

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

DRAFT
LEGAL DEPOSIT 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)

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the Legal Deposit Act, 1997, so as to define and update certain words and expressions taking into account technological and digital developments; to provide for electronic legal deposit and the deposit of audiovisual works; to set out the legal deposit role of the National Film, Video and Sound Archives; to ensure the creation, long-term preservation and consistent making accessible in accessible formats of the most comprehensive collection of publications 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 54 of 1997

1. Section 1 of the Legal Deposit Act, 1997 (hereinafter referred to as “the principal Act”), is hereby amended—

- (a) by the insertion before the definition of “Council” 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”;
- (b) by the insertion after the definition of ‘accessibility’ of the following definition:

“ **‘audiovisual works’** are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied”;
- (c) by the substitution of the definition of “Committee” by the insertion of the following definition of “Council”:

“ **‘Council’** means the Legal Deposit Council defined in Section 8 of this Act”;
- (d) 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”;
- (e) by the insertion after the definition of “department”, of the following definition:
- “ **‘digital preservation’** means the act or process of applying measures necessary to ensure the storage, access, and accurate rendering of authenticated content over time, regardless of the challenges of media failure and technological change, and applies to both born digital and reformatted content with the aims of preserving digital content for future use, specifying file formats to be preserved and the level of preservation to be provided, and ensuring compliance with international standards and best practices for responsible stewardship of digital information”;
- (f) by the substitution of the definition of “document” by the insertion of the following definition:
- “ **‘document’** means any work which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible and accessible format through any medium, including born-digital works, online and offline works, static and dynamic electronic documents, and any version or edition of a document which is significantly different from that document in respect of its information content, intelligibility, accessibility, or physical presentation is considered to be a separate document”;
- (g) by the insertion after the definition of “document”, of the following definition:
- “ **‘dynamic electronic document’** means an electronic document including a web publication made publicly accessible through a technical device or process, which, for the purposes of the Copyright Act 98 of 1978, has been made publicly accessible in the .za domain or another top level domain geographically linked to South Africa, in another top level domain and is essential to South African documentary or cultural heritage, by any person normally resident in the Republic of South Africa, by any juristic person whose principal place of business is the Republic of South Africa and is essential to South African documentary or cultural heritage”;
- (h) by the insertion after the definition of “dynamic electronic document”, of the following definition:
- “ **‘information and communications technology (ICT)’** means any technology used for the processing, communication and manipulation of information”;
- (i) by the insertion after the definition of “information and communications technology”, 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”;
- (j) 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”;
- (k) by the insertion after the definition of “Minister”, by the insertion of the following definition:
- “ **‘Member of the Executive Council’** means the member appointed by the Premier of a particular provincial legislature with the portfolio responsible for arts, culture, archives, library and information services, and cultural heritage.”
- (l) by the insertion after the definition of “municipal library”, of the following definition:
- “ **‘national documentary heritage’** means existing and future documents in any format which contain analogue or digital information, such as books, manuscripts, archives and audiovisual works that are made

- available, printed or produced by any other means in the Republic of South Africa, or commissioned to be produced outside of the Republic of South Africa by a person normally resident in the Republic of South Africa or a juristic person whose principal place of business is the Republic of South Africa or that otherwise concerns the Republic of South Africa in any way including by having enduring national significance;”
- (m) by the insertion after the definition of “national documentary heritage”, of the following definition:
 “**‘National Film Video and Sound Archives’** means the sub-directorate of the National Archives and Records Service of South Africa that has a broad mandate to collect audiovisual works and related materials that are made in or about South Africa in terms of the National Archives and Records Service of South Africa Act 43 of 1996”;
- (n) by the insertion after the definition of “National Film Video and Sound Archives”, of the following definition:
 “**‘national library’** means the library prescribed in terms of Section 2 of the National Library of South Africa Act 92 of 1998”;
- (o) by the insertion after the definition of “national library”, of the following definition:
 “**‘obsolescence’** means the transition from available technology to unavailable technology with the risk of loss of content”;
- (p) by the substitution of the definition of “official publication”, of the following definition:
 “**‘official publication’** means a document published by an organ of national, provincial, or local government, a parastatal organisation or any other institution listed as a public entity in terms of schedules 2 and 3 of the Public Finance Management Act 1 of 1999”;
- (q) by the insertion before the definition of “online publication”, of the following definition:
 “**‘offline publication’** means an electronic document which is bibliographically identifiable, which is stored in machine readable form on an electronic storage medium in digital or other format”;
- (r) by the insertion before the definition of “preservation”, of the following definition:
 “**‘online publication’** means an electronic document which is bibliographically identifiable, which is stored in machine readable form on an electronic storage medium and which is available online in digital or other format.”
- (s) by the insertion before the definition of “published”, of the following definition:
 “**‘preservation’** means the act or process of applying measures necessary including conservation measures to sustain the form, integrity and materials of an object or information, whatever its format, to prevent harm to it and ensure its continued use and accessibility for current and future generations”;
- (t) by the insertion after the definition of “preservation”, 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”;
- (u) by the substitution of the definition of “published”, of the following definition:
 “**‘published’** means a document or work of which one (1) or more copies are issued to the public, or made available to the public upon request in a format accessible to the requestor, or made available to the public on the internet, and printed or produced by any other means in the Republic of South Africa, or is commissioned to be produced outside of the Republic

