

**Source:**

Statutes and Regulations of South Africa/Statutes of South Africa, Juta's/Full\_Act/23119\_full\_act

**URL:**[http://jutastat.juta.co.za/nxt/gateway.dll/strg/statreg/full\\_act/23119\\_full\\_act?f=templates\\$fn=default.htm](http://jutastat.juta.co.za/nxt/gateway.dll/strg/statreg/full_act/23119_full_act?f=templates$fn=default.htm)**NATIONAL RESEARCH FOUNDATION ACT 23 OF 1998<sup>1</sup>**

[ASSENTED TO 24 JUNE 1998]

[DATE OF COMMENCEMENT: 1 APRIL 1999]

You are currently viewing the full Act.

*(English text signed by the President)***published in**

GG 19017 of 3 July 1998

**commencement**

(see s. 25 of this Act)

provisions	date	refer to
whole Act	1 April 1999	Proc R33 in GG 19884 of 26 March 1999

**as amended**

by	with effect from	refer to
Science and Technology Laws Amendment Act 16 of 2011	5 December 2011	s. 56 of Act 16 of 2011
Science and Technology Laws Amendment Act 7 of 2014	26 April 2014	s. 28 of Act 7 of 2014
National Research Foundation Amendment Act 19 of 2018	1 April 2020	s. 27 of Act 19 of 2018; Proc 9 in GG 43015 of 14 February 2020

**Regulations under this Act**

**[NB:** The Act was amended by the substitution of the expression 'chief executive officer' for the expression 'president' wherever it occurred, except where it refers to the President of the Republic or the president of the FRD by s. 24 of the Science and Technology Laws Amendment Act 16 of 2011 (wef 5 December 2011).]

**ACT**

**To provide for the support, promotion and advancement of research, both basic and applied, and human capacity development in the various fields of science and 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; and to provide for incidental matters.**

[Long title substituted by s. 26 of Act 19 of 2018 (wef 1 April 2020).]

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

<sup>1</sup> This Act has been updated to include all available historical commencement details

**1 Definitions**

In this Act, unless the context otherwise indicates-

**'Board'** means the Board referred to in section 6;

**'chairperson'** means the person appointed as chairperson of the Board under section 6 (1) (a) (i);

**'chief executive officer'** means the person appointed as the chief executive officer of the Foundation under section 10;

[Definition of 'chief executive officer' inserted by s. 19 (b) of Act 16 of 2011 (wef 5 December 2011).]

**'Department'** means the Department responsible for science and technology;

[Definition of 'Department' inserted by s. 1 (a) of Act 19 of 2018 (wef 1 April 2020).]

**'division'** means a division of the Foundation envisaged in section 12;

[Definition of 'division' substituted by s. 1 (b) of Act 19 of 2018 (wef 1 April 2020).]

**'executive management committee'** means the executive management committee referred to in section 9;

**'Foundation'** means the National Research Foundation, established by section 2;

**'FRD'** and **'HSRC'** .....

[Definitions of 'FRD' and 'HSRC' deleted by s. 1 (c) and (d) of Act 19 of 2018 (wef 1 April 2020).]

**'Minister'** means the Minister responsible for science and technology;

[Definition of 'Minister' substituted by s. 19 (c) of Act 16 of 2011 (wef 5 December 2011).]

**'national facilities'** .....

[Definition of 'national facilities' deleted by s. 1 (e) of Act 19 of 2018 (wef 1 April 2020).]

**'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;

[Definition of 'national research facility' inserted by s. 1 (f) of Act 19 of 2018 (wef 1 April 2020).]

'**president**' .....

[Definition of 'president' deleted by s. 19 (d) of Act 16 of 2011 (wef 5 December 2011).]

'**regulation**' means a regulation made under this Act;

'**research**' means the generation, preservation, augmentation and improvement of knowledge by means of scientific investigations and methods in the field of science and technology;

'**research institution**' means the institution conducting research as recognised by the Minister in terms of section 5A;

[Definition of 'research institution' substituted by s. 19 (e) of Act 16 of 2011 (wef 5 December 2011) and by s. 1 (g) of Act 19 of 2018 (wef 1 April 2020).]

