

DRAFT BILLS POST INTERNAL REVIEW: FOR CIRCULATION TO STAKEHOLDERS
IN ADVANCE OF THE STAKEHOLDER CONFERENCE IN FEBRUARY 2024

REPUBLIC OF SOUTH AFRICA

DRAFT
**NATIONAL COUNCIL FOR LIBRARY
AND INFORMATION SERVICES
AMENDMENT BILL**

*(Internal draft, as prepared for Roger Layton and Associates, proposed in terms of section 76(1) of the
Constitution (National Council of Provinces))*

(The English text is the official text of the Bill)

(MINISTER OF SPORT, ARTS AND CULTURE)

[B XXX—2024]

ISBN XXX-X-XXXX-XXXX-X

No. of copies printed.....XXX

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 National Council for Library and Information Services Act, 2001, so as to define and update certain words and expressions taking into account technological and digital developments; to provide for the National Council for Library and Information Services to function as an advisory body to the ministers responsible for the portfolios of arts, culture, archives, library and information services, and cultural heritage and basic education, higher education, science, innovation, and information and communications technology; to further provide for the National Council for Library and Information Services to function as a national regulatory body for the establishment and maintenance of essential national standards in the rendering of library and information services; to provide for the primary objective of the National Council for Library and Information Services to be the promotion of the development and use of library and information resources in South Africa for the benefit of all people living in South Africa; 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 6 of 2001

1. Section 1 of the National Council for Library and Information Services Act, 2001 (hereinafter referred to as “the principal Act”), is hereby amended—

(a) by the insertion before the definition of “accessibility” of the following definition:

“ ‘**academic library**’ means a library whose primary function is to cover the information needs of learning and research, including libraries of institutions of higher education, libraries of institutions of technical and vocational education and training and general research libraries and other libraries as may be prescribed”;

(b) by the insertion after the definition of “academic library” of the following definition:

“ ‘**accessibility**’ means ensuring that everyone including people with disabilities can live independently and participate fully in all aspects of life, including the taking of appropriate measures to ensure access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and

- services open or provided to the public, both in urban and in rural areas”;
- (c) by the insertion before the definition of “council” of the following definition:
 “**‘associated departments’** means the departments responsible for basic education, higher education, science, innovation, and information and communications technology (ICT);
- (d) by the insertion after the definition of “associated departments” of the following definition:
 “**‘associated Ministers’** means the ministers with portfolios responsible for basic education, higher education, science, innovation, and information and communications technology (ICT);
- (e) by the insertion after the definition of “associated Ministers” of the following definition:
 “**‘community library’** means a library that is funded and managed by entities including local community groups, charities, and non-governmental organisations and is not part of a province’s statutory library provision, is not managed or fully funded by the provincial, local or national government”;
- (f) by the substitution of the definition of “department” by the insertion of the following definition:
 “**‘department’** means the department responsible for arts, culture, archives, library and information services, and cultural heritage;
- (g) by the substitution of the definition of “Director-General” by the insertion of the following definition:
 “**‘Director-General’** means the Director-General or any officer acting on the authority of the Director-General of the department as defined by this Act;
- (h) by the insertion after the definition of “Director-General”, of the following definition:
 “**‘global knowledge economy’** means the ongoing and emerging networking of economy and society arising from the widespread use of information and communication technologies and the development and exploitation of new knowledge and new forms of knowledge”;
- (i) by the insertion after the definition of “global knowledge economy”, of the following definition:
 “**‘information and communications technology (ICT)’** means any technology used for the processing, communication and manipulation of information”;
- (j) by the substitution of the definition of “information literacy”, by the insertion of the following definition:
 “**‘information literacy’** means the capacity to access information from different sources, evaluate such information in order to facilitate learning, solve problems and generate new knowledge in line with ethical principles”;
- (k) by the insertion after the definition of “information literacy”, of the following definition:
 “**‘inclusive information society’** means a society in which access to and the creation, distribution, use, integration and manipulation of information is a significant economic, political, and cultural activity, is people-centred, and ensures that everyone can create, access, utilise, and share information and knowledge, enabling individuals, communities and peoples to achieve their full potential in promoting their sustainable development and improving their quality of life”;
- (l) by the insertion after the definition of “inclusive information society”, of the following definition:
 “**‘library and information sciences’** means the set of disciplines which provide the knowledge base of the library and information services profession including archival science, bibliography, document and genre theory, informatics, information systems, knowledge management, library and information science, museum studies, records management, and social studies of information”;
- (m) by the substitution of the definition of “Minister”, by the insertion of the following definition:
 “**‘Minister’** means the minister with the portfolio responsible for arts,

