

REPUBLIC OF SOUTH AFRICA

SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 34220 of 15 April 2011)
(The English text is the official text of the Bill)*

(MINISTER OF SCIENCE AND TECHNOLOGY)

[B 5—2011]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Scientific Research Council Act, 1988, so as to amend certain definitions and insert certain new definitions; to provide for the term of office of the board members; to correct certain references; to effect certain technical corrections; to delete certain inappropriate or obsolete provisions; to amend the National Advisory Council on Innovation Act, 1997, so as to amend certain definitions and insert certain new definitions; to provide for the appointment of an independent chief executive officer; to effect certain technical corrections; to amend the National Research Foundation Act, 1998, so as to amend certain definitions and insert certain new definitions; to correct certain references; to provide for the term of office and disqualification of board members; to effect certain technical corrections; to amend the Academy of Science of South Africa Act, 2001, so as to amend and insert certain new definitions; to provide for election of certain officials of the Council and the Academy; to effect certain technical corrections; to amend the Africa Institute of South Africa Act, 2001, so as to amend certain definitions; to make provision for the term of office of the board members; to correct certain references; to effect certain technical corrections; to amend the Natural Scientific Professions Act, 2003, so as to amend certain definitions; to correct certain references; and to effect certain technical corrections; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 46 of 1988, as amended by section 1 of Act 71 of 1990 and section 1 of Act 49 of 1996

1. Section 1 of the Scientific Research Council Act, 1988 (Act No. 46 of 1988), is hereby amended—

- (a) by the deletion of the numbering preceding and following each definition;
- (b) by the substitution for the definition of “regulation” of the following definition:
 - “ ‘**regulation**’ means a regulation [**in force**] made in terms of this Act;”;
- (c) by the substitution for the definition of “research” of the following definition:
 - “ ‘**research**’ means the augmentation and improvement of knowledge through scientific investigations and methods directed towards the scientific and technological requirements of the private and public sectors, including the solution of relevant problems in the national

- interest, and includes the development, acquisition, diffusion, innovation and transfer of expertise and technology;” and
 (d) by the substitution for the definition of “this Act” of the following definition:
 “**‘this Act’** includes **[a regulation]** the regulations.”.

Amendment of section 2 of Act 46 of 1988 5

2. Section 2 of the Scientific Research Council Act, 1988, is hereby amended by the addition of the following subsection after subsection (2):

“(3) The Council must comply with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

Amendment of section 4 of Act 46 of 1988, as amended by section 3 of Act 71 of 1990 10

3. Section 4 of the Scientific Research Council Act, 1988, is hereby amended—

(a) by the deletion of subsection (2); and

(b) by the substitution for subsection (4) of the following subsection:

“(4) For the achievement of its objects contemplated in section 3, the CSIR, may in the field of research co-operate with departments of State, universities, **[technikons]** universities of technology, colleges, scientific institutions and other persons.”. 15

Amendment of section 6 of Act 46 of 1988

4. Section 6 of the Scientific Research Council Act, 1988, is hereby amended by the substitution for subsection (3) of the following subsection: 20

“(3) The Minister may after consultation with the **[concurrence of the]** Board determine that any property (excluding land and buildings) of the CSIR used by the CSIR in connection with the performance or exercise of the function or power transferred in terms of subsection (1), shall be transferred to the body of persons or department of State 25 concerned.”.

Amendment of section 7 of Act 46 of 1988, as amended by section 4 of Act 71 of 1990

5. Section 7 of the Scientific Research Council Act, 1988, is hereby amended—

(a) by the insertion after subsection (2) of the following subsection:

“(2A) Before appointing members of the Board referred to in subsections 2(a) and (b), the Minister must appoint an independent panel which must compile a shortlist of candidates, after following a transparent nomination process.”;

(b) by the substitution for subsection (3) of the following subsection:

“(3) A member of the Board, excluding the president, shall hold office for a period not exceeding **[three]** four years, but shall be eligible for reappointment.”;

(c) by the insertion after subsection (3) of the following subsection:

“(3A) Save as provided for in subsection (3), no member may serve for more than two consecutive terms.”;

(d) by the substitution for subsection (5) of the following subsection:

“(5) The members of the Board, including the **[chairman]** chairperson shall all be persons who have achieved distinction in science **[or]**, industry or who have special knowledge or experience in relation to some aspect of the CSIR’s functions, including a person who has financial knowledge, and be broadly representative of the demographics of the Republic.” 45

Amendment of section 11 of Act 46 of 1988

6. Section 11 of the Scientific Research Council Act, 1988, is hereby amended by the addition of the following subsection after subsection (4): 50

“(5) The Board must meet at least once a quarter.”.

