Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 713 5 November / November 2024 No. 51507

ISSN 1682-5845

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

NO FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

No.		Gazette No.	Page No.
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Small Business Development, Department of / Kleinsake-ontwikkeling, Departement van			
5515	National Small Enterprise Act (102/1996), as amended: Final: Advisory Body Constitution	51507	3

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

NO. 5515 **5 November 2024**

NATIONAL SMALL ENTERPRISE ACT, 1996 (NO. 102 OF 1996) AS AMENDED

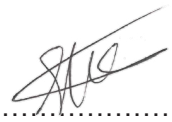
FINAL

ADVISORY BODY CONSTITUTION

I, Ms S Ndabeni-Abrahams, Minister of Small Business Development, hereby publish the final Cabinet approved constitution for the Advisory Body, established according to the provisions of Chapter 2 of the National Small Enterprise Act, 1996 (No. 102 of 1996) as amended.

2. The Advisory Body will also subsume the responsibilities of the functions of the Co-operatives Advisory Council as provided for in Chapter 12 of the Co-operatives Amendment Act, 2013 (No. 6 of 2013).

3. Furthermore, members of the public are notified that enquiries should be submitted to Ms Sylvia Mabusela at SMabusela@dsbd.gov.za or submitted by hand to the SMME Policy & Oversight Directorate, Department of Small Business Development, 77 Meintjies Street, Sunnyside, Pretoria.



……..

Ms S Ndabeni-Abrahams (MP)
MINISTER OF SMALL BUSINESS DEVELOPMENT
DATE: 17 / 10 / 2024

REPUBLIC OF SOUTH AFRICA

Private Bag X274, PRETORIA, 0001, **the dti** Campus, 77 Meintjies Street, Sunnyside PRETORIA Tel: (012) 394 5535/1813
Private Bag X9047, CAPE TOWN, 8000, Tel: (021) 464 2980, Fax: (021) 461 2480

1. INTRODUCTION

1.1 The White Paper on National Strategy for the Development and Promotion of Small Business in South Africa (White Paper, 1995) as the founding policy on small enterprise development, identified that small enterprises are not a homogeneous business community but are represented by a diverse group of enterprises with varying interests, ambitions, and influence. The White Paper further articulated the intent and need for the establishment of a structure that would represent the national "voice" of small enterprise interests and concerns. The White Paper together with the National Integrated Small Enterprise Development (NISED) Strategic Framework assented to by Cabinet on 2 November 2022 and published in the Government Gazette no 48063 on 17 February 2023 as the National Small Business Support Strategy forms the national policy in respect of small enterprise support, i.e., as per the National Small Enterprise Act, 1996, no. 102 of 1996, as amended (hereon further referred to as the National Small Enterprise Act).

1.2 The National Small Enterprise Act, Act 102 of 1996 as amended, (hereon further referred to as the Small Enterprise Act) prescribes that the Minister facilitates a process aimed at the establishment of the Advisory Body to represent and promote the interests of small enterprises as contemplated in the White Paper, 1995. Small Enterprise is defined in the Act as a separate and distinct business entity, together with its branches or subsidiaries, if any, including a co-operative, co-operative financial institution, or a co-operative bank, carried on in any sector or sub-sector of the economy classified as a micro, small or medium enterprise which satisfies the prescribed criteria.

1.3 The Co-operatives Act, 2005 (No. 14 of 2005) as amended (hereon further referred to as Co-operatives Act) also provides for the establishment of the Advisory Council to advise the Minister generally on the development of co-operatives and make recommendations on policy, the application of provisions in the Act, the publication of regulations, the provision of support programmes and any matter referred to the Council by the Minister.

1.4 Given the similarity in functions, Cabinet endorsed rationalisation of the number of public entities and because the definition for small enterprise includes co-operative enterprises it was decided to establish a single Advisory Body that will represent small enterprises, including co-operative enterprises.

1.5 The National Small Enterprise Act requires the Minister to, through an open and transparent process, determine the Constitution for the Advisory Body. The establishment of the Advisory Body will be guided by the provisions in both the National Small Enterprise Act as well as the Co-operatives Amendment Act.

