

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.

(English text signed by the President)
(Assented to 29 April 2019)

ACT

To amend the National Research Foundation Act, 1998, so as to delete and insert certain definitions; to provide for the Minister to determine national policies and issue policy guidelines for implementation; to extend the functions, powers and duties of the Foundation; to empower the Minister to make regulations relating to the determination of national research facilities; to provide for the withdrawal of the determination or transfer of a national research facility; to empower the Minister to declare a research institution and its eligibility to receive funding; to make certain textual alterations; to provide for the liquidation of the Foundation; to delete certain inappropriate or obsolete provisions; 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 23 of 1998, as amended by section 19 of Act 16 of 2011

1. Section 1 of the National Research Foundation Act, 1998 (Act No. 23 of 1998) (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of “chief executive officer” of the following definition:
 “**‘Department’** means the Department responsible for science and technology;”;
 - (b) by the substitution for the definition of “division” of the following definition:
 “**‘division’** means a division of the Foundation [**established under**] envisaged in section 12;”;
 - (c) by the deletion of the definition of “**FRD**”;
 - (d) by the deletion of the definition of “**HSRC**”;
 - (e) by the deletion of the definition of “**national facilities**”;
 - (f) by the insertion after the definition of “Minister” of the following definition:
 “**‘national research facility’** means an institution that provides unique and substantial infrastructure, capabilities and services for competitive research, innovation and human capacity development in science, engineering and technology, and has been determined as such under section 5;”;

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk in vierkantige hakies, dui uitlatings uit bestaande verordeninge aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

 (Engelse teks deur die President geteken)
 (Goedgekeur op 29 April 2019)

WET

Tot wysiging van die Wet op die Nasionale Navorsingstigting, 1998, ten einde sekere omskrywings te skrap en in te voeg; voorsiening te maak vir die Minister om nasionale beleid te bepaal en beleidsriglyne vir implementering uit te reik; die werksaamhede, bevoegdhede en pligte van die Stigting uit te brei; die Minister te magtig om regulasies aangaande die bepaling van nasionale navorsingsfasiliteite te maak; voorsiening te maak vir die onttrekking van die bepaling of oordrag van 'n nasionale navorsingsfasiliteit; die Minister te magtig om 'n navorsingsinstelling te bepaal en dat dit vir befondsing kwalifiseer; om sekere tekstuele veranderinge aan te bring; vir die likwidasie van die Stigting voorsiening te maak; om sekere onvanpaste of uitgediende bepalings te skrap; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 1 van Wet 23 van 1998, soos gewysig deur artikel 19 van Wet 16 van 2011

1. Artikel 1 van die Wet op die Nasionale Navorsingstigting, 1998 (Wet No. 23 van 1998) (hierna die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van “afdeling” deur die volgende omskrywing te vervang:
- “**‘afdeling’** ’n afdeling van die Stigting [**kragtens**] in artikel 12 [**ingestel**] beoog;”;
- (b) deur die volgende omskrywing na die omskrywing van “afdeling” in te voeg:
- “**‘Departement’** die departement verantwoordelik vir wetenskap en tegnologie;”;
- (c) deur die omskrywing van “nasionale fasiliteite” te skrap;
- (d) deur die volgende omskrywing na die omskrywing van “nasionale fasiliteite” in te voeg:
- “**‘nasionale navorsingsfasiliteit’** ’n instelling wat unieke en wesenlike infrastruktuur, vermoëns en dienste voorsien vir mededingende navorsing, innovering en ontwikkeling van mensekapasiteit in wetenskap, ingenieurswese en tegnologie, en wat kragtens artikel 5 as sodanig bepaal is;”;

- (g) by the substitution for the definition of “research institution” of the following definition:
 “**‘research institution’** means the institution conducting research as recognised by the Minister in terms of section 5A;”;
- (h) by the insertion after the definition of “science” of the following definition: 5
 “**‘science engagement’** means participation by the public in a programme aimed at generating public response to science, which includes but is not limited to awareness, accumulation of knowledge, enjoyment, opinion formulation and scientific literacy;”;
- (i) by the substitution for the definition of “technology” of the following 10
 definition:
 “**‘technology’** means the manner through which knowledge accumulated through research or observation finds practical application;”.

Substitution of section 2 of Act 23 of 1998

2. The following section is hereby substituted for section 2 of the principal Act: 15

“Establishment of Foundation

2. (1) There is established, as from a date fixed by the President of the Republic of South Africa by proclamation in the *Gazette*, a juristic person to be known as the National Research Foundation.
- (2) The Public Finance Management Act, 1999 (Act No. 1 of 1999), 20
 applies to the Foundation.”.

Substitution of section 3 of Act 23 of 1998

3. The following section is hereby substituted for section 3 of the principal Act:

“Object of Foundation

3. The object of the Foundation is to contribute to national development 25
 by—
- (a) supporting, promoting and advancing research and human capacity development, through funding and the provision of the necessary research infrastructure, in order to facilitate the creation of knowledge, innovation and development in all fields of science and technology, including humanities, social sciences and indigenous knowledge; 30
- (b) developing, supporting and maintaining national research facilities;
- (c) supporting and promoting public awareness of, and engagement with, science; and
- (d) promoting the development and maintenance of the national science 35
 system and support of Government priorities.”.

Insertion of section 3A in Act 23 of 1998

4. The following section is hereby inserted in the principal Act after section 3:

“Powers of Minister to determine national policies and issue policy guidelines 40

- 3A. (1) In pursuit of the Government’s objectives and those of the Foundation, the Minister may, after consultation with the Foundation and any other relevant Minister, determine national policies for research and funding to be implemented by the Foundation.
- (2) The Minister may, after consultation with the Foundation, issue 45
 national policy guidelines for the implementation of the policies referred to in subsection (1).”.

