

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
NONPROFIT ORGANISATIONS
BILL**

[B 88—97]

(As agreed to by the Portfolio Committee on Welfare (National Assembly))

[B 88A—97]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP
ORGANISASIES SONDER
WINSOOGMERK**

[W 88—97]

(Soos goedgekeur deur die Portefeuljekomitee oor Welsyn (Nasionale Vergadering))

[W 88A—97]

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AMENDMENTS AGREED TO

NONPROFIT ORGANISATIONS BILL
[B 88—97]

CLAUSE 1

1. On page 2, in line 19, after “year” to insert:
 , in relation to the Directorate,
2. On page 2, from line 20, to omit “, unless another period is specified in respect of a particular organisation”.
3. On page 2, in line 25, to omit “or” and to substitute “, company or other”.
4. On page 2, in line 27, to omit “profits” and to substitute “property”.

CLAUSE 2

1. On page 4, in line 17, after “ment” to insert “, donors”.

CLAUSE 3

1. On page 4, in line 24, after “promote” to insert “, support”.

CLAUSE 4

1. On page 4, in line 27, to omit “to support and enhance the capacity of nonprofit organisations to perform their functions”.

CLAUSE 5

1. On page 4, in line 32, to omit “developing” and to substitute:
 facilitating the process for developing and implementing
2. On page 4, in line 33, to omit “programs” and to substitute:
 programmes, including programmes—
 - (i) to support nonprofit organisations in their endeavour to register; and
 - (ii) to ensure that the standard of governance within nonprofit organisations is maintained and improved;

CLAUSE 6

1. On page 4, in line 38, to omit “may” and substitute “must”.
2. On page 4, in line 40, to omit “a”.
3. On page 4, in line 40, to omit “constitution” and to substitute “constitutions”.

CLAUSE 8

1. On page 6, in line 10, to omit “for” and to substitute “of”.
2. On page 6, in line 12, to omit “for” and to substitute “of”.

CLAUSE 9

1. On page 6, in line 15, to omit “as required from time to time”.
2. On page 6, after line 16, to insert the following subsection:
 - (2) (a) The Minister must designate one member of the panel of arbitrators to act as the chairperson.
 - (b) If the chairperson is unable to act in this capacity or the post becomes vacant, the Minister may designate any other member of the panel to act as chairperson.
3. On page 6, in line 29, after the second “of” to insert “not more than”.
4. On page 6, in line 30, after “arbitrators” to insert “appointed by the chairperson”.

CLAUSE 10

1. On page 6, in line 34, to omit “may” and substitute “must”.

CLAUSE 11

1. On page 6, in line 44, to omit “with the concurrence of” and to substitute “after consultation with”.
2. On page 6, in line 45, after “and” to insert “with the concurrence of”.

CLAUSE 12

1. On page 6, from line 49, to omit “if it has adopted a constitution that meets the requirements of subsections (2) and (3)”.
2. On page 8, in line 6, to omit “profits” and to substitute “property”.
3. On page 8, from line 9, to omit paragraph (d) and to substitute:
 - (d) make provision for the organisation to be a body corporate and have an identity and existence distinct from its members or office-bearers;

4. On page 8, from line 11, to omit paragraph *(e)* and to substitute:
 - (e)* make provision for the organisation's continued existence notwithstanding changes in the composition of its membership or office-bearers;
5. On page 8, in line 13, to omit "state" and to substitute "ensure".
6. On page 8, in line 25, after "up" to insert "or dissolved".
7. On page 8, in line 26, after "up" to insert "or dissolved".
8. On page 8, in line 29, after "may" to insert:
 - make provision for matters relevant to conducting its affairs, including matters that
9. On page 8, in line 30, to omit "prescribe" and to substitute "specify".

CLAUSE 14

1. On page 10, in line 25, to omit "decision not" and to substitute "refusal".
2. On page 10, in line 28, to omit "Minister" and to substitute "Directorate".
3. On page 10, in line 35, after "manner" to insert:
 - , including providing the appellant and the Directorate with the opportunity to make oral representations,
4. On page 10, in line 38, to omit "appropriate".

CLAUSE 15

1. On page 10, in line 49, after "up" to insert "or dissolved".

CLAUSE 17

1. On page 12, in line 14, to omit ", principles and procedures".
2. On page 12, in line 15, to omit "books and" and to substitute "accounting".
3. On page 12, in line 17, to omit "including" and to substitute "which must include".
4. On page 12, in line 23, to omit "expressing an opinion as to" and to substitute "stating".

CLAUSE 18

1. On page 12, in line 35, after "must" to insert ", in writing,".

2. On page 12, in line 38, to omit “17(2)” and to substitute “17(1) and (2)”.
3. On page 12, in line 48, after “may” to insert:

cause any document or a narrative, financial or other report that is submitted to the director to be scrutinised, or
4. On page 14, in line 3, after “terms” to insert:

of this section, section 17 and any other provision of

CLAUSE 19

1. On page 14, from line 31, to omit “compare the new name with the other names in the register and, if the new name cannot be confused with any other name in the register”.
2. On page 14, from line 39, to omit subsection (5).

CLAUSE 20

1. On page 14, from line 43, to omit subsection (1) and to substitute:
 - (1) The director must—
 - (a) send a compliance notice in the prescribed form to a registered nonprofit organisation if the organisation has not complied with—
 - (i) a material provision of its constitution;
 - (ii) a condition or term of any benefit or allowance conferred on it in terms of section 11; or
 - (iii) its obligations in terms of sections 17, 18 and 19 and any other provision of this Act; and
 - (b) refer the nonprofit organisation to the South African Police Service for criminal investigation if satisfied that any noncompliance may constitute an offence.

