer of the Institute will be an ex-officio member of the Institute;
 - (c) a maximum of two members co-opted by the Board in consultation with the minister; and

- (2) The members of the Board contemplated in subsection (1) must be appointed in accordance with the principles of transparency and representivity.
- (3) At least one of the members, appointed to the Board contemplated in subsection (1), must have experience in financial matters.
- (4) (a) A member of the Board is appointed for a period of three years, unless a shorter period is prescribed.
- (d) A member of the Board, whose period of office has expired, may be re-appointed.
- (5) If a member of the Board dies or vacates the office before the expiration of the period for which the member has been appointed, another person may be appointed to fill the vacancy for the unexpired portion of the period for which the member was appointed.
- (6) A member of the Board must vacate the office if the member-
- (a) resigns in writing;
 - (b) has been absent from three consecutive meetings of the Institute without its leave;
 - (c) is an un-rehabilitated insolvent;
 - (d) is found to be of unsound mind by a competent court;

- (e) is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option of a fine;
- (f) materially breaches the code of ethics of the Institute;
- (g) on recommendation of a majority of Council; or
- (h) on any other reasonable grounds determined by the Minister.

(7) The Minister may dissolve the council:

- (a) on grounds of mismanagement; or
- (b) on any other reasonable grounds.

(8)(a) A member of a council who is not in the full-time employment of the State, may receive out of the funds of that council in respect of his or her functions as member the allowances that the Minister in consultation with the Minister of Finance determines, subject to paragraph (b).

- (b) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of allowances and reimbursement of expenses contemplated in paragraph (a).

7. Chairperson of Board

(1) The chairperson of the Board is appointed by the Minister and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the Board, unless the Minister otherwise determines.

(2) If the chairperson of the Board vacates the office as chairperson before the expiration of the period for which he or she was appointed,

another member of the Board must, subject to subsection (1), be appointed as chairperson of the Board from the appointed members of the Board.

- (3) If the chairperson is absent from a meeting of the Board concerned or not able to preside at that meeting, the members present must elect one of their number to preside at that meeting and that person may, during that meeting and until the chairperson resumes his or her functions, perform all those functions.

8. Chief Executive Officer of the Institute

- (1) The Board must appoint a chief executive officer for the Institute in consultation with the Minister.
- (2) The chief executive officer must report to the Board on those affairs that the Board may require.
- (3) The chief executive officer must be appointed subject to such conditions including conditions relating to performance agreements, the payment of remuneration and allowances as determined by the Minister with the concurrence of the Minister of Finance for a period of five years, renewable.
- (4) The chief executive officer is the accounting officer responsible for the accounting of all money received by the Institute, the utilisation thereof and the property of the Institute.
- (5) The accounting officer may:-
 - (a) Delegate to an employee of the Institute a power conferred upon the accounting officer by or under this Act; or
 - (b) Authorise such employee to perform a duty assigned by or under this Act to the accounting officer;

(c) Any delegation or authorisation under paragraph 5.1 does not prohibit the exercise of the power in question or the performance of the duty in question by the accounting officer himself or herself.

9. Placing of immovable property at disposal of the Institute

- (1) The Minister may in consultation with the Minister of Finance and the Institute on such basis and conditions as he or she determines, make available to the institute any land or building for use by that institute in order to enable the institute to carry out its functions in relation to the Institute.
- (2) The Minister may, subject to the State Land Disposal Act, 1961 (Act 48 of 1961), on such terms and conditions as he or she determines, transfer to the Institute any immovable property of the State in order to enable that Institute to perform its functions.
- (3) The Minister may take steps for the maintenance and development of any immovable property which-
 - (a) is made available to the institute under subsection (1);
 - (b) is transferred to the Institute under subsection (2);
 - (c) the Institute purchases or otherwise acquires or hires under section 4; or
 - (d) the Institute has already so procured or otherwise acquired or hired.