- of South Africa by a person normally resident in the Republic of South Africa or a juristic person whose principal place of business is the Republic of South Africa, and in which copyright subsists under the Copyright Act 98 of 1978 excluding an official publication and a reprint of a document whose content and form are identical to the content and form of a document already published”;
- (v) by the insertion after the definition of “published”, 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”;
- (w) by the insertion after the definition of “reasonable accommodation”, of the following definition:
 “**‘sound recordings’** are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied”;
- (x) by the insertion after the definition of “reasonable accommodation”, of the following definition:
 “ **‘static electronic document’** means an electronic document that is not a dynamic electronic document, and includes an electronic document that is stored or used by means such as magnetic media including a floppy disk, hard drive, audiotape, videotape, optical media including CD-ROM and its variants, DVD and its variants, WORM (write once read many) cartridges, Linear Tape Open (LTO) tapes, electronic storage devices including a universal serial bus device (USB), solid state drives (SSD), hard disc drive (HDD) and memory card”;
- (y) by the insertion after the definition of “static electronic document”, of the following definition:
 “ **‘technological protection measure’** means any process, treatment, mechanism, technology, device, product, system or component that in the normal course of its operation prevents or restricts infringement of copyright in a work and does not include a process, treatment, mechanism, technology, device, product, system or component, to the extent that in the normal course of its operation, it controls any access to a work for non-infringing purposes”;
- (z) by the insertion after the definition of “this Act”, 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 2 in Act 54 of 1997

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

2 (1) A publisher shall, for each published document, supply to the places of legal deposit, designated as such under this Act, the prescribed number of copies in the format and of the quality prescribed for each version and type of medium: Provided that the prescribed number of copies of documents other than official publications shall not exceed three (3).

(2) In order to make each published document that uses a medium other than paper accessible to the places of legal deposit for the purposes of preservation, conservation and access to the public, the publisher shall—

- (a) furnish the institutions designated under this Act as places of legal deposit with the prescribed information pertaining to that document including any available descriptive data about the publication including its title, creators, language, date of publication, format, subject and copyright

information;

(b) decrypt encrypted data contained in a static or dynamic offline or online electronic document or any other document published in any other medium that contains encrypted data;

(c) remove or deactivate technological protection measures or any other processes, treatments, mechanisms, technologies, devices, products, systems or components of hardware or software designed to restrict or limit access to the publication for whatever purpose;

(d) where necessary, provide a copy of relevant software to access the publication;

(e) where necessary, provide a copy of technical or other information necessary to access the publication, including a copy of manuals that accompany the publication.

(3) Nothing in this section shall be interpreted as contravening the provisions of the Protection of Personal Information Act 4 of 2013 and the Copyright Act 98 of 1978.

Amendment of section 4 in Act 54 of 1997

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

4 Unless otherwise prescribed, the publisher shall dispatch a document contemplated in section 2(1) and furnish the information contemplated in section 2(2) within sixty (60) days of the day on which the document is published.

Amendment of section 5(1)(c) in Act 54 of 1997

4. Section 5(1)(c) of the principal Act is hereby amended by the substitution of Section 5(1)(c) of the following section—

5 (1) —

(a) The Minister may, after consultation with the [Committee] Council, grant financial relief to publishers who suffer serious financial hardship as a result of their obligation to supply certain documents to [the South African Library or the National Film, Video and Sound Archives] the libraries designated under this Act as places of legal deposit as the case may be; Provided that such relief shall not exceed the cost of producing an additional copy of such documents.