Amendment of section 15 of Act 46 of 1988

7. Section 15 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the deletion of paragraph (b) of subsection (1); and
 - (b) by the deletion of paragraph (a) of subsection (2).

Repeal of sections 16 and 17 of Act 46 of 1988

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8. Sections 16 and 17 of the Scientific Research Council Act, 1988, are hereby repealed.

Amendment of section 18 of Act 46 of 1988

9. Section 18 of the Scientific Research Council Act, 1988, is hereby amended—
- (a) by the substitution for subsection (5) of the following paragraph: 10
 “[~~(5)~~] (e) the procedure at meetings of the Board[,]; and;”;
 - (b) by the deletion of the words following subsection (5);
 - (c) by the addition of the following paragraph after subsection (5):
 “(f) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.”; and 15
 - (d) by the re-numbering of subsections (1) to (5) as paragraphs (a) to (e), respectively.

Substitution of section 20 of Act 46 of 1988

10. The following section is hereby substituted for section 20 of the Scientific 20
 Research Council Act, 1988:

“Administration of Act

20. The [State] President may by proclamation in the *Gazette* assign the administration of this Act to any Minister, and may determine that any power or duty conferred or imposed by this Act on such Minister, shall be exercised or carried out by that Minister after consultation with one or more other Ministers.”. 25

Substitution of expressions in Act 46 of 1988

11. The Scientific Research Council Act, 1988, is hereby amended by the substitution for the expressions ‘chairman’, ‘president’ and ‘Executive Management Board’, 30
 respectively, wherever they occur in the Act, of the expressions ‘chairperson’, ‘chief executive officer’ and ‘Executive Management Committee’, respectively.

Insertion of words in Act 46 of 1988

12. The Scientific Research Council Act, 1988, is hereby amended by the insertion of the words “or she” or “or her” after “his”, “him” or “he”, as the case may be, 35
 wherever they occur in the Act.

Substitution of section 24 of Act 46 of 1988

13. The following section is hereby substituted for section 24 of the Scientific Research Council Act, 1988:

“Short title and commencement

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24. This Act shall be called the Scientific Research Council Act, 1988, and shall come into operation on a date to be fixed by the [State] President by proclamation in the *Gazette*.”.

Amendment of section 1 of Act 55 of 1997

14. Section 1 of the National Advisory Council on Innovation Act, 1997 (Act No. 55 of 1997), is hereby amended—

- (a) by the deletion of the numbering preceding and following each definition;
- (b) by the substitution for the definition of the “chief executive officer” of the following definition: 5
 “**‘chief executive officer’** means the [**Director-General of the Department**] person appointed under section 11 as the chief executive officer of NACI;”;
- (c) by the substitution for the definition of “Department” of the following definition: 10
 “**‘Department’** means the Department of [**Arts, Culture,**] Science and Technology;”;
- (d) by the substitution for the definition of “higher education sector” of the following definition: 15
 “**‘higher education sector’** means universities, [**technikons**] universities of technology, colleges of education and other institutions which provides tertiary education, whatever their source of finance or legal status;”;
- (e) by the substitution for the definition of “innovation” of the following definition: 20
 “**‘innovation’** refers to the application in practice of creative new ideas, which includes the processes by which new products and services enter the market (social or economic) and the creation of new businesses;”;
- (f) by the substitution in subsection (1) for the definition of “Minister” of the following definition: 25
 “**‘Minister’** means the Minister [**of Arts, Culture,**] responsible for Science and Technology;”;
- (g) by the deletion of the definition of “Ministers Committee”;
- (h) by the insertion after the definition of “non-profit sector” of the following definition: 30
 “**‘regulation’** means a regulation made under section 13;”;
- (i) by the substitution in subsection (1) for the definition of “this Act” of the following definition: 35
 “**‘this Act’** includes [**any regulation made under section 13**] the regulations.”.

Amendment of section 5 of Act 55 of 1997

15. Section 5 of the National Advisory Council on Innovation Act, 1997, is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph: 40

- “(d) an officer of the Department of Trade and Industry nominated by the Minister responsible for Trade and Industry, and appointed by the Minister [with the concurrence of the Minister of Trade and Industry].”.