'**science**' includes any system of knowledge attained by verifiable means and the organised body of knowledge humans have gained by research;

[Definition of 'science' substituted by s. 19 (f) of Act 16 of 2011 (wef 5 December 2011).]

'**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;

[Definition of 'science engagement' inserted by s. 1 (g) of Act 19 of 2018 (wef 1 April 2020).]

'**technology**' means the manner through which knowledge accumulated through research or observation finds practical application;

[Definition of 'technology' substituted by s. 1 (h) of Act 19 of 2018 (wef 1 April 2020).]

'**this Act**' includes the regulations.

[Definition of 'this Act' substituted by s. 19 (g) of Act 16 of 2011 (wef 5 December 2011).]

## 2 Establishment of Foundation

(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 1 of 1999), applies to the Foundation.

[S. 2 substituted by s. 2 of Act 19 of 2018 (wef 1 April 2020).]

## 3 Object of Foundation

The object of the Foundation is to contribute to national development 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;
- (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 system and support of Government priorities.

[S. 3 substituted by s. 3 of Act 19 of 2018 (wef 1 April 2020).]

## 3A Powers of Minister to determine national policies and issue policy guidelines

(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 national policy guidelines for the implementation of the policies referred to in subsection (1).

[S. 3A inserted by s. 4 of Act 19 of 2018 (wef 1 April 2020).]

## 4 Functions, powers and duties of Foundation

(1) The functions of the Foundation are to-

- (a) promote the development of appropriate human and research capacity and research infrastructure in the areas of science and technology;

[Para. (a) substituted by s. 5 (a) of Act 19 of 2018 (wef 1 April 2020).]

- (aA) implement the policies referred to in section 3A;

[Para. (aA) inserted by s. 5 (b) of Act 19 of 2018 (wef 1 April 2020).]

- (b) promote, support and advance research;

[Para. (b) substituted by s. 5 (c) of Act 19 of 2018 (wef 1 April 2020).]

- (c) obtain funds for research, both locally and abroad;

- (d) promote multi-disciplinary and trans-disciplinary collaboration;

[Para. (d) substituted by s. 5 (d) of Act 19 of 2018 (wef 1 April 2020).]

- (e) and (f) .....

[Paras. (e) and (f) deleted by s. 5 (e) of Act 19 of 2018 (wef 1 April 2020).]

- (g) provide financial support for the acquisition or establishment of research infrastructure at research institutions and national research facilities;

[Para. (g) substituted by s. 5 (f) of Act 19 of 2018 (wef 1 April 2020).]

- (h) review research proposals and results promoted by the Foundation;

- (i) promote the transfer of technology and the implementation of research results and findings;

- (j) facilitate and promote national and international scientific exchange and collaboration between researchers and research institutions;

[Para. (j) substituted by s. 5 (g) of Act 19 of 2018 (wef 1 April 2020).]

- (k) .....

[Para. (k) deleted by s. 5 (h) of Act 19 of 2018 (wef 1 April 2020).]

- (l) disseminate scientific knowledge or technology through any medium;

[Para. (l) substituted by s. 5 (i) of Act 19 of 2018 (wef 1 April 2020).]

- (m) manage, support and monitor the operation of national research facilities;

[Para. (m) substituted by s. 5 (j) of Act 19 of 2018 (wef 1 April 2020).]

- (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;

[Para. (mA) inserted by s. 5 (k) of Act 19 of 2018 (wef 1 April 2020).]

- (mB) incubate qualifying national research facilities prior to its declaration as a national research facility;

[Para. (mB) inserted by s. 5 (k) of Act 19 of 2018 (wef 1 April 2020).]