- culture, archives, library and information services, and cultural heritage”;
- (n) by the insertion after the definition of “Minister”, of the following definition:
 “ **‘municipal library’** means a public library established, funded, developed, or maintained by a municipality, in terms of the Constitution, s 156(4).
- (o) by the insertion after the definition of “municipal library”, of the following definition:
 “ **‘national library’** means any library prescribed in terms of the National Library of South Africa Act 92 of 1998”;
- (p) by the insertion after the definition of “national library”, of the following definition:
 “ **‘other library’** means all other libraries that do not appear in one of the other categories of libraries, including special libraries, government libraries, medical libraries, industrial libraries, commercial libraries and other libraries as may be prescribed”;
- (q) by the insertion after the definition of “other library”, of the following definition:
 “ **‘professional body’** means a professional body prescribed in terms of the National Qualifications Framework Act 67 of 2008 and duly recognised by the South African Qualifications Authority”;
- (r) by the insertion after the definition of “professional body”, of the following definition:
 “ **‘processing’** means any operation or activity or any set of operations, whether or not by automatic means, including the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; dissemination by means of transmission, distribution or making available in any other form; or merging, linking, as well as restriction, degradation, erasure or destruction of information”;
- (s) by the insertion after the definition of “processing”, of the following definition:
 “ **‘provincial library’** means a public library established, funded, developed, or maintained by a province, as defined in the Constitution, s 103(1)”;
- (t) by the insertion after the definition of “provincial library”, of the following definition:
 “ **‘public library’** means a library that is established by law to provide library and information services to the public, even if its services are primarily intended for a particular part of the population, such as children or people with disabilities and is funded, in whole or in part, from public funds, irrespective of the governing authority being the municipality, province or the state”;
- (u) by the insertion after the definition of “public library”, of the following definition:
 “ **‘reasonable accommodation’** means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to all persons at the intersection of one or more prohibited grounds, as defined in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”;
- (v) by the insertion after the definition of “reasonable accommodation”, of the following definition:
 “ **‘school library’** means a library established as part of minimum essential school infrastructure, as defined in the South African Schools Act 84 of 1996 and its attendant regulations”;
- (w) by the insertion after the definition of “school library”, of the following definition:
 “ **‘universal design’** means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design, without prejudice to the obligation to provide reasonable

accommodation”;

Amendment of section 3 in Act 6 of 2001

2. Section 3 of the principal Act is hereby amended by the substitution of Section 3 of the following section—

3 (1) To advise the Minister [and the Minister of Education] and associated Ministers, on matters relating to library and information services in order to —

- (a) support and stimulate the socio-economic, educational, cultural, recreational, scientific research, technological, information development of all communities in the country on an equal basis, redressing the impact of apartheid;
- (b) provide optimal access to relevant information to every person on an equal basis without discrimination, as contemplated in the Constitution and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, in an economic, cost-effective and universally accessible manner;
- (c) deliver library and information services through adequate infrastructure including emerging information and communications technology, outlining the critical role of libraries in building an inclusive information society and participating in the global knowledge economy;
- (d) affirm and support national language policy and encourage publication and provisioning of library material in African languages in line with the Constitution, the Use of Official Languages Act 12 of 2012, the National Language Policy Framework, 2003, and the National Communications Strategy Framework 2014-2019;
- (e) promote a culture of reading, lifelong learning, and information literacy towards an inclusive information society;
- (f) conserve and preserve the country’s published documentary heritage for current and future generations.

