

### Schedule of DST and NRF submissions and proposals on the National Research Foundation Amendment Bill [B3 – 2017]

Item	Para	Wording of Bill	DST and NRF Submission and Reasons therefor
1	Para 1	<p>1. Section 1 of the National Research Foundation Act, 1998 (Act No. 23 of 1998) (hereinafter referred to as the principal Act), is hereby amended—</p> <p>(a) by the insertion, after the definition of "chief executive officer" of the following definition:  <b>"Department"</b> means the Department of Science and Technology;"</p> <p>(e) by the insertion, after the definition of "Minister" of the following definition:  <b>"national research facility"</b> means an institution that provides unique and substantial infrastructure capabilities and services for competitive research, innovation and human capital development in science, engineering and technology, and has been determined as such under section 5;"</p>	<p>It is proposed that this definition be deleted.</p> <p><b>MOTIVATION:</b>  'Department' is only referred to once in the Bill, and this is in paragraph 5(l) in relation to the science engagement mandate of the NRF. There is consensus between the NRF and DST officials that the newly inserted subsection (aB) under paragraph 5(l) should be deleted as the activities listed under this paragraph are encapsulated in subsection (aA). If the proposed deletion is accepted, the definition of 'Department' is rendered superfluous and should accordingly be deleted.</p> <p>It is proposed that the definition of 'national research facility', be revised the insertion of a comma between 'infrastructure' and 'capabilities'.</p> <p><b>MOTIVATION:</b>  The insertion of the comma between 'infrastructure' and 'capabilities' provides a more accurate reflection of the purpose and functions of national research facilities.</p>
2	Para 26 (Long Title);  Para 1;	All references to <b>"human capital"</b> .	<p>It is proposed that the term 'human capital' be replaced throughout the Bill with 'human capacity'.</p> <p><b>MOTIVATION:</b>  Our submission is that the term 'human capital' in commercial business speak is associated with the notion of developing people as commercial asset. It is our view that 'human capacity' is more accurate and more aligned to the mandate of the NRF.</p>
3	Para 4	<p>Insertion of section 3A in Act 23 of 1998</p> <p>4. The following section is hereby inserted in the principal Act after section 3:</p> <p><b>Powers of Minister to issue policy guidelines</b></p>	<p>(a) It is proposed that the heading to the section be revised to read:  <b>'Powers of the Minister to determine national policy'.</b></p> <p>(b) In addition, it is proposed that subsection (2) be deleted.</p>

		<p>"3A.(1) In pursuit of the Government's objectives and those of the Foundation, the Minister may, after consultation with the Foundation and any other Minister, determine national policies for research and funding to be implemented by the Foundation.</p> <p>(2) The Minister may, after consultation with the Foundation, issue policy guidelines for the implementation of the policies referred to in subsection (1)."</p>	<p><b>MOTIVATION:</b></p> <p>The power to issue policy guidelines is inherent in the power of the Minister to determine policy in terms of subsection (1).</p>
4	Para 5(b)	<p>By the substitution in subsection (1) for paragraph (b) of the following paragraph:</p> <p>"(b) promote and support research;"</p>	<p>It is propose that subsection (b) be revised to read as follows:</p> <p>"(b) promote, support and advance research;"</p> <p><b>MOTIVATION:</b></p> <p>It is submitted that the addition of 'advance' in the subsection enhances, streamlines and affirms the current functions of the NRF.</p>
5	Para 5(c); Para 5(i); Para 5(j)	<p><b>Amendment of section 4 of Act 23 of 1998</b></p> <p>(c) by the substitution in subsection (1) for paragraph (d) of the following paragraph:</p> <p>"(d) allocate funds for research and promote multi-disciplinary and trans-disciplinary collaboration;"</p> <p>(i) by the substitution in subsection (1) for paragraph (m) of the following paragraph:</p> <p>"(m) manage, support and monitor the operations of national research facilities;"</p> <p>(j) by the insertion in subsection (1) after paragraph (m) of the following paragraphs:</p> <p>"(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;</p>	<p>It is proposed that these subsections be deleted.</p> <p><b>MOTIVATION:</b></p> <p>The subsections are operational activities which are inferred in the objects of the NRF Act.</p> <p>With specific reference to subsections (mA) and (mB), it is submitted that these subsections belong in the realm of regulations, which the Department is currently formulating in collaboration with the NRF.</p>