- (n) promote the provision of an information infrastructure linking research institutions to facilitate co-operation and sharing of research information and knowledge;

- (o) compile and maintain a national registry of research funded by the Foundation; and  
[Para. (o) substituted by s. 5 (l) of Act 19 of 2018 (wef 1 April 2020).]
  - (p) initiate liaison with structures involved in the protection of intellectual property rights.
- (2) In order to achieve its object the Foundation may-
- (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;
 [Para. (a) substituted by s. 5 (m) of Act 19 of 2018 (wef 1 April 2020).]
  - (aA) coordinate relevant research institutions and targeted science advancement and outreach activities;  
[Para. (aA) inserted by s. 5 (n) of Act 19 of 2018 (wef 1 April 2020).]
  - (b) co-operate or enter into agreements with any person, institution, government or administration; and  
[Para. (b) substituted by s. 5 (o) of Act 19 of 2018 (wef 1 April 2020).]
  - (c) and (d) .....  
[Paras. (c) and (d) deleted by s. 5 (p) of Act 19 of 2018 (wef 1 April 2020).]
  - (e) generally, do everything which is necessary to achieve its object.

- (3) In addition to its other functions in terms of this Act, the foundation must-
- (a) undertake or procure the undertaking of such investigations and research relating to its object as the Minister may assign to it; and  
[Para. (a) substituted by s. 5 (r) of Act 19 of 2018 (wef 1 April 2020).]
  - (b) advise the Minister and, if so required, the Minister responsible for higher education and training through the Minister, with regard to research relating to its object.  
[Para. (b) substituted by s. 20 of Act 16 of 2011 (wef 5 December 2011).]  
[Sub-s. (3) amended by s. 5 (q) of Act 19 of 2018 (wef 1 April 2020).]

(4) Apart from the research conducted by the national research facilities, the Foundation may not itself conduct research other than research relating to the efficient and effective execution of its functions referred to in subsection (1), or unless approved by the Minister.  
[Sub-s. (4) substituted by s. 5 (s) of Act 19 of 2018 (wef 1 April 2020).]

#### 4A Exercise of powers of Foundation outside Republic

(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.

(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.

(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
- (b) approved of by the Minister.

[S. 4A inserted by s. 6 of Act 19 of 2018 (wef 1 April 2020).]

#### 5 National facilities for research

(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.

[Sub-s. (1) substituted by s. 7 (a) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (2) substituted by s. 7 (a) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (3) substituted by s. 7 (a) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (4) added by s. 7 (b) of Act 19 of 2018 (wef 1 April 2020).]

(5) The Minister may, after consultation with the Foundation, and subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act 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.

[Sub-s. (5) added by s. 7 (b) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (6) added by s. 7 (b) of Act 19 of 2018 (wef 1 April 2020).]

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

[Sub-s. (7) added by s. 7 (b) of Act 19 of 2018 (wef 1 April 2020).]

#### 5A Research institutions

(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.

(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).

[S. 5A inserted by s. 8 of Act 19 of 2018 (wef 1 April 2020).]