Amendment of section 7 of Act 55 of 1997

16. Section 7 of the National Advisory Council on Innovation Act, 1997, is hereby amended by the substitution for subsection (3) of the following subsection: 45

- “(3) A member whose period of office has expired [**may be**] is eligible to be reappointed for not more than two consecutive terms.”.

Amendment of section 9 of Act 55 of 1997

17. Section 9 of the National Advisory Council on Innovation Act, 1997, is hereby amended by the insertion of the following subsection after subsection (1): 50

- “(1A) NACI must meet at least once a quarter.”.

Amendment of section 11 of Act 55 of 1997

18. Section 11 of the National Advisory Act, 1997, is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) The Minister must appoint a suitably qualified person as a chief executive officer of NACL.”

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Amendment of section 1 of Act 23 of 1998

19. Section 1 of the National Research Foundation Act, 1998 (Act No. 23 of 1998), is hereby amended—

- (a) by the deletion of the numbering preceding and following each definition;
- (b) by the insertion after the definition of “chairperson” of the following definition:
 - “**‘chief executive officer’** means the person appointed as the chief executive officer of the Foundation under section 10;”;
- (c) by the substitution for the definition of “Minister” of the following definition:
 - “**‘Minister’** means the Minister [**of Arts, Culture, Science and Technology**] responsible for science and technology;”;
- (d) by the deletion of the definition of “president”;
- (e) by the substitution for the definition of “research institution” of the following definition:
 - “**‘research institution’** means any organisation practising research, as recognised by the [**Board,**] Minister with primary emphasis on institutions in the [**tertiary**] public higher education sector;”;
- (f) by the substitution for the definition of “science” of the following definition:
 - “**‘science’** [**includes the natural sciences, engineering sciences, medical sciences, agricultural sciences, social sciences, and humanities**] includes any system of knowledge attained by verifiable means and the organised body of knowledge humans have gained by research;”;
- (g) by the substitution for the definition of “this Act” of the following definition:
 - “**‘this Act’** includes [**a regulation**] the regulations;”.

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Amendment of section 4 of Act 23 of 1998

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20. Section 4 of the National Research Foundation Act, 1998, is hereby amended by the substitution in subsection (3) for paragraph (b) of the following paragraph:

“(b) advise the Minister and, if so required, the Minister [**of Education**] responsible for higher education and training through the Minister, [**in**] with regard to research relating to its object.”

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Amendment of section 6 of Act 23 of 1998

21. Section 6 of the National Research Foundation Act, 1998, is hereby amended—

- (a) by the substitution for subparagraph (ii) of subsection (1)(a) of the following subparagraph:
 - “(ii) not fewer than nine and not more than eleven other members, appointed by the Minister, after consultation with the Minister [**of Education**] responsible for higher education and training; and”;
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:
 - “(a) [**Tertiary**] Higher education;”;
- (c) by the substitution for subsection (5) of the following subsection:
 - “(5) The Board must be reconstituted every [**three**] four years in accordance with the process referred to in subsection (2).”;
- (d) by the insertion after subsection (5) of the following subsections:
 - “(5A) To ensure continuity in the leadership of the Board, at least one-third of the Board must at all times consist of re-appointed members.
 - “(5B) A member may not serve more than two consecutive terms.”;
- (e) by the addition of the following subsection after subsection (8):
 - “(9) A person may not be appointed as a member of the Board if that person—
 - (a) is not a citizen or permanent resident of the Republic;
 - (b) is an unrehabilitated insolvent;

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- (c) has, after the commencement of the Constitution of the Republic of South Africa, 1996, been convicted of an offence, whether in the Republic or elsewhere, and sentenced to imprisonment without an option of a fine.”.

Amendment of section 10 of Act 23 of 1998 5

22. Section 10 of the National Research Foundation Act, 1998, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Board must appoint a chief executive officer for the Foundation, **[who will also be the president of the Foundation. The appointment must be made]** after following a transparent and competitive nomination process.”. 10

Repeal of section 22 of Act 23 of 1998

23. Section 22 of the National Research Foundation Act, 1998, is hereby repealed.

Substitution of expression in Act 23 of 1998

24. The National Research Foundation Act, 1998, is hereby amended by the substitution for the expression “president”, wherever it occurs in the Act, of the expression “chief executive officer”, except where it refers to the President of the Republic or the president of the FRD. 15