(2) To serve as a regulatory body for the library and information services profession, in line with section 22 of the Constitution that establishes the right to freedom of trade, occupation and profession, and provides that the practice of a trade, occupation or profession may be regulated by law, in order to—

- (a) create a single unified statutory body to regulate the affairs of all library and information services practitioners across the country in pursuit of the goal of an accountable, efficient and inclusive profession reflecting the demographics of the country, operationalised through a professional body;
- (b) provide guidance to the relevant professional body and other role-players on the implementation of policies, monitoring and evaluation processes, recruitment, training and managing human resources, addressing irregular appointments, disciplinary issues, enforcement and penalties, and related matters in the sector;
- (c) develop, maintain, and update minimum norms and standards for the library and information services sector to address current and emerging issues in building an inclusive information society including the use of new and emerging ICT;
- (d) coordinate, evaluate and review training and higher education programmes in consultation with the Minister and associated Ministers for the library and information services sector on a regular basis;
- (e) ensure training and professional accreditation of practitioners in the library and information services sector;
- (f) provide input and monitor law reform processes including the development or amendment of legislation related to the library and information service sector specifically, and the documentary cultural heritage sector generally;
- (g) ensure that new or refurbished libraries are inspected and accredited;

- (h) establish a coordination forum for inter-governmental cooperation between the department and associated departments as well as local, provincial and national government on issues in the sector;
- (i) establish a coordination forum for inter-library communication at all levels including public libraries, academic libraries, provincial libraries, municipal libraries, school libraries, and other libraries and sectoral institutions.

Amendment of section 4(1) in Act 6 of 2001

3. Section 4 of the principal Act is hereby amended by the substitution of Section 4(1) of the following section—

4 (1) The Council must inform and advise the Minister [and the Minister of Education] and associated Ministers on —

Amendment of section 4(1)(i) in Act 6 of 2001

4. Section 4(1)(i) of the principal Act is hereby amended by the substitution of Section 4(1)(i) of the following section—

- (i) ways in which [the new] emerging information and communication technologies [revolution] might be harnessed to achieve improved integration, equity, universal design, and quality in library and information services;

Amendment to section 4(1)(j) and insertion of section 4(1)(k) in Act 6 of 2001

5. Section 4(1)(j) of the principal Act is hereby amended by the substitution of section 4(1)(j) of the following section and the insertion of section 4(1)(k) after section 4(1)(j) of the principal Act—

- (j) the central role played by public libraries, academic libraries, provincial libraries, municipal libraries, school libraries, and other libraries and sectoral institutions in building an inclusive information society and enabling everyone to participate in the global knowledge economy;
- (k) any other matter relating to the library and information services sector which the Council deems necessary or which the Minister or [or the Minister of Education] associated Ministers may refer to the Council;

Amendment of section 4(2) and insertion of section 4(3) in Act 6 of 2001

6. Section 4(2) of the principal Act is hereby amended by the substitution of section 4(2) of the following section and the insertion of section 4(3) after section 4(2) of the principal Act—

(2) The Council must provide for the regulation of library and information services to fulfill the objects in section 3(2) and to—

- (a) establish and monitor essential national standards within the library and information services profession including ethical standards of conduct;
- (b) collaborate with relevant professional body or bodies, such as the Library and Information Association of South Africa (LIASA), to establish and maintain a register of professional library and information services practitioners;
- (c) consult with the relevant professional body, the South African Council on Educators (SACE), the Council of Higher Education (CHE), the South African Qualifications Authority (SAQA) and the Committee of Higher Education Libraries of South Africa (CHELSA), on matters relating to education in library and information services, including:
 - i. competency standards for registration

- ii. accreditation of library and information services, and
 - iii. conditions relating to continuing education and training for in the sector.
- (3) The Council must provide for the coordination of library and information services to fulfill the objects in section 3(2) and to:
- (a) monitor the implementation of national policies for library and information services;
 - (b) coordinate the response of the library and information services sector to matters relating to library and information services;
 - (c) liaise with other relevant public and private bodies including professional bodies with regard to library and information services;
 - (d) play an advocacy role in the sector towards building an inclusive information society;
 - (e) to promote the role that ICT plays in achieving these objects in underserved communities.