#### 6 Board of Foundation

- (1) The Foundation acts through a board consisting of-
- (a) subject to subsection (2)-
    - (i) a chairperson, appointed by the Minister;
    - (ii) not fewer than nine and not more than 11 other members nominated by the public and appointed by the Minister, after consultation with the Minister responsible for higher education and training;  
[Sub-para. (ii) substituted by s. 21 (a) of Act 16 of 2011 (wef 5 December 2011) and by s. 4 (a) of Act 7 of 2014 (wef 26 April 2014).]
    - (iii) one member appointed by the Minister, after nominations from the National Advisory Council on Innovation; and  
[Sub-para. (iii) added by s. 4 (b) of Act 7 of 2014 (wef 26 April 2014).]
    - (iv) one member appointed by the Minister, after nominations from the Council on Higher Education; and  
[Sub-para. (iv) added by s. 4 (b) of Act 7 of 2014 (wef 26 April 2014).]
  - (b) the chief executive officer, by virtue of his or her office.
- (2) For the purposes of appointing the members of the Board referred to in subsection (1) (a), the Minister must-
- (a) publish a notice in the *Gazette* and three newspapers with due regard to the Use of Official Languages Act, 2012 (Act 12 of 2012), calling upon members of the public to nominate persons contemplated in subsection (1) (a) (i) and (ii);
  - (b) by written notice, call upon the National Advisory Council on Innovation and the Council for Higher Education to nominate persons contemplated in subsection (1) (a) (iii) and (iv); and
  - (c) appoint an independent panel which must compile a shortlist of persons from the nominees referred to in paragraph (a).  
[Sub-s. (2) substituted by s. 4 (c) of Act 7 of 2014 (wef 26 April 2014).]
- (2A) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the notice referred to in subsection (2) (a), the Minister may, after consultation with the panel referred to in subsection (2) (c), either readvertise or in any other transparent manner, appoint the required number of qualified persons.  
[Sub-s. (2A) inserted by s. 4 (d) of Act 7 of 2014 (wef 26 April 2014).]
- (3) The members of the Board must all be persons who have achieved distinction in the field of research, technology, technology management, business or civil society.  
[Sub-s. (3) substituted by s. 4 (e) of Act 7 of 2014 (wef 26 April 2014).]
- (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.  
[Sub-s. (4) amended by s. 21 (b) of Act 16 of 2011 (wef 5 December 2011) and substituted by s. 4 (f) of Act 7 of 2014 (wef 26 April 2014) and by s. 9 (a) of Act 19 of 2018 (wef 1 April 2020).]
- (5) The Board must be reconstituted every four years in accordance with the process referred to in subsection (2).  
[Sub-s. (5) substituted by s. 21 (c) of Act 16 of 2011 (wef 5 December 2011).]
- (5A) .....
- [Sub-s. (5A) inserted by s. 21 (d) of Act 16 of 2011 (wef 5 December 2011) and deleted by s. 4 (g) of Act 7 of 2014 (wef 26 April 2014).]
- (5B) A member may not serve more than two consecutive terms.  
[Sub-s. (5B) inserted by s. 21 (d) of Act 16 of 2011 (wef 5 December 2011).]
- (5C) Despite subsection (5), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.  
[Sub-s. (5C) inserted by s. 4 (h) of Act 7 of 2014 (wef 26 April 2014).]
- (6) A member of the Board ceases to hold office if-
- (a) he or she resigns by written notice to the Minister;  
[Para. (a) substituted by s. 9 (b) of Act 19 of 2018 (wef 1 April 2020).]
  - (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;  
[Para. (b) substituted by s. 4 (j) of Act 7 of 2014 (wef 26 April 2014) and by s. 9 (b) of Act 19 of 2018 (wef 1 April 2020).]
  - (c) he or she is absent from three consecutive meetings of the Board without the permission of the chairperson;
  - (d) he or she is in terms of the Electoral Act, 1998, (Act 73 of 1998), or the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000), nominated as a candidate for election as a member of Parliament, a provincial legislature or a municipal council; or  
[Para. (d) substituted by s. 4 (k) of Act 7 of 2014 (wef 26 April 2014).]
  - (e) he or she ceases to meet the requirements for appointment as a member of the Board in terms of this Act.  
[Para. (e) added by s. 4 (l) of Act 7 of 2014 (wef 26 April 2014).]  
[Sub-s. (6) amended by s. 4 (i) of Act 7 of 2014 (wef 26 April 2014).]
- (7) (a) If a member of the Board, appointed by the Minister, ceases to hold office, the Minister may-
- (i) if the appointment was made in terms of subsection (1) (a) (i) and (ii), consider the shortlist of candidates referred to in subsection (2) (c); or
  - (ii) if the appointment was made in terms of subsection (1) (a) (iii) and (iv), consider the nominations received in terms of subsection (2) (b) (ii); or
- in any other transparent manner, appoint a person who meets the requirements set out in subsections (3) and (4).  
[Para. (a) substituted by s. 4 (m) of Act 7 of 2014 (wef 26 April 2014).]
- (b) A person appointed under paragraph (a) must occupy his or her office for the unexpired portion of the term of office of his or her predecessor.
- (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 and must receive such remuneration or allowances, as the Minister may, with the concurrence of the Minister of Finance, determine.  
[Sub-s. (8) substituted by s. 9 (c) of Act 19 of 2018 (wef 1 April 2020).]
- (9) A person may not be appointed as a member of the Board if that person-
- (a) is not a citizen or permanent resident of the Republic;
  - (b) is an unrehabilitated insolvent;
  - (c) has been convicted of-
    - (i) a crime and sentenced to a term of imprisonment without the option of a fine; or
    - (ii) fraud, corruption or any other crime involving dishonesty,
 within a period of 10 years preceding the date of nomination in terms of subsection (2) (a);  
[Para. (c) substituted by s. 4 (n) of Act 7 of 2014 (wef 26 April 2014).]
  - (d) has, as a result of improper conduct, been removed from a position of trust by a court of law.  
[Para. (d) added by s. 4 (o) of Act 7 of 2014 (wef 26 April 2014) and substituted by s. 9 (d) of Act 19 of 2018 (wef 1 April 2020).]
  - (e) .....
- [Para. (e) added by s. 4 (p) of Act 7 of 2014 (wef 26 April 2014) and deleted by s. 9 (e) of Act 19 of 2018 (wef 1 April 2020).]