Amendment of section 1 of Act 67 of 2001

25. Section 1 of the Academy of Science of South Africa Act, 2001 (Act No. 67 of 2001), is hereby amended— 20

- (a) by the insertion after the definition of “financial year” of the following definition:
 “ **‘Member’** means an elected member of the Academy;”; and
 (b) by the substitution for the definition of “Minister” of the following definition:
 “ **‘Minister’** means the **[cabinet member] Minister** responsible for **[Arts, Culture, Science and Technology] science and technology;**”. 25

Substitution of section 2 of Act 67 of 2001

26. The following section is hereby substituted for section 2 of the Academy of Science of South Africa Act, 2001:

“Establishment of Academy 30

2. (1) A juristic person known as the Academy of Science of South Africa is hereby established.

(2) The Academy must comply with the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

Amendment of section 5 of Act 67 of 2001 35

27. Section 5 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) There is only one category of members of the Academy, but a **[member] Member** may become an *emeritus* **[member] Member** from the beginning of the year in which the **[member] Member** turns 70 years of age.”;
 (b) by the substitution for subsection (4) of the following subsection:
 “(4) New candidates for membership of the Academy are proposed and recommended at least once a year by means of a prescribed certificate signed by not less than four **[members] Members**, at least two of whom have personal knowledge and understanding of the scientific work and significant contribution to science of the candidate.”;
 (c) by the substitution for subsection (8) of the following subsection: 40 45

- “(8) **[All existing members]** Existing Members of the Academy will then be required, in a secret ballot, to cast votes that are either for or against every candidate passed by the Council or that indicate a neutral position.”;
- (d) by the substitution for subsection (11) of the following subsection: 5
 “(11) Every person who is elected a **[member]** Member of the Academy must **[attend an annual general meeting of the Academy to]** sign the register of **[members]** Members and **[to]** subscribe to the following obligation, within a year of election:
[(a)] “(a) I (full names) hereby promise to promote the 10
 well-being of South Africa through scientific thought and generally to further the objectives of the Academy of Science of South Africa as far as this lies within my power; and
 (b) I shall also observe the prescribed constitution and prescribed standing orders of the Academy for as long as I remain a **[member]** Member thereof.”;”;
- (e) by the substitution for subsection (12) of the following subsection:
 “(12) A **[member]** Member of the Academy is, subject to subsection (9), **[obliged]** eligible to take part in the elections of new **[members]** 20
 Members of the Academy and the members of the Council.”; and
- (f) by the substitution for subsection (13) of the following subsection:
 “(13) An unsuccessful candidate or a Member who had his or her membership terminated may appeal to the Council in the prescribed 25
 manner.”.

Amendment of section 6 of Act 67 of 2001

28. Section 6 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection: 30
 “(4) The members of the Council, except the member contemplated in subsection (3)(f), are elected by **[members]** Members of the Academy from their number and appointed by the Minister.”;
- (b) by the insertion of the following subsections after subsection (4):
 “(4A) The chairperson of the Council must be elected by secret ballot 35
 by the Council from among its members, at its first meeting, after nomination of Council members for election as president with the support of at least two members of the Council.
 (4B) The vice-presidents, the treasurer and the general secretary of the Academy must be elected by the Council by secret ballot from among its members at its first meeting, after nominations in each case by at least 40
 two members of the Council.”; and
- (c) by the substitution for paragraph (a) of subsection (6) of the following paragraph:
 “(a) The Council **[meets]** must meet at least once a quarter at such 45
 times and places as the **[president]** chairperson may direct in writing.”.

Amendment of section 7 of Act 67 of 2001

29. Section 7 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the deletion in subsection (2) of paragraph (b);
- (b) by the substitution for paragraph (f) of subsection (2) of the following 50
 paragraph:
 “(f) has been found guilty of misconduct after a formal hearing for conduct which may bring the Academy into disrepute **[, but a member may not vacate office until the next annual general meeting at which the vacation of office must appear on the 55
 agenda]**, and such finding has been confirmed at the annual general meeting.”;
- (c) by the deletion of paragraph (g) of subsection (2);

- (d) by the insertion after subsection (2) of the following subsection:
“(2A) The Council must be reconstituted every four years, and a member of the Council may not serve for more than two consecutive terms.”;
- (e) by the substitution for subsection (3) of the following subsection: 5
“(3) Any member of the Council wishing to resign his or her membership must tender his or her resignation in writing to the [president] chairperson of the Council.”;
- (f) by the substitution for subsection (4) of the following subsection: 10
“(4) Membership [lapses] of the Council terminates if subscription fees, as prescribed, have not been paid within [three months after they become due] the prescribed period.”; and
- (g) by the insertion after subsection (5) of the following subsection: 15
“(5A) For the sake of continuity, at least one third of the Council must at all times consist of re-appointed members.”.