Amendment of section 5 in Act 6 of 2001

7. Section 5 of the principal Act is hereby amended by the substitution of section 5 of the following section—

5 (1) The Council consists of— [12] Fifteen (15) members in total, appointed by the Minister, after consultation with [the Minister of Education] the associated Ministers—

- (a) one (1) officer of the department nominated by the Director-General;
- (b) one (1) officer each of the associated departments nominated by the Director-General of those departments;
- (c) the National Librarian referred to in section 1 of the National Library of South Africa Act, 92 of 1998;
- (d) the Chief Executive Officer of the South African Library for the Blind;
- (e) the President of the relevant professional body;
- (f) the Chairperson of the Committee of Higher Education Libraries of South Africa (CHELSA);
- (g) the National Archivist or, if unavailable, the Chairperson of the National Archives Advisory Council (NAAC);
- (h) the President of the relevant professional body in the museum sector;
- (i) the Chairperson of the Legal Deposit Committee;
- (j) the Chairperson of the Higher and Further Education Disability Services Association (HEDSA)
- (k) the Chairperson of the National Council for the Blind, or if unavailable, the equivalent member of any other organisation representing people with visual and print disabilities;
- (l) the Chairperson of the South African National Deaf Association, or if unavailable, the equivalent member of any other organisation representing people with auditory disabilities;
- (m) one (1) member nominated by the professional body and voluntary associations in the sector;
- (n) one (1) member nominated from public universities' departments of library and information science;
- (o) one (1) permanent member with technical expertise and qualifications in ICT and its applications.

(2) The members of the Council referred to in—

- (a) subsections 1(a)-(k) are appointed in their official capacity and are non-voting members of the Council;
- (b) subsections 1(m)-(o) are appointed in their personal capacity and serve as part-time members in the Council.

Amendment of section 6(1) in Act 6 of 2001

8. Section 6(1) of the principal Act is hereby amended by the substitution of section 6(1) of the following section—

6 (1) The chairperson of the Council is appointed by the Minister, with the concurrence of the [Ministers of Basic Education and of Higher Education, Science and Technology] associated Ministers, from the members referred to in section 5(1);

Amendment of section 7 in Act 6 of 2001

9. Section 7 of the principal Act is hereby amended by the substitution of section 7 of the following section—

7 (1) Before persons contemplated in section 5(1)(m)-(o) are appointed the Minister must—

- (a) invite nominations from interested persons by notice in the Gazette and in at least two nationally circulated newspapers, [and] over the radio, on a public website in an accessible format for people with disabilities, and circulated by the professional body via its channels of communication, specifying a reasonable period within which nominations must be submitted; and
- (b) set out in such notice the procedure pertaining to the nominations including competencies set out in section 8, and that members of the Council who are remunerated by the state, including parastatals, state-owned enterprises, Parliament, the Reserve Bank, will not receive remuneration for their services on the Council.

(2) The Minister must—

- (a) appoint a panel after the composition is approved by the relevant Parliamentary Portfolio Committee on Sport, Arts and Culture, consisting of senior librarians with experience or expertise in library and information services to compile a short list of not less than six (6) candidates from the persons nominated in terms of subsection (1) (a);
- (b) appoint Council members referred to in section 5(1)(m)-(o) from the list contemplated in paragraph (a).