10. Making available of movable property to the Institute

(1) The Minister may in consultation with the Board of the Institute-

(a) place any specimen, collection piece, collection or other movable property which-

(aa) belongs, has been given or has been bequeathed to the Government or to the Republic or its inhabitants; or

(bb) was given or bequeathed on condition that it be for the use or benefit of the Republic and its inhabitants or any section of its inhabitants; or

(cc) any portion of that movable property, under the care and management of the Institute; or

(dd) transfer that movable property, or portion thereof, to the Institute, unless the donor or testator has made other provision for the care thereof.

(b) place any movable property transferred under subsection (a) to the Institute may be alienated only with the approval of the Minister.

11. Funds of the Institute

The funds of the Institute consist of —

- (a) money appropriated by Parliament
- (b) donations or contributions made to the Institute
- (c) interest on investments of the Institute
- (d) fees paid to the Institute in terms of subsection 8
- (e) income derived from any other source.

12. Auditing of accounts

The Auditor-General must audit the statements of the Institute.

13. Regulations

(1) The Minister may make regulations as to-

- (a) the appointment of members of the Institute and the filling of a casual vacancy in the Board;
- (b) the convening of, the procedure at and the quorum for meetings of the Board, and the manner in which that Board may make decisions;
- (c) the safety, custody and preservation of the property of the Institute;
- (d) the keeping of records and the times when, form in which and the persons to whom financial accounts and reports must be rendered in respect of the Institute;
- (e) any matter which must or may be prescribed by regulation under this Act; and

- (f) in general, any matter necessary to prescribe in order to achieve the objects of this Act.

14 Transitional Arrangements

(1) Deregistration of Foundation

- (a) At the commencement of this section-
 - (aa) the members of the Council of the Foundation shall be deemed to be the first Board, for a term to be determined by the Minister, and such Board shall for all purposes be deemed to have been elected and appointed in terms of section 6;
 - (bb) The Minister shall by notice in the Gazette, withdraw, with effect from a date specified in that notice, the notice issued under section 3 of the Cultural Institutions Act, 1998, in respect of the Foundation and all the rights and liabilities of the Foundation shall pass to the Institute;
 - (cc) the Registrar of Companies shall de-register the Foundation in terms of the Companies Act, 1973 (Act 61 of 1973);
 - (dd) No transfer duty, stamp duty or other tax or fees of office shall be payable by the Board in order to give effect to the provisions of this section;
 - (ee) All assets, rights, liabilities and obligations that, immediately prior to the commencement of this Act vest in the FEST pass to the Institute;
 - (ff)** The registrar of deeds must make the necessary entries or endorsements for the transfer of any property in terms of

sub-item (1), and no office fee or other charge is payable in respect of that entry or endorsement.

(2) Staff Issues

- (a) Any reference to FEST in any other Act must be interpreted as a reference to the Institute established by this Act.
- (b) Every person who was in the service of the FEST immediately before the commencement of this Act and who was then engaged in functions now vested in the Institute must, as from the commencement, be transferred to the service of the Institute.
- (c) Every person so transferred must be regarded as being appointed in terms of section 4(2).
- (d) The remuneration and other terms and conditions of service of any person transferred as contemplated in sub-item 2.1 during the transition period may not be less favourable than the remuneration, terms and conditions applicable to that person immediately before the commencement of this Act and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before that date, including-
 - (aa) membership of a pension fund;
 - (bb) membership of a medical aid scheme;
 - (cc) employer contributions in connection with such membership;
 - (dd) accrued pensionable service;
 - (ee) accrued leave benefits; and
 - (ff) retirement at a specific age.

- (e) Every person transferred as contemplated in sub-item (1) remains subject to any decisions, proceedings, rulings and directions applicable to that person immediately before the commencement of this Act.
- (f) Any proceedings against such a person which were instituted immediately before the commencement of this Act, must be disposed of as if this Act had not been enacted.
- (g) The person who was CEO of FEST immediately before the commencement of this Act must be transferred to the service of the Institute as the CEO of the Institute.
- (h) Sub-item 2.4 is also applicable to the CEO with the changes required by the context.

12. Short title and commencement

This Bill is called the Institute for the Promotion of Sciences Bill, 2002, and takes effect on a date fixed by the President by proclamation in the *Gazette*.

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