- (e) deur die omskrywing van “navorsingsinstelling” deur die volgende omskrywing te vervang:
 “**‘navorsingsinstelling’** die instelling wat navorsing doen soos ingevolge artikel 5A deur die Minister bepaal;”;
- (f) deur die omskrywing van “RGN” te skrap; 5
- (g) deur die omskrywing van “SNO” te skrap;
- (h) deur die omskrywing van “tegnologie” deur die volgende omskrywing te vervang:
 “**‘tegnologie’** die wyse waarop kennis wat deur navorsing of waarneming versamel is, prakties toegepas word;” en 10
- (i) deur die volgende omskrywing na die omskrywing van “wetenskap” in te voeg:
 “**‘wetenskapsbetrokkenheid’** deelname deur die publiek in ’n program gemik op die generering van publieke reaksie op wetenskap, wat insluit maar nie beperk is nie tot bewustheid, versameling van kennis, plesier, 15
 opinieformulering en wetenskaplike geletterdheid;”.

Vervanging van artikel 2 van Wet 23 van 1998

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

“Instelling van Stigting

2. (1) Met ingang van ’n datum deur die President van die Republiek van Suid-Afrika by proklamasie in die *Staatskoerant* bepaal, word ’n regs persoon met die naam Nasionale Navorsingstigting ingestel. 20

(2) Die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), is op die Stigting van toepassing.”.

Vervanging van artikel 3 van Wet 23 van 1998

25

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oogmerk van Stigting

3. Die oogmerk van die Stigting is om tot nasionale ontwikkeling by te dra—

- (a) deur ondersteuning, bevordering en vooruitgang van ontwikkeling van navorsing en mensekapasiteit deur befondsing en die voorsiening van die nodige navorsingsinfrastruktuur, ten einde die skepping van kennis, innovering en ontwikkeling in alle velde van wetenskap en tegnologie te fasiliteer, met inbegrip van geesteswetenskappe, sosiale wetenskappe en inheemse kennis; 30 35
- (b) deur nasionale navorsingsfasiliteite te ontwikkel, te ondersteun en te onderhou;
- (c) deur publieke bewustheid van, en betrokkenheid by, wetenskap te ondersteun en te bevorder; en
- (d) deur die ontwikkeling en onderhoud van die nasionale wetenskapstelsel en ondersteuning van Staatsprioriteite te bevorder.”. 40

Invoeging van artikel 3A in Wet 23 van 1998

4. Die volgende artikel word hierby na artikel 3 in die Hoofwet ingevoeg:

“Bevoegdhede van Minister om nasionale beleid te bepaal en beleidsriglyne uit te reik

45

3A. (1) In navolging van die Staat se oogmerke en dié van die Stigting, kan die Minister, na oorleg met die Stigting en enige ander tersaaklike Minister, nasionale beleid vir navorsing en befondsing wat deur die Stigting ingestel staan te word, bepaal.

(2) Die Minister kan, na oorleg met die Stigting, nasionale beleidsriglyne uitreik vir die implementering van die beleid in subartikel (1) bedoel.”. 50

Amendment of section 4 of Act 23 of 1998, as amended by section 20 of Act 16 of 2011

5. Section 4 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 5
 - “(a) promote the development of appropriate human **[resources]** and research capacity and research infrastructure in the areas of science and technology;”;
- (b) by the insertion in subsection (1) after paragraph (a) of the following paragraph: 10
 - “(aA) implement the policies referred to in section 3A;”;
- (c) by the substitution in subsection (1) for paragraph (b) of the following paragraph:
 - “(b) promote, support and advance research;”;
- (d) by the substitution in subsection (1) for paragraph (d) of the following paragraph: 15
 - “(d) **[allocate funds for research and]** promote multi-disciplinary and trans-disciplinary collaboration **[through the Divisions]**;”;
- (e) by the deletion in subsection (1) of paragraphs (e) and (f);
- (f) by the substitution in subsection (1) for paragraph (g) of the following paragraph: 20
 - “(g) provide financial support for the acquisition or establishment of research **[facilities by]** infrastructure at research institutions and national research facilities;”;
- (g) by the substitution in subsection (1) for paragraph (j) of the following paragraph: 25
 - “(j) facilitate and promote **[nationally and internationally liaison]** national and international scientific exchange and collaboration between researchers and research institutions;”;
- (h) by the deletion in subsection (1) of paragraph (k); 30
- (i) by the substitution in subsection (1) for paragraph (l) of the following paragraph:
 - “(l) **[make available]** disseminate scientific knowledge or technology through any medium;”;
- (j) by the substitution in subsection (1) for paragraph (m) of the following paragraph: 35
 - “(m) **[administer]** manage, support and monitor the operation of national research facilities;”;
- (k) by the insertion in subsection (1) after paragraph (m) of the following paragraphs: 40
 - “(mA) investigate and assess the need for new or additional national research facilities or the withdrawal of an existing national research facility, and make recommendations to the Minister;
 - (mB) incubate qualifying national research facilities prior to its declaration as a national research facility;”;
- (l) by the substitution in subsection (1) for paragraph (o) of the following paragraph: 45
 - “(o) compile and maintain a national registry of research funded by the Foundation; and”;
- (m) by the substitution in subsection (2) for paragraph (a) of the following paragraph: 50
 - “(a) allocate funds or award grants, contracts, scholarships or bursaries to individual or juristic persons, national research facilities or research institutions—
 - (i) for research;
 - (ii) for research infrastructure;
 - (iii) for human capacity development or related activities; and
 - (iv) to promote science engagement;”;
- (n) by the insertion in subsection (2) after paragraph (a) of the following paragraphs: 60
 - “(aA) coordinate relevant research institutions and targeted science advancement and outreach activities;”;