Amendment of section 8 in Act 6 of 2001

10. Section 8 of the principal Act is hereby amended by the substitution of section 8 of the following section—

8 (1) The members of the Council other than the officers of the department and [the department of education] the associated departments must all be persons who have—

- (a) accredited postgraduate library qualifications or equivalent qualifications relevant to the library and information services sector;
- (b) expertise in the [field of library and information science or services] sector;
- (c) [expertise in relation to the] leadership experience in [and] management and economics of library and information services or equivalent experience relevant to the sector;
- (d) special insight into library and information services and the needs of users of library and information services;
- (e) special expertise in one or more relevant areas including ICT, information systems management, copyright, digitisation, records management, documentary cultural heritage, emerging technologies.

(2) The Council must be broadly representative of all sectors in the library and information services field and be constituted in a manner that will—

- (a) [take into account gender, disability, and historically-disadvantaged persons] address the disadvantage experienced by people at the intersection of one or more prohibited grounds of discrimination as defined in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 and the effect of apartheid-era spatial segregation on the sector; and
- (b) ensure a spread of expertise and experience regarding—
 - i. national, provincial and local interests;
 - ii. the role of [information in society] the sector in building an inclusive information society;

- iii. the role of emerging technologies and digital transformation; and
- iv. research development and education in library and information science.

Amendment of sections 9(1)-(4) in Act 6 of 2001

11. Sections 9(1), 9(2), 9(3), 9(4) of the principal Act are hereby amended by the substitution of sections 9(1), 9(2), 9(3), 9(4) of the following section—

9 (1) A member of the Council other than officers of the department [and the department of Education] and the associated departments, holds office for such period, not exceeding four (4) years, as the Minister may determine at the time of the member's appointment.

(2) If, for any reason, a member of the Council vacates [his or her] their office before the expiration of [his or her] their term of office, the Minister may, subject to section 8, and after consultation with [the Minister of Education] the associated Ministers, appoint any person as a member of the Council for the remaining unexpired portion of the period for which that member was appointed, either from the pool of applications received for that specific term, or by calling for nominations in accordance with Section 7.

(3) A member whose period of office has expired may be reappointed for one (1) further term.

(4) A member of the Council must vacate [his or her] their office if—

- (a) [he or she] they resign by written notice addressed to the Minister;
- (b) the Minister in consultation with associated Ministers terminates the membership on the grounds of incapacity, misconduct or incompetence;
- (c) [he or she has] they have been absent for more than two (2) consecutive meetings of the Council without prior permission of the Chairperson, except on [good] compelling cause shown; or
- (d) the majority of the Council so recommends.

Repeal of section 9(5) in Act 6 of 2001

12. Section 9(5) of the principal Act is hereby repealed.

Amendment of section 10 in Act 6 of 2001

13. Section 10 of the principal Act is hereby amended by the substitution of section 10 of the following section—

10(1) —

- (a) The Council meets at least [twice] four (4) times a year, whether in person or virtually.
- (b) The first meeting of the Council must be held at a time and place determined by the Minister, and thereafter, the Council must determine the time and place of any future meeting with the concurrence of the Director-General.
- (c) The Minister and associated Ministers must arrange to meet members of the Council at least twice during the term of the Council.

(2) —

- (a) The chairperson may convene [a] special meetings of the Council, whether in person or virtually at such time and place with the concurrence of the Director-General [may direct].
- (b) The chairperson must give notice of at least ten (10) days prior to every meeting.
- (c) The chairperson, vice-chairperson or, in their absence, a member of the Council elected by the members present, must preside over a meeting of the Council.
- (d) A quorum for a meeting of the Council is the majority of its members.
- (e) A valid decision of the Council can only be taken by resolution of the

majority of the members present at any duly constituted meeting of the Council [.], and in the event of an equality of votes on any matter, the person presiding has a casting vote in addition to [his or her] their deliberative vote.