Amendment of section 8 of Act 67 of 2001

30. Section 8 of the Academy of Science of South Africa Act, 2001, is hereby amended by the substitution for subsection (2) of the following subsection:

- “(2) A committee referred to in subsection (1) consists of such number of members of the Academy and employees of the Academy, if any, and other persons as the Council may deem necessary, and the Council may at any time dissolve or reconstitute a committee.”. 20

Repeal of section 9 of Act 67 of 2001

31. Section 9 of the Academy of Science of South Africa Act, 2001, is hereby repealed. 25

Amendment of section 10 of Act 67 of 2001

32. Section 10 of the Academy of Science of South Africa Act, 2001, is hereby amended by the substitution for paragraph (b) of the following paragraph:

- “(b) The [Council] Academy must out of its own funds pay to its employees such remuneration, allowances, subsidies and other benefits as the Council may determine.”. 30

Amendment of section 11 of Act 67 of 2001

33. Section 11 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs, respectively: 35
“(c) interest on investments; [and]
(d) income derived under this Act from any other source; and”; and
- (b) by the addition of the following paragraph after subsection (1)(d): 40
“(e) money appropriated by Parliament to support particular activities of the Academy.”.

Amendment of section 12 of Act 67 of 2001

34. Section 12 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection: 45
“(2) The financial statements must be submitted to [members] Members within six months of the end of the financial year.”; and
- (b) by the addition of the following subsections after subsection (2):
“(3) The Academy must submit to the Minister the financial statements referred to in subsection (1) and such other particulars as the Minister may require within six months of the end of the financial year. 50
(4) The Minister must table the financial report referred to in subsection (3) in Parliament.”.

Amendment of section 13 of Act 67 of 2001

35. Section 13 of the Academy of Science of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for the heading of the section of the following heading: 5
“Functions of **[Academy] Council**”;
- (b) by the substitution for subsection (1) of the following subsection:
“(1) In order to achieve **[its] the objectives of the Academy the Council** may—”;
- (c) by the substitution for paragraph (h) of subsection (1) of the following 10
paragraph:
“(h) invest **[its] funds of the Academy** on such security as it may from time to time determine;”;
- (d) by the substitution in subsection (2) for the words preceding paragraph (a) of 15
the following words:
“The **[Academy] Council** must—”.

Amendment of section 14 of Act 67 of 2001

36. Section 14 of the Academy of Science of South Africa Act, 2001, is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The Academy may, subject to legislation and other formal agreements 20
regarding international cooperation and in order to achieve its objectives, render support relevant thereto to any South African citizen in any territory outside the Republic.”.

Amendment of section 16 of Act 67 of 2001

37. Section 16 of the Academy of Science of South Africa Act, 2001, is hereby amended by the substitution for the words preceding paragraph (a) of the following 25
words:

- “The Minister may in consultation with the **[Academy] Council** make regulations regarding—”.

Amendment of section 1 of Act 68 of 2001

38. Section 1 of the Africa Institute of South Africa Act, 2001 (Act No. 68 of 2001), 30
is hereby amended—

- (a) by the substitution for the definition of “Department” of the following 35
definition:
“**‘Department’** means the Department of **[Arts, Culture,] Science and Technology;**”;
- (b) by the substitution for the definition of “Minister” of the following definition:
“**‘Minister’** means the Minister **[of Arts, Culture, Science and Technology]** responsible for science and technology;”.

Substitution of section 2 of Act 68 of 2001

39. The following section is hereby substituted for section 2 of the Africa Institute of 40
South Africa Act, 2001:

“Establishment of Institute

2. (1) A juristic person known as the Africa Institute of South Africa is hereby established.

(2) The Institute must comply with the provisions of the Public Finance 45
Management Act, 1999 (Act No. 1 of 1999).”.