Wysiging van artikel 4 van Wet 23 van 1998, soos gewysig deur artikel 20 van Wet 16 van 2011

5. Artikel 4 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (a) deur die volgende paragraaf te vervang: 5
 “(a) die ontwikkeling van gepaste mensehulpbronne en navorsings- vermoë en navorsingsinfrastruktuur op die gebied van die wetenskap en tegnologie te bevorder;”;
- (b) deur in subartikel (1) na paragraaf (a) die volgende paragraaf in te voeg: “(aA) die beleid bedoel in artikel 3A in werking te stel;”;
- (c) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang: 10
 “(b) navorsing te bevorder, te ondersteun en te laat vooruitgaan;”;
- (d) deur in subartikel (1) paragraaf (d) deur die volgende paragraaf te vervang: “(d) [fondse vir navorsing toe te ken en] multi-dissiplinêre en transdissiplinêre samewerking [deur die afdelings] te bevorder;”;
- (e) deur in subartikel (1) paragraaf (e) en (f) te skrap; 15
- (f) deur in subartikel (1) paragraaf (g) deur die volgende paragraaf te vervang: “(g) finansiële ondersteuning vir die verkryging of instelling van [navorsingsfasiliteite deur] navorsingsinfrastruktuur by navorsingsinstellings en nasionale navorsingsfasiliteite te verskaf;”;
- (g) deur in subartikel (1) paragraaf (j) deur die volgende paragraaf te vervang: 20
 “(j) [nasionale en internasionale skakeling] nasionale en internasionale wetenskaplike uitruiling en samewerking tussen navorsers en navorsingsinstellings te fasiliteer en te bevorder;”;
- (h) deur in subartikel (1) paragraaf (k) te skrap;
- (i) deur in subartikel (1) paragraaf (l) deur die volgende paragraaf te vervang: 25
 “(l) wetenskaplike kennis of tegnologie deur enige medium [beskikbaar te stel] te versprei;”;
- (j) deur in subartikel (1) paragraaf (m) deur die volgende paragraaf te vervang: “(m) nasionale [fasiliteite] navorsingsfasiliteite te [administreer] bestuur, te ondersteun en die bedryf daarvan te monitor;” 30
- (k) deur in subartikel (1) die volgende paragraaf na paragraaf (m) in te voeg: “(mA) die behoefte aan nuwe of bykomende nasionale navorsingsfasiliteite of die intrekking van ’n bestaande nasionale ondersoekfasiliteit te ondersoek en te assesser, en aanbevelings by die Minister te doen;” 35
- (mB) kwalifiserende nasionale navorsingsfasiliteite te ontwikkel voordat hulle tot nasionale navorsingsfasiliteite verklaar word;”;
- (l) deur in subartikel (1) paragraaf (o) deur die volgende paragraaf te vervang: “(o) ’n nasionale register van navorsing befonds deur die Stigting saam te stel en by te hou; en;” 40
- (m) deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang: “(a) fondse bewillig of toekennings, kontrakte of beurse aan individue of regspersone, nasionale navorsingsfasiliteite of navorsingsinstellings toestaan— 45
 (i) vir navorsing;
 (ii) vir navorsingsinfrastruktuur;
 (iii) vir ontwikkeling van mensekapasiteit of verwante aktiwiteite; en
 (iv) om wetenskapsbetrokkenheid te bevorder;”;
- (n) deur in subartikel (2) die volgende paragraaf na paragraaf (a) in te voeg: 50
 “(aA) tersaaklike navorsingsinstellings en geteikende wetenskaplike vooruitgang en uitreikingsaktiwiteite koördineer;”;

- (o) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
“(b) co-operate or enter into agreements with any person, institution, government or administration; and”
- (p) by the deletion in subsection (2) of paragraphs (c) and (d); 5
- (q) by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:
“In addition to its other functions in terms of this Act, the foundation must—”;
- (r) by the substitution in subsection (3) for paragraph (a) of the following paragraph: 10
“(a) undertake or procure the undertaking of such investigations and research relating to its object as the Minister may assign to it; and”;
- (s) by the substitution for subsection (4) of the following subsection: 15
“(4) [The] Apart from the research conducted by the national research facilities, the Foundation may not itself conduct research other than research [regarding] relating to the efficient and effective execution of its functions referred to in subsection (1), or unless approved by the Minister.”.

Insertion of section 4A in Act 23 of 1998

6. The following section is hereby inserted in the principal Act after section 4:

“Exercise of powers of Foundation outside Republic

- 4A.** (1) The Foundation may, subject to legislation and other formal agreements regarding international cooperation and at the request or with the prior approval of the Minister, undertake research in any territory outside the Republic on behalf of any person, including any government department or administration. 25
- (2) Subject to the provisions of subsection (3), the provisions of this Act applies to the Foundation, in so far as possible, when it exercises its powers in terms of this section outside the territory of the Republic. 30
- (3) Notwithstanding anything to the contrary contained in this Act, the terms and conditions on which the Foundation may undertake research in terms of subsection (1), must be—
- (a) agreed upon by the Foundation and the person, including any government department or administration on whose behalf research is to be undertaken, and 35
- (b) approved of by the Minister.”.