Amendment of section 5(3) in Act 54 of 1997

5. Section 5(3) of the principal Act is hereby amended by the substitution of section 5(3) of the following section—

5(3) If a publisher is exempted under this section from the obligation to supply a copy of a document to the [State Library] prescribed place of legal deposit, such publisher must nevertheless furnish the [State Library] prescribed place of legal deposit with the information contemplated in section 2(2) relating to that document.

Amendment of section 6(1) in Act 54 of 1997

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

6(1) The places of legal deposit shall be—

(a) [the City Library Services, Bloemfontein] Bloemfontein City Library, Bloemfontein as assisting the primary place of legal deposit;

(b) the Library of Parliament, Cape Town as assisting the primary place of legal deposit;

(c) [the Natal Society Library, Pietermaritzburg] Msunduzi Municipal Library Services, Pietermaritzburg as assisting the primary place of legal deposit;

(d) [the South African Library, Cape Town] the National Library of South Africa, as designated by the National Library of South Africa

Act, 92 of 1998, Pretoria and Cape Town as the primary place of legal deposit;

- (e) [the State Library, Pretoria] the South African Library for the Blind, Makhanda for the purposes of accessible format copies of all published documents sought to be deposited;
- (f) the National Film, Video and Sound Archives, Pretoria for the purposes of certain categories of documents as [prescribed] set out in Section 7(5) of this Act;
- (g) any other library or institution prescribed by the Minister for the purposes of certain prescribed categories of documents and as assisting the primary place of legal deposit.

Amendment of section 6(3) in Act 54 of 1997

7. Section 6(3) of the principal Act is hereby amended by the substitution of section 6(3) of the following section—
- 6(3) The Minister or the relevant Member of the Executive Council for each province shall, from funds voted for that purpose by Parliament or the relevant Provincial Legislature [as the case may be], disburse such sums as are necessary to places of legal deposit to enable them to fulfil their obligations.

Amendment of section 7 in Act 54 of 1997

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

7(1) A place of legal deposit shall [subject to such limitations as may be prescribed] subject to minimum criteria as may be prescribed by the Minister—

- (a) receive, acknowledge, accession, retain and preserve;
- (b) catalogue [or inventorise] and publish their catalogue;
- (c) [ensure] provide freedom of access to, giving effect to the rights in the Bill of Rights of the Constitution; and
- (d) mitigate technological obsolescence to ensure long-term preservation and continued access.

the documents supplied in terms of section 2(1).

(2) In fulfillment of the obligations set out in subsection 1, a place of legal deposit shall—

- (a) build and maintain the physical and digital infrastructure required to preserve and store documents of different categories in appropriate physical and digital repositories whose technical and climatic conditions ensure the preservation of the legal deposit copy for current and future generations and prevent damage and destruction thereof;
- (b) mark and label documents deposited as legal deposit copies as such, where possible, in a manner distinguishable from the other publications in the collections housed by the places of legal deposit;
- (c) possess, copy, store in electronic form (whether offline or online), and use any copy of a deposited document for the purposes of carrying out their duties including their metadata;
- (d) be permitted to reproduce and/or adapt legal deposit copies if the copy / adaptation is made in any of the circumstances set out in this subsection and circumstances analogous to these circumstances—
 - i. to preserve or replace the legal deposit copy by placing the copy or adaptation in the permanent collection in addition to or in place of the relevant material;
 - ii. to replace the legal deposit copy in the permanent collection of another place of legal deposit under this Act if that legal deposit copy has been lost, destroyed, or damaged;
 - iii. to adapt the legal deposit copy to a different medium or format from the format in which the legal deposit copy was deposited if the place of legal deposit considers the change

is necessary or expedient for conservation or preservation purposes, for instance, due to technological changes or obsolescence.

- (e) facilitate public access to a physical document on the premises of the place of legal deposit if the place of legal deposit is convinced in the adequate preservation of the legal deposit copy and that the use of the legal deposit copy will not damage it;
- (f) facilitate public access to an electronic document through a secure portal whether on the premises of the place of legal deposit or remotely;
- (g) embargo a document from public access for a specified period of time upon a request from a copyright holder provided that the period specified in the request does not exceed two years from the date on which the request is made and the place of legal deposit is satisfied on reasonable grounds that, for the period specified in the request, access to the document by the public would, or would be likely to, unreasonably prejudice the interests of the person making the request and further provided that this does not contravene the provisions of the Promotion of Access to Information Act 2 of 2000;
- (h) make and supply for use on its premises or through a secure portal, whether on the premises of the place of legal deposit or remotely, accessible formats of documents for people with disabilities, as a form of reasonable accommodation, if the format in which the document has been deposited is inaccessible;
- (i) upon request from a member of the public, make and supply for use on its premises or through a secure portal, whether on the premises of the place of legal deposit or remotely, one (1) copy of a document where the place of legal deposit is satisfied that the copy is required exclusively for non-commercial purposes such as education, private study, research reporting current events, criticism or review, parliamentary or judicial proceedings;
- (j) upon request from another place of legal deposit, transfer or lend a copy or adaptation of the legal deposit copy, providing a digital copy unless such a copy is unavailable.