Amendment of section 4 of Act 68 of 2001

40. Section 4 of the Africa Institute of South Africa Act, 2001, is hereby amended—

- (a) by the substitution for paragraphs (a) and (b) of subsection (6) of the 50
following paragraphs, respectively:

- “(a) is appointed for a period of **[three]** four years, unless a shorter period is prescribed; and
- (b) whose period of office has expired, may be re-appointed for a further term not exceeding four years.”; and
- (b) by the substitution for subsection (8) of the following subsection: 5
- “(8) A member of the Council who is not in the full-time employ of the State may receive out of the funds of the **[Council]** Institute, in respect of his or her functions as member, the allowances **[which the Minister, in consultation with the Minister of Finance, determines]** prescribed by the National Treasury.” 10

Amendment of section 6 of Act 68 of 2001

41. Section 6 of the Africa Institute of South Africa Act, 2001, is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
- “The Council must, in line with **[its]** the objectives of the Institute—” 15

Amendment of section 8 of Act 68 of 2001

42. Section 8 of the Africa Institute of South Africa Act, 2001, is hereby amended by the substitution for subsection (1) of the following subsection:
- “(1) The Council must meet at least **[three times a year]** once a quarter, and meetings shall be held at such times and places as the chairperson may determine by notice in writing to the other members.” 20

Amendment of section 10 of Act 68 of 2001

43. Section 10 of the Africa Institute of South Africa Act, 2001, is hereby amended by the substitution for subsection (2) of the following subsection:
- “(2) A committee referred to in subsection (1) may consist of such number of members of the Council and employees of the **[Council]** Institute, if any, as the Council may deem necessary, and the Council may at any time dissolve or reconstitute any such committee.” 25

Substitution of section 12 of Act 68 of 2001

44. The following section is hereby substituted for section 12 of the Africa Institute of South Africa Act, 2001: 30

“CEO

12. (1) The Council must, in consultation with the Minister, appoint a full-time CEO for the **[Council]** Institute.
- (2) The CEO shall be responsible for the management of the affairs of the **[Council]** Institute and must report to the Council on those affairs as often as may be required by the Council.
- (3) The CEO must be appointed for a maximum period of five years and subject to such conditions, including conditions relating to the payment of remuneration and allowances, as the Council may, subject to section 14**[(1)](b)**, determine, and may be reappointed for a similar period on the expiry of his or her period of office.
- (4) Whenever the CEO is absent for any reason for a period exceeding two months, or unable to carry out his or her duties, or whenever **[there is a vacancy in the office of]** the position of the CEO is vacant, the Council may, subject to such conditions and the payment of such remuneration and allowances as it may determine in the manner contemplated in subsection (3) and with the concurrence of the Minister, appoint an **[employee of the Council to act as]** acting CEO during such absence or inability, or until a CEO has been appointed in terms of subsection (1), and that employee shall, whilst so acting, have all the powers and perform all the duties of the CEO: Provided that where the CEO is absent for a period of less than two months the Council may, without the concurrence of the Minister, appoint an acting CEO.” 45 50

Repeal of section 13 of Act 68 of 2001

45. Section 13 of the Africa Institute of South Africa Act, 2001, is hereby repealed.

Amendment of section 14 of Act 68 of 2001

46. Section 14 of the Africa Institute of South Africa Act, 2001, is hereby amended—
- (a) by the substitution for paragraph (b) of the following paragraph: 5
 - “(b) must out of [its own] the funds of the Institute, pay to its members such remuneration, allowances, subsidies and other benefits as the Council may determine in accordance with a system approved for that purpose by the Minister with the concurrence of the Minister of Finance; and”; and 10
 - (b) by the substitution for paragraph (c) of the following paragraph:
 - “(c) may, on such conditions as it may deem fit and if the employee consents thereto, second an employee, either for a particular task or for a period of time, to the service of a department of state, an organisation or institute in the Republic on condition that the rights, privileges and benefits of such an employee, by virtue of his or her conditions of service as an employee of the [Council] Institute, are not adversely affected by such secondment.”. 15

Amendment of section 15 of Act 68 of 2001

47. Section 15 of the Africa Institute of South Africa Act, 2001, is hereby amended— 20
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 - “The funds of the [Council] Institute consist of—”; 25
 - (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 - “(b) money paid to the [Council] Institute by users of its services;”; 25
 - (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
 - “(a) any money contemplated in subsection (1)(a) in accordance with the statement of its estimated income and expenditure referred to in subsection (3), as approved by the Minister: Provided that, subject to subsection (1)(a), the Council may utilise any amount or portion of any amount required to be so utilised for a particular or any other purpose in connection with a specified matter: Provided further that the Council, with the approval of the Minister, may utilise any balance of such money of the [Council] Institute remaining at the end of the financial year for any expenses in connection with the performance of its functions; and.”; 30
 - (d) by the substitution for paragraph (a) of subsection (3) of the following paragraph: 40
 - “(a) in each financial year, at such time as the Minister may direct, submit a statement of the [Council’s] Institute’s estimated income and expenditure during the following financial year, and the [Council] Institute may also during the course of a financial year submit supplementary statements of the [Council] Institute’s estimated expenditure for that financial year to the Minister for approval, to be granted with the concurrence of the Minister of Finance; and.”; and 45
 - (e) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 50
 - “The [Council] Institute may—”.