(10) The Minister must, within 30 days of the appointment or reappointment of a member of the Board, submit a report to Parliament relating to such appointment or reappointment.

[Sub-s. (10) added by s. 4 (q) of Act 7 of 2014 (wef 26 April 2014) and substituted by s. 9 (f) of Act 19 of 2018 (wef 1 April 2020).]

## 6A Dissolution of Board

(1) The Minister may dissolve the Board if-

- (a) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;
- (b) there is a total breakdown in the relationship between the Board and the Minister; or
- (c) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

(2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted, in accordance with the procedure referred to in section 6.

(4) A new Board must be constituted within 180 days of the dissolution of the previous Board.

(5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.

(6) The Minister must, within 30 days of the dissolution of the Board, submit a report to Parliament, setting out the reasons for the dissolution of the Board.

[Sub-s. (6) substituted by s. 10 of Act 19 of 2018 (wef 1 April 2020).]

[S. 6A inserted by s. 5 of Act 7 of 2014 (wef 26 April 2014).]

## 7 Meetings of Board

(1) The chairperson or, in his or her absence, a member of the Board elected by the members present, must preside at a meeting of the Board.

(2) The Board must meet at least four times a year at the times and places determined by itself and the first meeting of the Board must be held at a time and place determined by the chairperson.

[Sub-s. (2) substituted by s. 11 (a) of Act 19 of 2018 (wef 1 April 2020).]

(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).

[Sub-s. (3) substituted by s. 11 (b) of Act 19 of 2018 (wef 1 April 2020).]

(4) The quorum for a meeting of the Board is the majority of its members.

(5) A decision of the Board must be taken by resolution of the majority of the members present at any meeting of the Board, and, in the event of an equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote.

(6) Subject to the approval of the chairperson, any person may attend or take part, but may not vote, in a meeting of the Board.

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

[Sub-s. (7) added by s. 11 (c) of Act 19 of 2018 (wef 1 April 2020).]

(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;
- (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.

[Sub-s. (8) added by s. 11 (c) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (9) added by s. 11 (c) of Act 19 of 2018 (wef 1 April 2020).]

## 8 Committees of Board

(1) The Board may nominate one or more committees which may, subject to the instructions of the Board, perform those functions of the Board which the Board may determine.

(2) (a) A committee may consist of such number of members of the Board and of the staff of the Foundation and any other person with suitable skills and experience as the Board may consider necessary

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

[Sub-s. (2) substituted by s. 12 (a) of Act 19 of 2018 (wef 1 April 2020).]

(3) The Board must designate a member of that committee as chairperson thereof.

[Sub-s. (3) substituted by s. 12 (b) of Act 19 of 2018 (wef 1 April 2020).]

(4) The Board is not absolved from the performance of any function entrusted to any committee in terms of this section.

## 9 Executive management committee

(1) The executive management committee of the Foundation must consist of-

- (a) the chief executive officer, as chairperson;
- (b) the heads of the divisions; and, if necessary,
- (c) any other member of the staff of the Foundation appointed by the chief executive officer.