1.6 The Constitution of the Advisory Body must, in general, provide for -:

a) the composition of the Advisory Body.

b) the quorum and meetings of the Advisory Body.

c) the procedure for the functioning of the Advisory Body.

d) interaction with Parliament, the Department of Small Business Development (DSBD) and statutory bodies.

e) the nomination process for membership.

f) any other matter that may be necessary to facilitate the proceedings, activities or business of the Advisory Body.

2. CONSTITUTION OF THE ADVISORY BODY

The Advisory Body shall be established to advise the Minister and fulfil its role and responsibility as provisioned for in the Act.

3 MANDATE OF THE ADVISORY BODY

The mandate of the Advisory Body is to represent and promote the interest of small enterprises, including co-operatives, as contemplated in the National Small Enterprise Act, 1996 (No. 102 of 1996) as amended as well as the Co-operatives Act, 2005 (No. 14 of 2005) as amended.

4. FUNCTIONS OF THE ADVISORY BODY

4.1 The Advisory Body shall advise the Minister on:

a) Strategies, policies, or programme interventions to address identified market failures affecting the sector;

b) The impact of current and new legislation on small enterprises, including co-operatives;

c) National standards pertaining to small enterprise and co-operative development and regulation;

d) Measures to ensure the creation of physical business infrastructure through viable business sites;

e) The development of skills in all aspects of running a business;

f) Steps to be taken to create access for small enterprises and co-operatives into value chains;

g) Constraints affecting the viability of the small enterprise and co-operative community;

h) Methods to liaise with the small enterprise and co-operative community to identify their needs.

i) Methods to monitor and influence the provision of support services to the small enterprise and co-operative sector;

j) Through consultation with small enterprises and organisations representing the interests of small enterprises, including co-operatives, at provincial and national level, each year identify the top 10 barriers that impact on the effective and efficient operation of small enterprises, including co-operatives, to be submitted to the red tape reduction office at the Presidency as priority barriers to be addressed; and

k) Any other matter that the Minister may deem appropriate

5 THE COMPOSITION OF THE ADVISORY BODY

5.1 The Advisory Body will consist of a minimum of seven (7) members, and a maximum of eleven (11) members.

5.2 The Minister will put out a call for nominations for members of the Advisory Body. Small enterprises, including co-operatives, and other interested bodies can then submit their nominations to the Minister. A shortlist of nominations, based on the required expertise and knowledge requirements, will be prepared. An interview panel, approved by the Minister, will conduct interviews and make recommendations to the Minister. Recommendations must consider representativity in terms of targeted groups.

5.3 The nominated members may include, but not limited to, person(s) with expertise and experience in the following areas:

a) Enterprise and supplier development

b) Small enterprise finance, including co-operative finance

c) Market access

d) Small enterprise, including co-operative policy and programme interventions

e) Sectoral expertise from the seven (7) priority sectors of the SA industrial strategy

f) Product certification and/or product qualification

g) Entrepreneurship development

h) Expert in small enterprise research

5.3 Members, including the chairperson may be nominated, provided that the Minister has put out a call for nomination, but will not be representatives of departments from national,

provincial or local sphere of government or any of their entities. The Minister may appoint a maximum of two (2) members outside the stipulated nomination process provisioned under section 5.2 to ensure wider representativity. The two appointees of the Minister must be within the maximum of eleven (11) members.

5.4 The term of office of members will be three (3) years and members may serve a maximum of two (2) consecutive terms.

5.5 A member who wants to terminate his/her membership must give one month's written notice to the Minister unless the Minister approves a shorter period.

5.6 A member of the Advisory Body holds the office for a period of three years. The member may at the end of his / her term of office be reappointed for one additional term only.

5.7 Reappointment of members will be considered and confirmed by the Minister. Reappointment of members for a second term will be assessed and sanctioned on merit by the Minister.

5.8 All appointments, including reappointments, will be published on the Department of Small Business Development website.

6. DISQUALIFICATION OF ADVISORY BODY MEMBERS

6.1 A person may not be appointed or continue as an Advisory Body member if such person:

a) is an unrehabilitated insolvent.

b) is of unsound mind, or is subject to an order of a competent court declaring such person to be mentally ill or mentally disordered; or

c) has at any time been removed from the office of trust on account of misconduct.

d) has a criminal record.

e) has been convicted for sexual offense or has a restraining order granted against him/ her based on gender-based violence.

f) has not attended at least three consecutive meetings with valid reason(s) explaining lack of attendance in a given financial year.

g) Resignations and/or expulsions will be published on the Department of Small Business Development website.