Amendment of section 16 of Act 68 of 2001

48. Section 16 of the Africa Institute of South Africa Act, 2001, is hereby amended—
- (a) by the substitution for subsection (1) of the following subsection: 55
 - “(1) The Auditor-General must audit the accounts and balance sheet of the [Council] Institute.”;

- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
 “(a) furnish the Minister with such information as he or she may call for in connection with the activities and financial position of the [Council] Institute; and”;
 5
- (c) by the substitution for subsection (3) of the following subsection:
 “(3) The Minister must table the report referred to in subsection (2)(b) in Parliament [within 14 days after receipt thereof if Parliament is in session or, if Parliament is not in session, within 14 days after commencement of its next session].”
 10

Repeal of section 17 of Act 68 of 2001

49. Section 17 of the Africa Institute of South Africa Act, 2001, is hereby repealed.

Amendment of section 18 of Act 68 of 2001

50. Section 18 of the Africa Institute of South Africa Act, 2001, is hereby amended—
 15
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
 “(a) delegate to the chairperson of the Council, CEO or any other employee of the [Council] Institute, any power conferred upon the Council by or under this Act, on such conditions as the Council may determine; or”;
 20
- (b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
 “(b) authorise the chairperson of the Council, CEO or any other employee of the [Council] Institute to perform any duty assigned to the Council by or under this Act.”; and
 25
- (c) by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs, respectively:
 “(a) delegate any power conferred upon him or her by or under this Act to an employee of the [Council] Institute; or
 (b) authorise an employee of the [Council] Institute to perform any
 30 duty assigned to him or her by or under this Act.”.

Repeal of section 19 of Act 68 of 2001

51. Section 19 of the Africa Institute of South Africa Act, 2001, is hereby repealed.

Amendment of section 1 of Act 27 of 2003

52. Section 1 of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003), is hereby amended—
 35
- (a) by the insertion before the definition of “Council” of the following definition:
 “‘**Constitution**’ means the Constitution of the Republic of South Africa, 1996;”;
 and
- (b) by the substitution for the definition of “Minister” of the following definition:
 40 “‘**Minister**’ means the Minister [of Arts, Culture, Science and Technology] responsible for science and technology;”.

Amendment of section 3 of Act 27 of 2003

53. Section 3 of the Natural Scientific Professions Act, 2003, is hereby amended—
 45
- (a) by the substitution for subparagraphs (ii) and (iii) of subsection (1)(a) of the following subparagraphs:
 “(ii) represent the categories of registered persons mentioned in section 18; [and]
 (iii) fairly represent the different categories in the natural scientific professions; and”;
 50
- (b) by the addition in subsection (1)(a) of the following subparagraph:
 “(iv) broadly represent the demographics of the Republic.”; and
- (c) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) not fewer than four and not more than six must be professional natural scientists or certified natural scientists who are in the service of the State, each nominated by his or her Director-General or chief executive officer of the organ of state concerned: Provided that at least one of the persons so nominated must be in the service of the Department and one in the service of the Department of Higher Education and Training; and”.

Amendment of section 6 of Act 27 of 2003

54. Section 6 of the Natural Scientific Professions Act, 2003, is hereby amended—
- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- “(c) after the commencement of the Constitution [**of the Republic of South Africa, 1993 (Act No. 200 of 1993)**], has been convicted of an offence, whether in the Republic or elsewhere, and sentenced to imprisonment [**for a period exceeding three months, or to a]** without an option of a fine [**as alternative thereto]**”;
- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) resigns by written notice addressed to the [**chief executive officer]** president of the Council;”;
- (c) by the substitution for paragraphs (d), (e) and (f) of subsection (2) of the following paragraphs, respectively:
- “(d) has without leave of the Council, been absent from more than [**two]** three consecutive meetings of the Council;
- (e) was appointed in terms of section 3(1)(a) and is no longer a member of the body that nominated him or her;
- (f) was appointed in terms of section 3(1)(b) and ceases to be employed by the State; or”.