(2) The executive management committee is responsible for the management of the affairs of the Foundation in accordance with the object, policy and instructions of the Board.

## 10 Chief executive officer of Foundation

(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.

[Sub-s. (1) substituted by s. 22 of Act 16 of 2011 (wef 5 December 2011), by s. 6 (a) of Act 7 of 2014 (wef 26 April 2014) and by s. 13 (a) of Act 19 of 2018 (wef 1 April 2020).]

(2) The chief executive officer must report to the Board.

[Sub-s. (2) substituted by s. 13 (b) of Act 19 of 2018 (wef 1 April 2020).]

(3) The chief executive officer must be appointed 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.

[Sub-s. (3) substituted by s. 6 (b) of Act 7 of 2014 (wef 26 April 2014) and by s. 13 (c) of Act 19 of 2018 (wef 1 April 2020).]

(3A) The chief executive officer must enter into a performance agreement with the Board within three months of taking up his or her post.

[Sub-s. (3A) inserted by s. 6 (c) of Act 7 of 2014 (wef 26 April 2014).]

(4) (a) Whenever the chief executive officer-

- (i) is absent for a period of more than two months;
- (ii) is unable to carry out his or her duties; or
- (iii) ceases to hold office,

the Board may appoint any senior person in the service of the Foundation 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.

[Para. (a) substituted by s. 6 (d) of Act 7 of 2014 (wef 26 April 2014) and amended by s. 13 (d) of Act 19 of 2018 (wef 1 April 2020).]

(b) The acting chief executive officer has all the powers and performs all the duties of the chief executive officer.

(5) If the chief executive officer is absent for a period of less than two months, he or she must, after consultation with the Board, appoint any senior person in the service of the Foundation to act as chief executive officer during that period.

[Sub-s. (5) added by s. 6 (e) of Act 7 of 2014 (wef 26 April 2014).]

(6) The chief executive officer may not serve for more than two terms.

[Sub-s. (6) added by s. 13 (e) of Act 19 of 2018 (wef 1 April 2020).]

## 11 .....

[S. 11 repealed by s. 14 of Act 19 of 2018 (wef 1 April 2020).]

## 12 Divisions of Foundation

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

[S. 12 substituted by s. 15 of Act 19 of 2018 (wef 1 April 2020).]

## 13 Staff of Foundation

(1) Subject to subsection (2)-

- (a) the chief executive officer may on such conditions as the Board may determine appoint such employees, or receive on secondment such persons, as are necessary to enable the Foundation to perform its functions, but
- (b) the Board must on such conditions as it may determine appoint, or receive on secondment, a head for each division.

(2) The Foundation must pay to its staff out of its funds such remuneration, allowances, subsidies and other benefits as the Board may determine in accordance with a system approved for that purpose by the Minister with the concurrence of the Minister of Finance.

(3) (a) The 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, organisation or institution within or outside the Republic.

[Para. (a) substituted by s. 16 of Act 19 of 2018 (wef 1 April 2020).]

(b) That employee's rights, privileges and benefits by virtue of his or her conditions of service as an employee of the Foundation may not be adversely affected by the secondment.

## 14 , 15 and 16 .....

[Ss. 14, 15 and 16 repealed by s. 17 of Act 19 of 2018 (wef 1 April 2020).]

## 17 Funds of Foundation

(1) The funds of the Foundation consist of-

- (a) money appropriated by Parliament;
- (b) .....

[Para. (b) deleted by s. 18 of Act 19 of 2018 (wef 1 April 2020).]

- (c) donations or contributions made to the Foundation;
- (d) fees paid to the Foundation in terms of subsection (4);
- (e) interest on investments of the Foundation; and
- (f) income derived from any other source.

(2) (a) The Foundation must utilise its funds to cover costs in connection with the performance of its functions in terms of this Act.

(b) .....

[Para. (b) deleted by s. 18 of Act 19 of 2018 (wef 1 April 2020).]

(c) The Foundation must utilise any donations or contributions contemplated in subsection (1) (c) in accordance with the conditions imposed by the donor or contributor in question.

(3) .....