7. FILLING OF VACANCIES OF ADVISORY BODY

7.1 When an Advisory Body member, serving on the basis of a nomination from a nominating institution, vacates the office of the Advisory Body before the end of his or her term, the nominating institution shall nominate a substitute.

7.2 The Minister may appoint a substitute member in place of a disqualified member as stipulated by the conditions set out in section 6.1 above. This and other appointments will be published on the Department of Small Business Development website, with an indication of the processes followed aligned to the constitution.

8. QUORUM OF THE ADVISORY BODY

8.1 The quorum of meetings of the Advisory Body shall be 50% plus one of the appointed members in each meeting.

9. PROCEDURE FOR THE FUNCTIONING OF THE ADVISORY BODY

9.1 The Advisory Body will facilitate two (2) meetings in a given financial year. The Minister may request the Advisory Body to convene additional meetings at her discretion.

9.2 Meetings of the Advisory Body will be facilitated as following:

9.2.1 The Minister shall designate one member as a chairperson of the Advisory Body who shall chair all meetings of the Advisory Body.

9.2.2 In the absence of the chairperson, the Advisory Body members present at the meeting shall nominate a member to chair the said Advisory Body meeting.

9.2.3 The Advisory Body shall sit two (2) times a year as per section 9.1 above and any other meetings of the Advisory Body must be sanctioned by the Minister.

9.2.4 The quorum for the Advisory Body meeting will consist of fifty percent (50%) plus one member in any given meeting as per section 8.1 above.

9.2.5 Members will be expected to prepare working documents or proposals and submit it to the chairperson. These working documents or proposals will be supported by evidence pertaining to the topic or agenda of the Advisory Body.

9.2.6 Members will submit and present working documents or proposals to the meeting for inputs, recommendations and/or approval. Approved inputs, recommendations and/or approvals by the members will be presented to the Minister by the chairperson.

9.2.7 The venue of Advisory Body meetings will be determined from time-to-time by the Secretariat in consultation with the chairperson of the Advisory Body.

9.2.8 The DSBD shall provide secretariat support for the Advisory Body

9.2.9 The Secretariat shall be responsible for the administration and budget of the Advisory Body.

9.2.10 Advisory Body members will be remunerated in line with the Remuneration Policy compliant with National Treasury Regulations.

10. REMUNERATION OF MEMBERS

10.1 The DSBD will provide budget support for the Advisory Body.

10.2 Members will be remunerated in accordance with the Remuneration Policy of the Advisory Body in accordance with National Treasury guidelines on Remuneration Framework for Members of Statutory Bodies and will consider the following.

10.3 The Remuneration Policy will include, but not be limited to the following:

10.3.1 Sitting Fee

10.3.2 Preparation Fee

10.3.3 Travel and unavoidable stay-over time where applicable

10.3.4 Any other qualifying service carried out in accordance with the Advisory Body constitutional provisions.

10.3.5 The above remuneration package will be determined by the DSBD in consultation and concurrence with National Treasury.

10.3.6 The Remuneration Policy will take effect once approved by the Minister.

11. POWERS OF THE ADVISORY BODY

The Advisory Body is empowered by the Act to advise the Minister.

12. AMENDMENTS

Amendment to the Constitution will be done by the Minister.

13. INTERACTION WITH PARLIAMENT

Interaction with Parliament will be facilitated through the Parliamentary Liaison Officer of the Department of Small Business Development with concurrence from Minister on matters representing the interests of small enterprises.

14. REPORTING OF THE ADVISORY BODY

14.1. The Advisory Body must submit to the Minister an annual report within five (5) months of the end of each financial year which must include:

a) particulars of the work of the Advisory Body and of advice provided to the Minister in as per legislative provisions

b) appropriate financial information relating to the Advisory Body.

c) such other information as may be prescribed or requested by the Minister.

14.2 The Minister must table a copy of the annual report contemplated in subsection (1) of the Act in Parliament and other strategic institutions such as the National Planning Commission to ensure that the those small enterprises, including co-operatives, are centre in governments social and economic planning.

14.3 The above-mentioned report will be published on the DSDB website once ratified by Parliament.

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

This gazette is also available free online at **www.gpwonline.co.za**