Amendment of section 20 of Act 27 of 2003

55. Section 20 of the Natural Scientific Professions Act, 2003, is hereby amended by the substitution for subparagraph (i) of subsection (4)(a) of the following subparagraph:
- “(i) if, after the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), the applicant has been convicted of [**an offence]** a crime specified in Schedule 1 of the Criminal Procedure Act, 1997 (Act No. 51 of 1997), whether [**either]** in the Republic or elsewhere, and sentenced to imprisonment [**for a period exceeding three months, or to a]** without an option of a fine [**as alternative thereto]**”.

Short title

56. This Act is called the Science and Technology Laws Amendment Act, 2011.

MEMORANDUM ON THE OBJECTS OF THE SCIENCE AND TECHNOLOGY LAWS AMENDMENT BILL

1. BACKGROUND

The Department of Science and Technology was established in 2004. Prior to 2004, it was part of the Department of Arts, Culture, Science and Technology, under the Ministry of Arts, Culture, Science and Technology. The subsequent establishment of the Department of Science and Technology (DST) has impacted on a number of Acts, under the authority of the Minister of Science and Technology.

2. OBJECTS OF BILL

2.1 The draft Bill seeks to effect, amongst others, technical corrections to definitions and other references associated with the Ministry of Arts, Culture, Science and Technology, so as to enhance clarity and to strengthen institutional oversight and governance of the public entities reporting to the Department.

2.2 The amendments therefore seek to eliminate possible confusion regarding definitions such as the title of the chief executive officer of some public entities as well as the references to the department and the designation of the portfolio of the Minister and to effect other consequential changes that were necessitated by the recent macro reorganisation of State.

2.3 Scientific Research Council Act, 1988 (Act No. 46 of 1988)

The amendments seek to change the title of the chief executive officer of “the Council” and provides for procedures prior to making appointments of members of the Board to ensure consistency with all the public entities reporting to the Department, sets a limit on the terms of office of members of the Board, and provide for the broad representativity on the Board.

2.4 National Advisory Council on Innovation Act, 1997 (Act No. 55 of 1997)

The amendments correct the references to the Department and the portfolio of the Minister, and repeal the provision for the establishment of the Minister’s Committee, and provides for the appointment of an independent chief executive officer of NACI.

2.5 National Research Foundation Act, 1998 (Act No. 23 of 1998)

The amendments seek to change the title of the chief executive officer of the Foundation and correct the references to the designation of the portfolio of the Minister and the Minister of Higher Education and Training, set a limit on the terms of office of members of the Board and set out grounds for their disqualification from membership of the board.

2.6 Academy of Science of South Africa Act, 2001 (Act No. 67 of 2001)

The amendments correct references to the designation of the portfolio of the Minister; effects certain other technical corrections and provides a definition for a member of the Academy. Provision is made for the manner in which the Chairperson of the Council, Vice-Presidents, the Treasurer and the General Secretary of the Academy are elected. It further provides for the term of office of the Council and for appeal on termination of membership of the Council.

2.7 Africa Institute of South Africa Act, 2001 (Act No. 68 of 2001)

The amendments correct references to the Department and the designation of the portfolio of the Minister and change incorrect references to 'Council' instead of 'Institute'. A limit is set on the terms of office of members of the Council and provides for a minimum period for Council meetings in a year.

2.8 Natural Scientific Professions Act, 2003 (Act No. 27 of 2003)

This Bill corrects incorrect references to, amongst others, the Constitution and the designation of the portfolio of the Minister, and provides for a requirement to ensure broad representativity on the Board. It also extends the requirement for a professional qualification or registration to state employees, as a condition for their appointment to the Board.

3. PARTIES CONSULTED

The Bill was published in the *Gazette* for public comment and all affected stakeholders (relevant science councils) were consulted.

4. FINANCIAL IMPLICATIONS FOR STATE

There will be no costs implications relating to the implementation of the Act. The proposed amendments are purely of an administrative nature.

5. PARLIAMENTARY PROCEDURE

- 5.1 The State Law Advisers and the Department of Science and Technology are of the opinion that this Bill should be dealt with in terms of the procedure established by section 75 of the Constitution, since it contains no provisions to which the procedure set out in section 76 of the Constitution applies.
- 5.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.