

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA
NOTICE 844 OF 2017**

REPUBLIC OF SOUTH AFRICA

PUBLIC INVESTMENT CORPORATION AMENDMENT BILL, 2017

(DAVID MAYNIER, MP)

PUBLIC INVESTMENT CORPORATION AMENDMENT BILL, 2017

Mr David Maynier, MP acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996, intends to introduce the Public Investment Corporation Amendment Bill, 2017 in Parliament during the fourth quarter of 2017/2018. An explanatory summary of the Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly (9th Edition).

The Public Investment Corporation (“PIC”) was created as a juristic body for the primary purpose of holding and investing deposits made into it by various depositors. Currently, these depositors include the Government Employees Pension Fund (“GEPF”), the Unemployment Insurance Fund (“UIF”) and the Compensation Commission Fund (“CCF”). These depositors rely upon their contributions being responsibly invested. Accordingly, the PIC is one of the cornerstones of South Africa’s economy, and its good governance is a priority for all. The Public Investment Corporation Act, 2004 (Act No. 23 of 2004) (“PIC Act”), establishes the PIC and regulates various aspects of its governance. This includes the broad composition of the board, as well as Ministerial powers to issue directives and make regulations.

The Public Investment Corporation Amendment Bill, 2017 (“the Bill”) seeks to amend the PIC Act to provide for parliamentary oversight in respect of the appointment of the chairperson of the PIC board; to regulate other aspects of the board’s composition; and to provide for greater transparency in operations of the PIC. Currently, much of the administrative oversight of the PIC vests in the executive. The Minister is responsible for the appointment of the board, a power exercised in conjunction with Cabinet and without obligation to include representatives of major depositors or stakeholders. Other Ministerial powers, such as issuing directives or making regulations, are exercised solely by the Minister with no direct provision for oversight by Parliament over these actions. Given the extreme significance of good governance to the PIC’s administration, it is in the interests of all stakeholders to have proper checks and balances provided for in legislation.

The Bill provides:

- For the chairperson of the PIC board to be appointed by the Minister on the recommendation of the National Assembly, following consideration of a shortlist of nominated candidates and with due regard for experience and qualifications;

- For the remainder of the PIC board to be comprised of 12 members, which must include representatives from the PIC's sole client, being the Department, and major depositors;
- For all directives issued by the Minister to be tabled in the National Assembly and published on the PIC website to ensure greater transparency regarding the operations of the PIC;
- For the PIC to disclose all investments on an annual basis, by way of a report to be tabled in the National Assembly and on the PIC website. Although particulars of "unlisted investments" were disclosed, for the first time, in 2016/17 there is no existing legislative requirement to do so. This requirement would contribute to transparency and investor confidence;
- For the PIC to include in its annual report a list of all requests to the Minister for that year, in respect of significant transactions requiring Ministerial approval. These transactions will most likely be in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and will include transactions such as acquisition or disposal of major assets or the entering into of major agreements with private sub-contractors for investments;
- For the Minister to table all regulations in the National Assembly prior to publication of the final regulation, and requiring the National Assembly to provide the Minister with inputs, having considered the draft regulation. This allows for greater oversight over regulations and increases transparency;
- For transitional arrangements in respect of the board composition, particularly to ensure that the prescribed composition is complied with progressively rather than immediately upon promulgation. This is to protect the contractual rights of existing board members; and
- For transitional arrangements in respect of the appointment of the chairperson, to ensure that the parliamentary process commences within six months of the Bill's promulgation.

The Bill may, after introduction, be obtained from:

The Democratic Alliance

PO Box 15, Cape Town, 8000

Attention: Mr Alex Tarr / Mr Louw Nel

Telephone: 021 403 8641 / 021 403 3567

Facsimile: 021 466 8394

E-mail: alext@da.org.za / louwn@da.org.za

Interested parties and institutions are invited to submit written representations on the proposed content of the draft bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker, P O Box 15, Cape Town 8000 or e-mailed to speaker@parliament.gov.za and copied to alex@da.org.za.