(3) In circumstances where a document contains personal data—

- (a) the place of legal deposit may process personal data in documents containing personal data for the fulfillment of the objectives of this Act and this processing will not be an infringement of the Protection of Personal Information Act 4 of 2013: Provided that the data subject is permitted to make a request justifying the withholding of access to the document from the public to the extent that the place of legal deposit is satisfied on reasonable grounds that the processing of personal data would, or would be likely to, unreasonably prejudice the interests of the person making the request;
- (b) Notwithstanding a request pursuant to subsection (a), the place of legal deposit may nonetheless grant access upon a specific request from a person seeking access to the document for the purposes of scientific research or study.
- (c) In any event, any person who has been refused access to a public or non-public record has the right to appeal the refusal decision as set out in Part 4 Chapters 1 and 2 of the Promotion of Access to Information Act 2 of 2000.

(4) [The State Library] The National Library of South Africa shall, with the assistance of other places of legal deposit and other appropriate libraries or institutions, compile—

- (a) a national bibliography; and
- (b) statistics of the South African production of published documents on the basis of the documents supplied in terms of section 2(1) and the information furnished in terms of section 2(2).

(5) [The South African Library] The National Library of South Africa and the National Film Video and Sound Archives shall, with the assistance of other places of legal deposit, preserve at least one (1) copy of each document supplied in terms of section 2(1) for current and future use: Provided that—the National Film Video and Sound Archives shall be designated as the primary place of legal deposit for the preservation of at least one (1) copy of audiovisual works, sound recordings, broadcasts, films and videos in any format including analogue and digital formats with the exception of public commercial and national broadcasts.

(6) An official publications depository shall—

- (a) serve as a centre for promoting public awareness of, and access to, official publications and information held by the government and the institutions listed in terms of [section 3 of the Reporting by Public Entities Act, 1992 (Act 40 No. 93 of 1992)] the Public Finance Management Act 1 of 1999; and
- (b) provide public access to databases and other information sources to which the public may gain access under [any law] the Constitution and the Promotion of Access to Information Act 2 of 2000.

(7) Notwithstanding subsections (1), (2), and (4), the head of a place of legal deposit may, only on the recommendation of the [Committee] Council—

- (a) dispose of;
- (b) omit from catalogues or inventories;
- (c) omit from a national bibliography; or
- (d) impose restrictions on access to, certain categories of documents, supplied in terms of section 2(1) to one or more places of legal deposit.

(8) If a place of legal deposit persistently fails to comply with [subsection (1), (2), (3) or (4)] this section, the Minister may, only upon the recommendation of the [Committee] Council, by notice in the *Gazette*, exempt all publishers from the obligation to supply to that place of legal deposit the documents contemplated in section 2(1).

Insertion of section 8(1)(e) in Act 54 of 1997

9. The following section is hereby inserted after Section 8(1)(d) of the principal Act—

8(1)(e) one representative from the public broadcasting sector, designated by the Minister in the prescribed manner.

Amendment of section 8(2) in Act 54 of 1997

10. Section 8(2) of the principal Act is hereby amended by the substitution of section 8(2) of the following section—

8(2) The Minister may appoint no more than four additional members to the [Committee] Council in the prescribed manner to represent other interested parties including representatives of library and information services, specialised libraries, and the museum sector.

Amendment of section 8(5)(f) in Act 54 of 1997

11. Section 8(5)(f) of the principal Act is hereby amended by the substitution of section 8(5)(f) of the following section—

8(5)(f) report to parliament on the activities and financial affairs of the places of legal deposit in accordance with the provisions of [the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992)] the Public Finance Management Act 1 of 1999.

Insertion of sections 8(5)(g) and 8(5)(h) in Act 54 of 1997

12. The following sections are hereby inserted after Section 8(5)(f) of the principal Act—

8(5)(g) set uniform national standards for the preservation, conservation, access, accessibility, use, omissions from and disposal of legal deposit collections in line with

the objects and purposes of this Act;
8(5)(h) audit and inspect places of legal deposit for compliance with the objects and purposes of this Act.