Amendment of section 5 of Act 23 of 1998

7. Section 5 of the principal Act is hereby amended— 40
- (a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:
- “(1) The Minister may, after consultation with the Foundation, by notice in the *Gazette*, determine a research facility as a national research facility under the control of the Foundation. 45
- (2) Any researcher or research institution may, subject to such conditions as the Foundation may determine, apply to utilise a national research facility for research or instruction.
- (3) The Foundation may not acquire [,] or manage the operation of [,] any research facility, other than a national research facility placed under the control of the Foundation under subsection (1), without the written approval of the Minister.”; and 50
- (b) by the addition of the following subsections:
- “(4) The Minister may make regulations relating to the determination of national research facilities as determined in terms of subsection (1), including the requirements and process for their determination. 55

- (o) deur in subartikel (2) paragraaf (b) deur die volgende paragraaf te vervang:
“(b) ten opsigte van navorsing saam te werk of ooreenkomste aan te gaan met enige persoon, instelling, regering of administrasie; en”;
- (p) deur in subartikel (2) paragraaf (c) en (d) te skrap;
- (q) deur in subartikel (3) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
“Benewens sy ander werksaamhede ingevolge hierdie Wet, moet die Stigting—”;
- (r) deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) die ondersoek en navorsing onderneem of laat onderneem wat op sy oogmerk betrekking het en wat die Minister aan hom opdra; en”;
- (s) deur subartikel (4) deur die volgende subartikel te vervang:
“(4) **[Die]** Met uitsondering van die navorsing deur die nasionale navorsingsfasiliteite gedoen, mag die Stigting **[mag]** nie self navorsing behalwe navorsing oor die doeltreffende en doelmatige uitoefening van sy werksaamhede bedoel in subartikel (1) doen nie, of tensy die Minister dit goedgekeur het.”.

Invoeging van artikel 4A in Wet 23 van 1998

6. Die volgende artikel word hierby na artikel 4 in die Hoofwet ingevoeg: 20

“Uitoefening van bevoegdhede van Stigting buite Republiek

- 4A.** (1) Die Stigting kan, behoudens wetgewing en ander formele ooreenkomste aangaande internasionale samewerking en op versoek van of met die vooraf toestemming van die Minister, navorsing onderneem in enige grondgebied buite die Republiek namens enige persoon, met inbegrip van enige staatsdepartement of administrasie. 25
- (2) Behoudens die bepalings van subartikel (3), is die bepalings van hierdie Wet van toepassing op die Stigting, vir sover moontlik, wanneer die Stigting sy bevoegdhede ingevolge hierdie artikel buite die grondgebied van die Republiek uitoefen. 30
- (3) Ondanks enigiets tot die teendeel in hierdie Wet vervat, moet die bedinge en voorwaardes waarvolgens die Stigting navorsing ingevolge subartikel (1) kan onderneem—
- (a) deur die Stigting en die persoon, met inbegrip van enige staatsdepartement of administrasie namens wie navorsing gedoen staan te word, op ooreengekom wees; en 35
- (b) deur die Minister goedgekeur wees.”.

Wysiging van artikel 5 van Wet 23 van 1998

7. Artikel 5 van die Hoofwet word hierby gewysig—
- (a) deur subartikels (1), (2) en (3) onderskeidelik deur die volgende subartikels te vervang: 40
- “(1) Die Minister kan, na oorleg met die Stigting, by kennisgewing in die *Staatskoerant* ’n navorsingsfasiliteit as ’n nasionale **[fasiliteite]** navorsingsfasiliteit onder die beheer van die Stigting bepaal.
- (2) ’n Navorser of navorsingsinstelling kan, behoudens die voorwaardes wat die Stigting bepaal, aansoek doen om ’n nasionale **[fasiliteit]** navorsingsfasiliteit vir navorsing of opleiding te gebruik. 45
- (3) Die Stigting mag nie ’n navorsingsfasiliteit, anders as ’n nasionale **[fasiliteit]** navorsingsfasiliteit wat kragtens subartikel (1) onder die beheer van die Stigting geplaas is, sonder die skriftelike goedkeuring van die Minister, verkry of die bedryf daarvan bestuur nie.”; en 50
- (b) deur die volgende subartikels by te voeg:
- “(4) Die Minister kan regulasies maak oor die bepaling van nasionale navorsingsfasiliteite soos ingevolge subartikel (1) bepaal, met inbegrip van die vereistes en prosedures vir hul bepaling. 55

(5) The Minister may, after consultation with the Foundation, and subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), by notice in the *Gazette* withdraw the determination of a national research facility or transfer a national research facility to another public entity or department.

5

(6) The Foundation is responsible for—

- (a) determining the functions of a national research facility;
- (b) determining the management and funding for national research facilities;
- (c) determining the criteria for access to a national research facility; and
- (d) any other ancillary or procedural matter relating to national research facilities.

10

(7) The Foundation may, when it deems it necessary, use the national research facilities to conduct research.”.

15

Insertion of section 5A of Act 23 of 1998

8. The following section is hereby inserted in the principal Act after section 5:

“Research institutions

5A. (1) The Minister may, after consultation with the Foundation, declare by notice in the *Gazette* an institution conducting research, as a research institution eligible to receive grant funding from the Foundation.

20

(2) The Minister may, after consultation with the Foundation, and subject to the provisions of the Promotion of Administrative Justice Act, 2000, by notice in the *Gazette*, withdraw the declaration contemplated in subsection (1).”.