[Sub-s. (3) deleted by s. 18 of Act 19 of 2018 (wef 1 April 2020).]

(4) The Foundation may, in respect of any work completed or service rendered by it under this Act, or for the use of rights consequent upon any discoveries, inventions or improvements, charge such fees or make such other financial arrangements as it may deem fit. However, the Foundation must recover the full cost of the use of its facilities in respect of such work or service.

(5) .....

[Sub-s. (5) deleted by s. 18 of Act 19 of 2018 (wef 1 April 2020).]

(6) The Foundation may establish such reserve funds, and deposit therein such amounts, as the Minister may with the concurrence of the Minister of Finance approve.

**18** .....

[S. 18 repealed by s. 19 of Act 19 of 2018 (wef 1 April 2020).]

## **19 Intellectual property rights**

(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 51 of 2008), as well as other relevant Acts governing the management of intellectual property or indigenous knowledge.

[Sub-s. (1) substituted by s. 20 of Act 19 of 2018 (wef 1 April 2020).]

(2) The Foundation must, with regard to studies or research supported by the Foundation-

(a) acknowledge any invention, discovery or improvement in respect of indigenous knowledge and technology held by any person or community; and

(b) protect any rights of that person or community arising from the invention, discovery or improvement.

**20** .....

[S. 20 repealed by s. 21 of Act 19 of 2018 (wef 1 April 2020).]

## **21 Delegations**

(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.

[Sub-s. (1) substituted by s. 22 (a) of Act 19 of 2018 (wef 1 April 2020).]

(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.

[Sub-s. (2) substituted by s. 22 (b) of Act 19 of 2018 (wef 1 April 2020).]

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

[Sub-s. (3) substituted by s. 22 (c) of Act 19 of 2018 (wef 1 April 2020).]

**22** .....

[S. 22 repealed by s. 23 of Act 16 of 2011 (wef 5 December 2011).]

## **22A Liquidation of Foundation**

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

[S. 22A inserted by s. 23 of Act 19 of 2018 (wef 1 April 2020).]

## **23 Regulations**

(1) The Minister may, after consultation with the Board, make regulations regarding-

(a) .....

[Para. (a) deleted by s. 7 (b) of Act 7 of 2014 (wef 26 April 2014).]

(b) and (c) .....

[Paras. (b) and (c) deleted by s. 24 (a) of Act 19 of 2018 (wef 1 April 2020).]

(d) in general, any matter in respect of which the Minister deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

[Sub-s. (1), previously s. 23, renumbered by s. 7 (a) of Act 7 of 2014 (wef 26 April 2014).]

(2) Regulations made in terms of subsection (1) (d) must be submitted to Parliament before promulgation.

[Sub-s. (2) added by s. 7 (c) of Act 7 of 2014 (wef 26 April 2014) and substituted by s. 24 (b) of Act 19 of 2018 (wef 1 April 2020).]

## **24 Repeal of law, and saving**

(1) The Research Development Act, 1990 (Act 75 of 1990), is hereby repealed.

(2) Anything done under the Act referred to in subsection (1) must be regarded as having been done under the corresponding provision of this Act.

## **25 Short title and commencement**

This Act is called the National Research Foundation Act, 1998, and takes effect on a date fixed by the President of the Republic by proclamation in the *Gazette*.

### **Schedule**

.....

[Schedule repealed by s. 25 of Act 19 of 2018 (wef 1 April 2020).]

## **NATIONAL RESEARCH FOUNDATION AMENDMENT ACT 19 OF 2018<sup>1</sup>**

[ASSENTED TO 29 APRIL 2019]

[DATE OF COMMENCEMENT: 1 APRIL 2020]

*(English text signed by the President)*

**published in**

GG 42441 of 6 May 2019

**commencement**

(see s. 27 of this Act)

<b>Provisions</b>	<b>date</b>	<b>refer to</b>
-------------------	-------------	-----------------

whole Act	1 April 2020	Proc 9 in GG 43015 of 14 February 2020
-----------	--------------	--

## 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:-

1 This Act has been updated to include all available historical commencement details

### 1

Amends section 1 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) inserts the definition of 'Department'; paragraph (b) substitutes the definition of 'division'; paragraph (c) deletes the definition of 'FRD'; paragraph (d) deletes the definition of 'HSRC'; paragraph (e) deletes the definition of 'national facilities'; paragraph (f) inserts the definition of 'national research facility'; paragraph (g) substitutes the definition of 'research institution'; paragraph (h) inserts the definition of 'science engagement'; and paragraph (i) substitutes the definition of 'technology'.