- (f) [No remuneration is payable to any member of the Council, its committees or working groups except for reasonable travel, accommodation and subsistence costs as determined by the Minister with the concurrence of the Minister of Finance] The Council may determine the remuneration and allowances payable to its members including of any sub-committee or working group, after consultation with the Minister, the associated Ministers and the Minister of Finance.
- (g) Only members of the Council who are not already remunerated by the state, including parastatals, state-owned enterprises, Parliament, the Reserve Bank, will be eligible to receive remuneration for their services as a member of the Council.

Amendment of section 11(5) in Act 6 of 2001

14. Section 11(5) of the principal Act is hereby amended by the substitution of section 11(5) of the following section—
11(5) A committee or working group must meet at least [once] four (4) times a year, in-person or virtually, at a time and place determined by the committee's chairperson, with the concurrence of the Director-General and file progress reports at the Council's quarterly meetings.

Amendment of section 13 in Act 6 of 2001

15. Section 13 of the principal Act is hereby amended by the substitution of section 13 of the following section—
13 (1) The costs and expenses connected with the application of this Act must be defrayed from moneys appropriated by Parliament to the department and associated departments.
(2) The Council must comply with the provisions of the Public Finance Management Act 1 of 1999.

Amendment of section 14 in Act 6 of 2001

16. Section 14 of the principal Act is hereby amended by the substitution of section 14 of the following section—
14(1) The Council must annually submit a report on its activities, advice, finances and recommendations to the Minister and the [Minister of Education] associated Ministers, and the Minister must table the report in Parliament as soon as possible after its receipt.
(2) Within [five months] a reasonable period after the report has been tabled, a delegation consisting of the chairperson and at least two other Council members must brief the relevant Parliamentary Portfolio Committee on [Arts, Culture, Science and Technology] Sports, Art and Culture and subsequently the relevant professional body on the annual report.
(3) Annual reports must be made available for public access, including on the Department's website, in line with the Promotion of Access to Information Act 2 of 2000.

Insertion of section 15 in Act 6 of 2001

17. The principal Act is hereby amended by the insertion of section 15 after section 14 in the principal Act—

15. Miscellaneous Provisions

- (1) The Minister, in consultation with the associated Ministers, may make regulations as to any matter required or permitted by this Act to be prescribed by regulation, and as to any matter which the Minister, in consultation with the associated Ministers, considers necessary or expedient to achieve the purposes of this Act.

Amendment of certain expressions in Act 6 of 2001

18. The principal Act, is hereby amended by the substitution for the expressions “his or her” where it appears in the Act, of the relevant expression of “their”.

Short title and commencement

19. (1) This Act is called the National Council of Library and Information Services Amendment Act, 2024, and comes into operation X months from the date of publication in the *Gazette*, or an earlier date fixed by the President by proclamation in the *Gazette*.

DRAFT

MEMORANDUM ON THE OBJECTS OF THE NATIONAL COUNCIL OF LIBRARY AND INFORMATION SERVICES AMENDMENT BILL

1. BACKGROUND

At the time of introducing the Bill in Parliament, the relevant Department must set out the background to the Bill: why and how this Bill came about.

2. OVERVIEW OF BILL

- 2.1. The purpose of the proposed amendments to the Act is to update the National Council for Library and Information Services Act, 2001, to take into account technological developments since its initial promulgation, and address contemporary challenges to the library and information services sector in accordance with government policy.
- 2.2. The objectives of the Bill are—
- 2.3. To define and update certain words and expressions taking into account technological and digital developments;
- 2.4. to provide for the National Council for Library and Information Services to function as an advisory body to the ministers responsible for the portfolios of arts, culture, archives, library and information services, and cultural heritage and basic education, higher education, science, innovation, and information and communications technology;
- 2.5. to further provide for the National Council for Library and Information Services to function as a national regulatory body for the establishment and maintenance of essential national standards in the rendering of library and information services;
- 2.6. to provide for the primary objective of the National Council for Library and Information Services to be the promotion of the development and use of library and information resources in South Africa for the benefit of all people living in South Africa;
- 2.7. and to provide for matters connected therewith.