Amendment of section 8(6) in Act 54 of 1997

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

8(6) [No remuneration shall be payable to the members of the [Committee] Council or the members of its subcommittees or working groups other than such reasonable travel and subsistence costs as the Minister with the concurrence of the Minister of Finance may determine within the limits of the approved budget of the [Committee] Council, its subcommittees and working groups.] 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 Minister of Finance and the relevant Members of the Executive Council at the provinces: Provided that 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.

Insertion of section 8(7) in Act 54 of 1997

14. The following section is hereby inserted after Section 8(6) of the principal Act—
8(7) (a) The administrative functions of the Council must be performed by the Legal Deposit Council secretariat established by the Director-General in terms of the Public Service Act, 1994 (Proclamation 103 of 1994) which must be adequately capacitated in terms of human resource and financial capacity to support the functions of the Legal Deposit Council.

(b) The functions of the secretariat include: the performance of administrative, communication and secretarial services; and the establishment and maintenance of a research section and the necessary infrastructure, incorporating a digital database, a library, reference material and document archives.

Amendment of section 9 in Act 54 of 1997

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

9 Any publisher who fails to comply with section 2, 3, 4 or 5(3) shall be guilty of [an] a criminal offence and liable on conviction to a fine not exceeding R20 000.

Repeal of section 11 in Act 54 of 1997

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

Amendment of certain expressions in Act 54 of 1997

17. 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”; by the substitution for the expression “Committee” where it appears in the Act, of the relevant expression of “Council”; by the substitution for the expression “State Library of South Africa” where it appears in the Act, of the relevant expression of “National Library of South Africa”.

Short title and commencement

18. (1) This Act is called the Legal Deposit 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*.

MEMORANDUM ON THE OBJECTS OF THE LEGAL DEPOSIT 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 Legal Deposit Act, 1997, to take into account technological developments since its promulgation, and address contemporary challenges to legal deposit 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 electronic legal deposit and the deposit of audiovisual works;
- 2.5. to set out the legal deposit role of the National Film, Video and Sound Archives;
- 2.6. to ensure the creation, long-term preservation and consistent making accessible in accessible formats of the most comprehensive collection of publications for the benefit of all people living in South Africa;
- 2.7. 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 2, to set out in detail the legal deposit obligation incumbent on publishers, the information required to be furnished to the places of legal deposit, and ensure compliance with the existing legislation.
- 3.3. Clause 3 of the Bill proposes the amendment of Section 4, to provide a time frame for legal deposit.
- 3.4. Clause 4 of the Bill proposes the amendment of Section 5(1)(c) to update the places of legal deposit referred to in the section.
- 3.5. Clause 5 of the Bill proposes the amendment of Section 5(3) to update the places of legal deposit referred to in the section.
- 3.6. Clause 6 of the Bill proposes the amendment of Section 6(1) to update the places of legal deposit referred to in the section in light of recent legislation and name changes.
- 3.7. Clause 7 of the Bill proposes the amendment of Section 6(3) to clarify the governmental bodies and their heads that are responsible for funding places of legal deposit.
- 3.8. Clause 8 of the Bill proposes the amendment of Section 7 to set out the obligations of places of legal deposit concerning preservation, conservation, access, accessibility and compliance with existing legislation, and clarify the role played by the National Film Video and Sound Archives.
- 3.9. Clause 9 of the Bill proposes the insertion of Section 8(1)(e) to include the

broadcasting sector.

- 3.10. Clause 10 of the Bill proposes the amendment of Section 8(2) to include specialised libraries and the museum sector in the Council.
- 3.11. Clause 11 of the Bill proposes the amendment of Section 8(5)(f) to remove reference to repealed legislation.
- 3.12. Clause 12 of the Bill proposes the insertion of Sections 8(5)(g) and 8(5)(h) to include additional standard setting and supervisory functions of the Council.
- 3.13. Clause 13 of the Bill proposes the amendment of Section 8(6) to update the determination of remuneration to Council members.
- 3.14. Clause 14 of the Bill proposes the insertion of Section 8(7) to set out administrative functions of the Council.
- 3.15. Clause 15 of the Bill proposes the amendment of Section 9 to clarify penalties for non-compliance.
- 3.16. Clause 16 of the Bill proposes the repeal of Section 11 to ensure compliance with the Promotion of Administrative Justice Act 3 of 2000.
- 3.17. Clause 17 of the Bill proposes the amendment of certain expressions.
- 3.18. Clause 18 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

Tagging

- 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).