25

Amendment of section 6 of Act 23 of 1998, as amended by section 21 of Act 16 of 2011 and section 4 of Act 7 of 2014

9. Section 6 of the principal Act is hereby amended—

- (a) by the substitution for subsection (4) of the following subsection:

“(4) The members referred to in subsection (1)(a) are appointed in their personal capacities, but the Minister must ensure that they are broadly representative of the demographics of the Republic, higher education, broad scientific disciplines, the business sector and civil society.”;

30

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

35

“(a) he or she resigns by written notice to the Minister;

(b) the Minister, after consultation with the Board, terminates his or her period of office due to misconduct, incapacity, incompetence, or any other reasonable ground;”;

40

- (c) by the substitution for subsection (8) of the following subsection:

“(8) A member of the Board or a member of a committee of the Board, other than the chief executive officer or a person who is in the full-time employment of the State, must be appointed on such conditions **[of service]** and must receive such remuneration or allowances, **[or remuneration and allowances,]** as the Minister may, with the concurrence of the Minister of Finance, determine.”;

45

- (d) by the substitution in subsection (9) for paragraph (d) of the following paragraph:

“(d) has, as a result of improper conduct, been removed from a position of trust **[;or] by a court of law.**”;

50

- (e) by the deletion in subsection (9) of paragraph (e); and

- (f) by the substitution for subsection (10) of the following subsection:

“(10) The Minister must, within 30 days of the appointment or reappointment of a member of the Board, submit a report to **[the National Assembly]** Parliament relating to such appointment or reappointment.”.

55

- (5) Die Minister kan, na oorleg met die Stigting, en behoudens die bepalings van die 'Promotion of Administrative Justice Act', 2000 (Wet No. 3 van 2000), by kennisgewing in die *Staatskoerant* die bepaling van 'n nasionale navorsingsfasiliteit intrek of 'n nasionale navorsingsinstelling na 'n ander openbare entiteit of departement oordra. 5
- (6) Die Stigting is verantwoordelik vir—
- (a) die bepaling van die werksaamhede van 'n nasionale navorsingsinstelling; 5
 - (b) die bepaling van die bestuur en befondsing vir nasionale navorsingsinstellings; 10
 - (c) die bepaling van die maatstawwe vir toegang tot 'n nasionale navorsingsfasiliteit; en
 - (d) enige ander bykomende of prosedurele aangeleentheid wat met nasionale navorsingsfasiliteite verband hou.
- (7) Die Stigting kan, wanneer hy dit nodig ag, die nasionale navorsingsfasiliteite gebruik om navorsing te doen.”. 15

Invoeging van artikel 5A van Wet 23 van 1998

8. Die volgende artikel word hierby na artikel 5 in die Hoofwet ingevoeg:

“Navorsingsinstellings

- 5A.** (1) Die Minister kan, na oorleg met die Stigting, by kennisgewing in die *Staatskoerant* 'n instelling wat navorsing doen, tot 'n navorsingsinstelling verklaar wat toekenningsbefondsing van die Stigting kan ontvang. 20
- (2) Die Minister kan, na oorleg met die Stigting, en behoudens die bepalings van die 'Promotion of Administrative Justice Act', 2000, by kennisgewing in die *Staatskoerant*, die verklaring beoog in subartikel (1), intrek.”. 25

Wysiging van artikel 6 van Wet 23 van 1998, soos gewysig deur artikel 21 van Wet 16 van 2011 en artikel 4 van Wet 7 van 2014

9. Artikel 6 van die Hoofwet word hierby gewysig— 30
- (a) deur subartikel (4) deur die volgende subartikel te vervang:
 - “(4) Die lede van die Raad bedoel in subartikel (1)(a) word in hulle persoonlike hoedanighede aangestel, maar die Minister moet toesien dat hulle breedweg verteenwoordigend is van die demografie van die Republiek, hoër onderwys, breë wetenskaplike dissiplines, die sake-sektor en die burgerlike gemeenskap.”; 35
 - (b) deur in subartikel (6) paragrafe (a) en (b) onderskeidelik deur die volgende paragrafe te vervang:
 - “(a) hy of sy by skriftelike kennisgewing aan die Minister bedank;
 - (b) die Minister, na oorleg met die Raad, sy of haar ampstermyn weens wangedrag, onbevoegdheid, ongeskiktheid of enige ander redelike gronde beëindig.”; 40
 - (c) deur subartikel (8) deur die volgende subartikel te vervang:
 - “(8) 'n Lid van die Raad of 'n lid van 'n komitee van die Raad, behalwe die hoof- uitvoerende beampte of 'n persoon wat in die voltydse diens van die Staat is, word op die [diensvoorwaardes] voorwaardes aangestel en ontvang die vergoeding of toelaes [, of vergoeding en toelaes,] wat die Minister, met die instemming van die Minister van Finansies, bepaal.”; 45
 - (d) deur in subartikel (9) paragraaf (d) deur die volgende paragraaf te vervang:
 - “(d) as gevolg van onbehoorlike gedrag, deur 'n geregshof uit 'n vertrouensposisie verwyder is; of.”; 50
 - (e) deur in subartikel (9) paragraaf (e) te skrap; en
 - (f) deur subartikel (10) deur die volgende subartikel te vervang:
 - “(10) Die Minister moet, binne 30 dae na die aanstelling of heraanstelling van 'n lid van die Raad, 'n verslag oor die aanstelling of heraanstelling aan die [Nasionale Vergadering] Parlement voorlê.”. 55

Amendment of section 6A of Act 23 of 1998, as amended by section 5 of Act 7 of 2014

10. Section 6A of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

- “(6) The Minister must, within 30 days of the dissolution of the Board, submit a report to **[the National Assembly]** Parliament, setting out the reasons for the dissolution of the Board.”. 5

Amendment of section 7 of Act 23 of 1998

11. Section 7 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection: 10

“(2) The Board **[meets]** must meet at least four times a year at the times and places determined by itself **[. However,]** and the first meeting of the Board must be held at a time and place determined by the chairperson.”;

- (b) by the substitution for subsection (3) of the following subsection: 15

“(3) The chairperson—

- (a) may, at any time, convene a special meeting of the Board;
(b) must, within 14 days of a request to convene a special meeting of the Board signed by at least one third of the members of the Board convene such a meeting; and
(c) must determine the time and place of the meeting convened in terms of paragraphs (a) or (b).”.