CLAUSE 21

1. On page 16, in line 10, after “notice” to insert:

or makes material false representations in any document or a narrative, financial or other report submitted to the director,
2. On page 16, in lines 11 and 12, to omit “by amending the register; and”.
3. On page 16, in line 15, to omit “on which the amendment was made to the register.” and to substitute:

on which the registration was cancelled; and
4. On page 16, after line 15, to insert the following paragraph:
 - (c) amend the register accordingly.

5. On page 16, after line 17, to insert the following subsection:

(3) For purposes of this Act, a cancellation of registration takes effect on the date on which the certificate of registration is cancelled by the director.

CLAUSE 22

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 21:

22. (1) A registered nonprofit organisation may refer the decision of the director to cancel its registration for arbitration to the Directorate for consideration by an Arbitration Tribunal, and the procedure established by section 14(1) applies to noting that arbitration, with the necessary changes.

(2) Within three months after receipt of the relevant items, the Arbitration Tribunal must consider the arbitration in the prescribed manner and send a written notice of its decision to the appellant and to the director, stating the reasons for the decision.

(3) If the Arbitration Tribunal upholds the appeal—

- (a) the director must reinstate the registration of the nonprofit organisation by—
- (i) reissuing a certificate of registration; and
 - (ii) amending the register accordingly; and
- (b) the nonprofit organisation must be regarded not to have had its registration cancelled.

CLAUSE 23

1. On page 16, in line 22, after “deregistration” to insert “and winding up or dissolution”.
2. On page 16, from line 23, to omit subsection (1) and to substitute:

(1) A registered nonprofit organisation may deregister voluntarily by sending the director—

(a) written notice—

- (i) stating its intention to deregister voluntarily and the reasons therefor; and
- (ii) specifying a date, at least two months after the date of the notice, on which the deregistration is to take effect; and simultaneously

(b) a copy of the reports referred to in section 18(1) for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(2) If a registered nonprofit organisation resolves to wind itself up or dissolve or is being wound up in terms of any law, the organisation must, within one month after completion of the winding up or dissolution process or the relevant order of court, send to the director—

(a) a written notice—

- (i) stating this fact;
- (ii) containing certified copies of all relevant documents confirming the winding up or dissolution; and simultaneously

(b) a copy of the reports referred to in section 18(1) for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

3. On page 16, in line 28, after “deregistration” to insert “or winding up or dissolution”.

CLAUSE 24

1. On page 16, in line 38, after “deregistered” to insert:
or have been wound up or dissolved
2. On page 16, in line 40, after “*Gazette*” to insert:
and at least one other widely circulated means of communication,
3. In the English text, on page 16, in line 44, to omit “organisation’s” and to substitute “organisations”.
4. On page 16, after line 45, to insert the following subsection:

(3) Subsection (2) does not preclude the director from publishing the names of the organisations contemplated in that section in any widely circulated means of communication, as and when considered appropriate.

CLAUSE 25

1. On page 16, in line 48, to omit “a”.
2. On page 16, in line 48, to omit “organisation” and to substitute “organisations”.
3. On page 18, in line 1, to omit “a”.
4. On page 18, in line 1, to omit “organisation” and substitute “organisations”.
5. On page 18, in line 2, after “deregistered” to insert:
or has been wound up or dissolved
6. In the English text, on page 18, in line 5, to omit the first “to” and to substitute “of”.

CLAUSE 26

1. On page 18, from line 14, to omit subsection (2).

CLAUSE 27

1. On page 18, in line 29, to omit “conduct” and to substitute “rights”.

CLAUSE 29

1. On page 20, in line 9, after “up” to insert “or dissolved”.

2. In the English text, on page 20, in line 10, to omit “in a manner other than” and to substitute “otherwise than in”.
3. On page 20, after line 11, to omit subsections (2), (3) and (4) and to substitute:
 - (2) It is an offence for persons, bodies or organisations—
 - (a) to represent themselves as being validly registered in terms of this Act unless they are so registered;
 - (b) to make use of a registration number, a registration certificate or any information contained in the registration certificate if they have not been registered in terms of this Act; or
 - (c) to make material false representations in any document or a narrative, financial or other report submitted to the director.
 - (3) In any criminal proceedings in respect of an offence created in terms of this Act—
 - (a) a certified copy of the registration certificate or extract of the register is admissible evidence and, in the absence of evidence to the contrary, is sufficient proof that an organisation is registered or has been registered, as the case may be; and
 - (b) an affidavit from the director stating that an organisation has not been registered in terms of this Act, is sufficient proof of this fact in the absence of evidence to the contrary.

CLAUSE 33

1. On page 22, in line 6, to omit “II” and to substitute “III”.

CLAUSE 34

1. On page 22, in line 20, after “effect” to insert:

, subject to paragraphs (c) and (d)
2. On page 22, from line 22, to omit paragraph (c) and to substitute:
 - (c) If the authorisation or registration of an organisation contemplated in paragraph (a) would expire—
 - (i) within two months after this Act takes effect, if the authorisation or registration of the organisation would expire within two months after this Act takes effect; or
 - (ii) no later than two months before its authorisation or registration expires, if the authorisation or registration would expire within two years after this Act takes effect.
4. On page 22, in line 27, to omit “(b) or”.
5. On page 22, in line 27, after “timeously” to insert:

, the director must notify the organisation in writing of this fact and inform the organisation that it has two months from the date of the notice to submit its application to be registered.

 - (e) If the organisation does not submit its application within this period,