3. ANALYSIS OF BILL

- 3.1. Clause 1 of the Bill proposes the insertion of new definitions necessitated by certain amendments embodied in the Bill.
- 3.2. Clause 2 of the Bill proposes the amendment of Section 3, to include additional advisory functions of the Council and establish it as a regulatory body with attendant functions.
- 3.3. Clause 3 of the Bill proposes the amendment of Section 4(1), to update the responsible ministers.
- 3.4. Clause 4 of the Bill proposes the substitution of Section 4(1)(i), to address the rights of persons with disabilities and the emergence of new technologies.
- 3.5. Clause 5 of the Bill proposes the substitution of Section 4(1)(j) and the insertion of Section 4(1)(k), to clarify the role played by libraries in information service delivery and to update the responsible ministers.
- 3.6. Clause 6 of the Bill proposes the substitution of Section 4(2) and the insertion of Section 4(3) to include collaboration and consultation obligations.
- 3.7. Clause 7 of the Bill proposes the substitution of Section 5 to set out the number and designation of appointees to the Council.

- 3.8. Clause 8 of the Bill proposes the substitution of Section 6(1) to set out the method of appointment of the chairperson of the Council and to update the responsible ministers.
- 3.9. Clause 9 of the Bill proposes the substitution of Section 7 to set out the process of advertisement for the appointment of members of the public to the Council.
- 3.10. Clause 10 of the Bill proposes the substitution of Section 8 to set out the qualifications, competencies and demographics of the members of the Council.
- 3.11. Clause 11 of the Bill proposes the substitution of Sections 9(1),(2),(3),(4) to set out terms and conditions of tenure of members of the Council.
- 3.12. Clause 12 of the Bill proposes the repeal of Section 9(5) to ensure compliance with the Promotion of Administrative Justice Act 3 of 2000.
- 3.13. Clause 13 of the Bill proposes the substitution of Section 10 to set out the remuneration of members, frequency and manner of meetings of the Council taking into account virtual meetings.
- 3.14. Clause 14 of the Bill proposes the substitution of Section 11(5) to set out the frequency and manner of meetings of subcommittees or working groups set up by the Council including reporting requirements.
- 3.15. Clause 15 of the Bill proposes the substitution of Section 13 to remove references to repealed legislation.
- 3.16. Clause 16 of the Bill proposes the substitution of Section 14 to set out the reporting requirement of the Council and to update the responsible ministers.
- 3.17. Clause 17 of the Bill proposes the insertion of Section 15 to provide the minister with the power to prescribe regulations necessary for the operation of the Act as amended.
- 3.18. Clause 19 of the Bill provides for the short title and commencement.

4. DEPARTMENTS/BODIES/PERSONS CONSULTED

- 4.1. At the time of introducing the Bill in Parliament, the relevant Department must set out the various stakeholders consulted in different sectors in discharge of its constitutional obligations set out in ss 72 and 118 of the Constitution.¹

5. FINANCIAL IMPLICATIONS FOR STATE

- 5.1. At the time of introducing the Bill in Parliament, the relevant Department must address and itemise any financial implications of the Bill for the annual budget.

6. PARLIAMENTARY PROCEDURE

- 6.1. At the time of introducing the Bill in Parliament, the relevant Department must identify the appropriate tagging provision that the Bill must be brought under. The Bill must be considered against the provisions of the Constitution relating to the tagging of Bills, and against the functional areas listed in Schedule 4 and Schedule 5 to the Constitution. It is our considered view that the Bill is a s 76 Bill that affects the provinces since it sets minimum essential standards and national standards for matters of provincial competence in Schedule 5, per section 44(2) of the Constitution.

¹ See also, *Doctors for Life International v Speaker of the National Assembly and Others* [2006] ZACC 11; 2006 (12) BCLR 1399 (CC); 2006 (6) SA 416 (CC).

DRAFT