- (c) by the addition of the following subsections:

“(7) The Board must make rules regarding the procedure at its meetings. 25

(8) A member of the Board—

- (a) must, upon appointment and thereafter annually, disclose to the Minister by way of a written statement, any interest which could reasonably compromise the Board in the performance of its functions; 30
(b) may not vote or in any manner be present during or participate in the proceedings of any meeting of the Board if, in relation to any matter before the Board, he or she has an interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner. 35

(9) A decision taken by the Board or an act performed under the authority of the Board is not invalid by reason—

- (a) of a vacancy on the Board; or
(b) that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of members of the Board who were present at the time and entitled to sit as members.”. 40

Amendment of section 8 of Act 23 of 1998

12. Section 8 of the principal Act is hereby amended— 45

- (a) by the substitution for subsection (2) of the following subsection:

“(2) (a) A committee **[must]** may consist of such number of members of the Board and of the staff of the Foundation **[(if any)]** and any other person with suitable skills and experience as the Board may consider necessary **[, and the]**. 50

(b) The Board may at any time dissolve or reconstitute the committee.”; and

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

“(3) **[If a committee consists of more than one member, the]** The Board must designate a member of that committee as chairperson thereof.”. 55

Wysiging van artikel 6A van Wet 23 van 1998, soos gewysig deur artikel 5 van Wet 7 van 2014

10. Artikel 6A van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

- “(6) Die Minister moet, binne 30 dae na die ontbinding van die Raad, ’n verslag aan die **[Nasionale Vergadering]** Parlement voorlê waarin die redes vir ontbinding van die Raad uiteengesit word.”. 5

Wysiging van artikel 7 van Wet 23 van 1998

11. Artikel 7 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang: 10

“(2) Die **[vergaderings van die]** Raad **[word gehou]** moet ten minste vier keer per jaar vergader op die tye en plekke wat die Raad bepaal **[. Die]** en die eerste vergadering van die Raad word **[egter]** gehou op ’n tyd en plek deur die voorsitter bepaal.”;

- (b) deur subartikel (3) deur die volgende subartikel te vervang: 15

“(3) Die voorsitter—

- (a) kan, te eniger tyd, ’n spesiale vergadering van die Raad belê;
(b) moet, binne 14 dae van ’n versoek om ’n spesiale vergadering te belê deur ten minste een derde van die lede van die Raad onderteken, daardie vergadering belê; en
(c) moet die tyd en plek bepaal van die vergadering ingevolge paragrafe (a) of (b) belê.”; 20

- (c) deur die volgende subartikels by te voeg:

“(7) Die Raad moet reëls maak oor die prosedure by die Raad se vergaderings. 25

(8) ’n Lid van die Raad—

- (a) moet, by aanstelling en daarna jaarliks, by wyse van skriftelike verklaring, enige belang aan die Minister bekend maak wat die Raad in die verrigting van die Raad se werksaamhede onder verdenking kan bring; 30
(b) mag nie stem of op enige wyse teenwoordig wees tydens of deelneem aan die verrigtinge van enige vergadering van die Raad nie indien, in verband met enige aangeleentheid voor die Raad, hy of sy ’n belang het wat hom of haar verhinder om sy of haar werksaamhede as ’n lid van die Raad op ’n regverdige, onbevooroordeelde en behoorlike wyse te verrig. 35

(9) ’n Besluit deur die Raad geneem of ’n handeling onder gesag van die Raad uitgevoer is nie ongeldig weens—

- (a) ’n vakature op die Raad nie; of
(b) die feit dat ’n persoon wat nie die reg het om as ’n lid van die Raad te sit nie, as ’n lid gesit het toe die besluit geneem is of die handeling gemagtig is nie, indien die besluit geneem is of die handeling gemagtig is deur die vereiste meerderheid van lede van die Raad wat op daardie tydstip teenwoordig was en die reg gehad het om as lede te sit.”. 40 45

Wysiging van artikel 8 van Wet 23 van 1998

12. Artikel 8 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) (a) ’n Komitee kan bestaan uit die getal lede van die Raad en van die personeel van die Stigting **[(indien daar is)]** en enige ander persoon met gepaste vaardighede en ervaring wat die Raad nodig ag**[, en die]**. 50

(b) Die Raad kan die komitee te eniger tyd ontbind of hersaamstel.”;

en

- (b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) **[Indien ’n komitee uit meer as een lid bestaan, wys die]** Die Raad moet ’n lid van die komitee as voorsitter daarvan **[aan]** aanwys.”. 55

Amendment of section 10 of Act 23 of 1998, as amended by section 22 of Act 16 of 2011 and section 6 of Act 7 of 2014

13. Section 10 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 5
 “(1) The Board must, after consultation with the Minister, appoint a suitably skilled and qualified person as the chief executive officer of the Foundation, after following a transparent and competitive selection process.”;
- (b) by the substitution for subsection (2) of the following subsection: 10
 “(2) The chief executive officer must report to the Board **[on those affairs which the Board may require]**.”;
- (c) by the substitution for subsection (3) of the following subsection: 15
 “(3) The chief executive officer must be appointed **[or reappointed for such period, but]** for a term not exceeding five years, and may be reappointed for a term not exceeding five years, subject to such conditions, including conditions relating to the payment of remuneration and allowances, as the Board may, in consultation with the Minister, determine.”;
- (d) by the substitution in subsection (4)(a) for the words following subparagraph (iii) of the following words: 20
 “the Board may appoint any senior person in the service of the Foundation **[, in consultation with the Minister,]** who meets the requirements determined in terms of subsection (1), to act as chief executive officer until the chief executive officer is able to resume those functions or until the vacant position of chief executive officer is filled.”; 25
 and
- (e) by the addition of the following subsection:
 “(6) The chief executive officer may not serve for more than two terms.”.