		<i>(mB)</i> incubate qualifying facilities prior to its declaration as a national research facility;”	
6	Para 5	<p><b>Amendment of section 4 of Act 23 of 1998</b></p> <p>5. Section 4 of the principal Act is hereby amended—</p> <p>(m) by the insertion in subsection (2) after paragraph (a) of the following paragraphs:</p> <p>“(aA) <u>coordinate relevant institutions, and targeted science advancement and outreach activities;</u></p> <p>(aB) coordinate science engagement by—</p> <p>(i) supporting the involvement of targeted groups of the society in science engagement;</p> <p>(ii) designing and implementing science engagement initiatives and activities; and</p> <p>(iii) managing the Department supported science engagement programme;”;</p>	<p>It is proposed that subsection (aB) in paragraph 5(l) of the Bill be deleted.</p> <p><b>MOTIVATION:</b> The subsection is operational.</p>
7	Para 6	<p><b>Insertion of section 4A in Act 23 of 1998</b></p> <p>6. The following section is hereby inserted in the National Research Foundation Act, 1998, after section 4:</p> <p><b>“4A Exercise of powers of the Foundation outside the Republic-</b></p> <p>(1) The Foundation may at the request .....</p> <p>(2) Subject to the provisions of subsection (3) the provisions of this Act shall, in so far as they can be applied, apply mutatis mutandis in connection with the exercising by the Foundation of its powers in terms of this section as if the territory in which it so exercises its powers were within the Republic.</p>	<p>It is proposed that the phrase “<i>in so far as they can be applied</i>” in subsection (2) be deleted.</p> <p><b>MOTIVATION:</b> The phrase is superfluous if considered and read with the immediately following phrase (i.e. “apply with the necessary changes”).</p>

8	Para 15	<p><b>15.</b> The following section is hereby substituted for section 12 of the principal Act:</p> <p><b>“Divisions of Foundation</b></p> <p><b>12.</b> The Foundation may, after consultation with the Minister, establish or disestablish organisational divisions for different research fields or functions consistent with the objects of the Act.”.</p>	<p>It is proposed that this section be deleted.</p> <p><b>MOTIVATION:</b> The NRF believes that the establishment and disestablishment of organisational divisions, business units and functions is an operational organisational matter that ought to reside under the authority of the Board and Management, and not legislated.</p>
9	Para 18	<p><b>Amendment of section 17 of Act 23 of 1998</b></p> <p><b>18.</b> Section 17 of the principal Act is hereby amended-</p> <p>(a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:</p> <p>"(b) money paid to the Foundation <b>[by the users of]</b> to be used for the national research facilities, <b>[and of]</b> their products <b>[of national facilities]</b> and services;".</p>	<p>It is proposed that subsection (b) be deleted.</p> <p><b>MOTIVATION:</b> Monies received by the national research facilities are covered under subsection (1)(d). Otherwise any other funds are covered under subsection (1)(a)</p>
10	Para 26	<p>"To provide for the promotion of research, both basic and applied, and <b>[the extension and transfer of knowledge] human capital development</b> in the various fields of science and technology, <b>[and indigenous technology] including humanities, social sciences and indigenous knowledge</b>; and for this purpose to provide for the establishment of a National Research Foundation; <u>to support and promote science engagement; to develop, support and maintain national research facilities; to promote the development and maintenance of the national science system and support of Government priorities;</u> and to provide for incidental matters."</p>	<p>It is proposed that this be revised to read:</p> <p>To provide for the promotion of research, both basic and applied, and human capacity development in the various fields of science and technology, including humanities, social sciences 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 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."</p>

## Further NRF and DST submissions and proposals on the National Research Foundation Act, 1998

**NOTE:**

A number of the proposals and submissions made by the NRF impact on other parts of the NRF Act which are not covered in the Bill. In addition to these, the NRF and DST submits that it would be a missed opportunity if the obvious errors identified in the NRF Act are not corrected during the course of processing the Bill. Below are the proposed changes and corrections to the NRF Act, 1998:

Item	Section	Wording of Section	NRF and DST Submission and Reasons therefor
1	1	'division' means a division of the Foundation established under section 12;	<p>It is proposed that this definition be deleted.</p> <p><b>MOTIVATION:</b> This is an operational organisational matter that ought to reside under the authority of the Board and Management, and not legislated. If the NRF proposal herein is accepted, section 12 of the Act will also need to be deleted.</p>
2	3(a); 4(2)(a)(iii);	All references to " <b>human capital</b> ".	<p>It is proposed that the term 'human capital' be replaced throughout the Bill and the NRF Act with 'human capacity'.</p> <p><b>MOTIVATION:</b> Our submission is that the term 'human capital' in commercial business speak is associated with the notion of developing people as commercial asset. It is our view that '<i>human capacity</i>' is more accurate and more aligned to the mandate of the NRF.</p>
3	4	<p><b>4 Functions, powers and duties of Foundation</b></p> <p>(1) The functions of the Foundation are to-</p> <p style="padding-left: 20px;">(a) promote the development of appropriate human resources and research capacity in the areas of science and technology;</p>	<p>It is proposed that the subsection be revised to read as follows:</p> <p>“(a) promote the development of appropriate human resources, research infrastructure, and research capacity in the areas of science and technology;”</p> <p><b>MOTIVATION:</b> It is submitted that the addition of 'research infrastructure' in the subsection enhances, streamlines and affirms the current functions of the NRF.</p>

4	4(1)(e); 4(1)(h); 4(1)(m)	<p>“(e) promote and support research by the awarding of contracts, grants, scholarships or bursaries to persons or research institutions;”</p> <p>“(h) review research proposals and results promoted by the Foundation;”</p> <p>“(m) manage, support and monitor the operation of national research facilities;”</p>	<p>It is proposed that these subsections are deleted.</p> <p><b>MOTIVATION:</b> These subsections are operational activities which are inferred in the objects of the NRF Act. In addition, the NRF does not ‘promote results’ as the current wording of section 4(1)(h) suggests.</p> <p>Subsection (m) is a repetition of subsection (g) since the activities specified therein are part of the management of the national research facilities by the NRF.</p>
5	6(6)(b)	<p><b>6 Board of Foundation</b></p> <p>(6) A member of the Board ceases to hold office if-</p> <p>(a) he or she resigns by written notice to the Minister ;</p> <p>(b) the Minister, after consultation with the board, terminates his or her period of due to misconduct, incapacity, incompetence, or any other reasonable ground;</p>	<p>It is recommended that the word “office” be inserted between ‘of’ and ‘due’ in subsection (6)(b).</p> <p><b>MOTIVATION:</b> This is a grammatical error which should be corrected.</p>
6	8(5)	<p><b>8 Committees of Board</b></p> <p>(5) A member of the Board may not serve on more than two committees at a time.</p>	<p>It is proposed that this subsection is deleted.</p> <p><b>MOTIVATION:</b> Whilst the need for firm up corporate governance and stem out potential abuses in organisational boards is understood, the reality is that with tight board membership, board committees of entities such as the NRF will not be able to function and execute their mandates. It is accordingly submitted that these types of controls are best left to be dealt with in Board Charters, as opposed to being legislated.</p>
		<p><b>9 Executive management committee</b></p> <p>(1) The executive management committee of the Foundation must consist of-</p> <p>(a) the chief executive officer, as chairperson;</p> <p>(b) the heads of the divisions; and, if necessary,</p>	<p>It is proposed that subsections (1)(b) be deleted, and subsections (1)(a) and(c) be revised to read:</p> <p>“(a) the chief executive officer, as chairperson; and</p> <p>“(b) any other member of the staff of the Foundation.</p>

		<p>(c) any other member of the staff of the Foundation appointed by the chief executive officer.</p>	<p><b>MOTIVATION:</b> The proposed revisions clarifies the roles of both the CEO and the Board in terms of existing practice. Having delegated its authority to appoint staff members of the Foundation, the Board has retained its authority to appoint executive management of the Foundation. In addition, as previously submitted regarding the divisions of the Foundation, the proposed revision endorses the authority of the Board to determine operational divisions and business units of the Foundation.</p>
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