### 2 and 3

Substitute sections 2 and 3, respectively, of the National Research Foundation Act 23 of 1998.

### 4

Inserts section 3A in the National Research Foundation Act 23 of 1998.

### 5

Amends section 4 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (1) (a); paragraph (b) inserts subsection (1) (aA); paragraph (c) substitutes subsection (1) (b); paragraph (d) substitutes subsection (1) (d); paragraph (e) deletes subsection (1) (e) and (f); paragraph (f) substitutes subsection (1) (g); paragraph (g) substitutes subsection (1) (j); paragraph (h) deletes subsection (1) (k); paragraph (i) substitutes subsection (1) (l); paragraph (j) substitutes subsection (1) (m); paragraph (k) inserts subsection (1) (mA) and (mB); paragraph (l) substitutes subsection (1) (o); paragraph (m) substitutes subsection (2) (a); paragraph (n) inserts subsection (2) (aA); paragraph (o) substitutes subsection (2) (b); paragraph (p) deletes subsection (2) (c) and (d); paragraph (q) substitutes in subsection (3) the words preceding paragraph (a); paragraph (r) substitutes subsection (3) (a); and paragraph (s) substitutes subsection (4).

### 6

Inserts section 4A in the National Research Foundation Act 23 of 1998.

### 7

Amends section 5 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsections (1), (2) and (3); and paragraph (b) adds subsections (4) to (7) inclusive.

### 8

Inserts section 5A in the National Research Foundation Act 23 of 1998.

### 9

Amends section 6 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (4); paragraph (b) substitutes subsection (6) (a) and (b); paragraph (c) substitutes subsection (8); paragraph (d) substitutes subsection (9) (d); paragraph (e) deletes subsection (9) (e); and paragraph (f) substitutes subsection (10).

### 10

Amends section 6A of the National Research Foundation Act 23 of 1998 by substituting subsection (6).

### 11

Amends section 7 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (2); paragraph (b) substitutes subsection (3); and paragraph (c) adds subsections (7), (8) and (9).

### 12

Amends section 8 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (2); and paragraph (b) substitutes subsection (3).

### 13

Amends section 10 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (3); paragraph (d) substitutes in subsection (4) (a) the words following subparagraph (iii); and paragraph (e) adds subsection (6).

### 14

Repeals section 11 of the National Research Foundation Act 23 of 1998.

### 15

Substitutes section 12 of the National Research Foundation Act 23 of 1998.

### 16

Amends section 13 (3) of the National Research Foundation Act 23 of 1998 by substituting paragraph (a).



**17**

Repeals sections 14, 15 and 16 of the National Research Foundation Act 23 of 1998.

**18**

Amends section 17 of the National Research Foundation Act 23 of 1998 by deleting subsections (1) (b), (2) (b), (3) and (5).

**19**

Repeals section 18 of the National Research Foundation Act 23 of 1998.

**20**

Amends section 19 of the National Research Foundation Act 23 of 1998 by substituting subsection (1).

**21**

Repeals section 20 of the National Research Foundation Act 23 of 1998.

**22**

Amends section 21 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (3).

**23**

Inserts section 22A in the National Research Foundation Act 23 of 1998.

**24**

Amends section 23 of the National Research Foundation Act 23 of 1998, as follows: paragraph (a) deletes subsection (1) (b) and (c); and paragraph (b) substitutes subsection (2).

**25**

Repeals the Schedule to the National Research Foundation Act 23 of 1998.

**26**

Substitutes the long title of the National Research Foundation Act 23 of 1998.

**27 Short title and commencement**

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