Repeal of section 11 of Act 23 of 1998 30

14. Section 11 of the principal Act is hereby repealed.

Substitution of section 12 of Act 23 of 1998

15. The following section is hereby substituted for section 12 of the principal Act:

“Divisions of Foundation

12. The Foundation may, after consultation with the Minister, establish or disestablish organisational divisions consistent with the objects of the Act.”. 35

Amendment of section 13 of Act 23 of 1998

16. Section 13 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph: 40

- “(a) The **[Board]** chief executive officer may—
 - (i) with the consent of an employee; and
 - (ii) on such conditions as the Board may determine,
- second the employee either for a particular service or for a period of time to the service of a department of State, the government of any province, territory or country, **[or a person in]** organisation or institution within or outside the Republic.”. 45

Repeal of sections 14, 15 and 16 of Act 23 of 1998

17. Sections 14, 15 and 16 of the principal Act are hereby repealed.

Wysiging van artikel 10 van Wet 23 van 1998, soos gewysig deur artikel 22 van Wet 16 van 2011 en artikel 6 van Wet 7 van 2014

13. Artikel 10 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang: 5
 “(1) Die Raad stel, na oorleg met die Minister, ’n persoon met gepaste vaardighede en kwalifikasies as hoof- uitvoerende beampte van die Stigting aan, nadat ’n deursigtige en mededingende keuringsproses gevolg is.”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang: 10
 “(2) Die hoof- uitvoerende beampte doen aan die Raad verslag [oor die sake wat die Raad verlang].”;
- (c) deur subartikel (3) deur die volgende subartikel te vervang: 15
 “(3) Die hoof- uitvoerende beampte word aangestel [of heraangestel vir die tydperk, maar] vir ’n termyn van hoogstens vyf jaar, en kan vir ’n termyn van hoogstens vyf jaar heraangestel word, onderworpe aan die voorwaardes, met inbegrip van voorwaardes betreffende die betaling van besoldiging en toelaes wat die Raad, in oorleg met die Minister, bepaal.”;
- (d) deur in subartikel (4)(a) die woorde wat op subparagraaf (iii) volg deur die volgende woorde te vervang: 20
 “kan die Raad[, in oorleg met die Minister,] ’n senior werknemer van die Stigting wat aan die vereistes ingevolge subartikel (1) bepaal, voldoen, aanstel om as hoof- uitvoerende beampte waar te neem totdat die hoof- uitvoerende beampte daardie werksaamhede weer kan opneem of totdat die vakature van hoof- uitvoerende beampte gevul word.”; en 25
- (e) deur die volgende subartikel by te voeg: 25
 “(6) Die hoof- uitvoerende beampte kan nie meer as twee termyne dien nie.”.

Herroeping van artikel 11 van Wet 23 van 1998

14. Artikel 11 van die Hoofwet word hierby herroep. 30

Vervanging van artikel 12 van Wet 23 van 1998

15. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

“Afdelings van Stigting

12. Die Stigting kan, na oorleg met die Minister, organisatoriese afdelings in lyn met die oogmerke van die Wet instel.”. 35

Wysiging van artikel 13 van Wet 23 van 1998

16. Artikel 13 van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf

- (a) deur die volgende paragraaf te vervang: 40
 “(a) Die [Raad] hoof- uitvoerende beampte kan[,]—
 (i) met die instemming van ’n werknemer[,]; en
 (ii) op die voorwaardes wat die Raad bepaal,
 die werknemer, óf vir ’n besondere diens óf vir ’n tydperk, sekondeer aan die diens van ’n Staatsdepartement, die regering van enige provinsie, gebied of land, [of ’n persoon] organisasie of instelling binne of buite die Republiek.”.

Herroeping van artikels 14, 15 en 16 van Wet 23 van 1998 45

17. Artikels 14, 15 en 16 van die Hoofwet word hierby herroep.

Amendment of section 17 of Act 23 of 1998

18. Section 17 of the principal Act is hereby amended by the deletion of subsections (1)(b), (2)(b), (3) and (5).

Repeal of section 18 of Act 23 of 1998

19. Section 18 of the principal Act is hereby repealed. 5

Amendment of section 19 of Act 23 of 1998

20. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The intellectual property rights emanating from any study or research that is funded or undertaken by the Foundation are regulated in terms of the Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (Act No. 51 of 2008), as well as other relevant Acts governing the management of intellectual property or indigenous knowledge.”. 10

Repeal of section 20 of Act 23 of 1998

21. Section 20 of the principal Act is hereby repealed. 15

Amendment of section 21 of Act 23 of 1998

22. Section 21 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Board may delegate to the chairperson, any member or committee of the Board or the chief executive officer any power conferred upon the Board by or under this Act, on such conditions as the Board may determine.”; 20

(b) by the substitution for subsection (2) of the following subsection:

“(2) The chief executive officer may delegate to a member of the staff of the Foundation any power conferred upon the chief executive officer by or under this Act.”; and 25

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

“(3) Any delegation [or authorisation] under subsection (1) or (2) must be in writing, and does not prohibit the exercise of the power or performance of the duty [in question by] conferred upon the Board or the chief executive officer, as the case may be.”. 30

Insertion of section 22A in Act 23 of 1998

23. The following section is hereby inserted in the principal Act after section 21:

“Liquidation of Foundation

22A. The Foundation may not be wound up except by or under the authority of an Act of Parliament.”. 35

Amendment of section 23 of Act 23 of 1998, as amended by section 7 of Act 7 of 2014

24. Section 23 of the principal Act is hereby amended—

(a) by the deletion of paragraph (b) and (c) of subsection (1); and

(b) by the substitution for subsection (2) of the following subsection: 40

“(2) Regulations made in terms of subsection (1)(d) must be submitted to Parliament [at least 30 days] before promulgation.”.

Repeal of Schedule to Act 23 of 1998

25. The Schedule to the principal Act is hereby repealed.

Wysiging van artikel 17 van Wet 23 van 1998

18. Artikel 17 van die Hoofwet word hierby gewysig deur subartikels (1)(b), (2)(b), (3) en (5) te skrap.

Herroeping van artikel 18 van Wet 23 van 1998

19. Artikel 18 van die Hoofwet word hierby herroep. 5

Wysiging van artikel 19 van Wet 23 van 1998

20. Artikel 19 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die regte op intellektuele eiendom wat voortspruit uit enige studie of navorsing wat deur die Stigting befonds of onderneem word, word gereël ingevolge die ‘Intellectual Property Rights from Publicly Financed Research and Development Act’, 2008 (Wet No. 51 van 2008), asook ander tersaaklike wette wat die bestuur van intellektuele eiendom of inheemse kennis reël.” 10

Herroeping van artikel 20 van Wet 23 van 1998

21. Artikel 20 van die Hoofwet word hierby herroep. 15

Wysiging van artikel 21 van Wet 23 van 1998

22. Artikel 21 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Raad kan aan die voorsitter, enige lid of komitee van die Raad of die hoof- uitvoerende beampte enige bevoegdheid kragtens hierdie Wet aan die Raad opgedra, delegeer, op die voorwaardes wat die Raad bepaal.”; 20

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Die hoof- uitvoerende beampte kan enige bevoegdheid by of kragtens hierdie Wet aan die hoof- uitvoerende beampte verleen, aan ’n lid van die personeel van die Stigting delegeer.”; en 25

(c) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) ’n Delegering [of magtiging] kragtens subartikel (1) of (2) moet skriftelik wees en belet nie die uitoefening van die betrokke bevoegdheid of verrigting van die [betrokke] plig [deur] aan die Raad of die hoof- uitvoerende beampte, na gelang van die geval, verleen nie.”. 30

Invoeging van artikel 22A in Wet 23 van 1998

23. Die volgende artikel word hierby na artikel 21 in die Hoofwet ingevoeg:

“Likwidasië van Stigting

22A. Die Stigting mag nie gelikwideer word behalwe deur of kragtens die gesag van ’n Parlements wet nie.”. 35

Wysiging van artikel 23 van Wet 23 van 1998, soos gewysig deur artikel 7 van Wet 7 van 2014

24. Artikel 23 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) en (c) van subartikel (1) te skrap; en 40

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Regulasies ingevolge subartikel (1)(d) [uitgevaardig] gemaak moet [ten minste 30 dae] voor uitvaardiging aan die Parlement voorgelê word.”.

Herroeping van Bylae tot Wet 23 van 1998

25. Die Bylae tot die Hoofwet word hierby herroep. 45

Substitution of long title of Act 23 of 1998

26. The following long title is hereby substituted for the long title of the principal Act:
“To provide for the support, promotion and advancement of research, both basic
and applied, and **[the extension and transfer of knowledge]** human capacity
development in the various fields of science and technology, **[and indigenous** 5
technology] including humanities, social science and indigenous knowledge; and
for this purpose to provide for the establishment of a National Research
Foundation; to support and promote science engagement; to develop, support,
advance and maintain national research facilities; to promote the development and
maintenance of the national science system and support of Government priorities; 10
and to provide for incidental matters.”.

Short title and commencement

27. This Act is called the National Research Foundation Amendment Act, 2017, and
comes into operation on a date determined by the President by proclamation in the
Gazette. 15

Vervanging van lang titel van Wet 23 van 1998

26. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:
- “Om voorsiening te maak vir die ondersteuning, bevordering en vooruitgang van navorsing, sowel basies as toegepas, en **[die uitbreiding en oordrag van kennis]** ontwikkeling van mensekapasiteit op die verskillende gebiede van die wetenskap en tegnologie, **[en inheemse tegnologie]** met inbegrip van die geesteswetenskappe, sosiale wetenskap en inheemse kennis; en om vir hierdie doel voorsiening te maak vir die instelling van ’n Nasionale Navorsingstigting; wetenskapsbetrokkenheid te ondersteun en te bevorder; nasionale navorsingsfasiliteite te ontwikkel, te ondersteun, te laat vooruitgaan en te onderhou; die ontwikkeling en onderhoud van die nasionale wetenskapstelsel te bevorder en Staatsprioriteite te ondersteun; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.”

Kort titel en inwerkingtreeding

27. Hierdie Wet heet die Wysigingswet op die Nasionale Navorsingstigting, 2018, en tree in werking op ’n datum by proklamasie in die *Staatskoerant* deur die President vasgestel.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065