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THE PRESIDENCY

No. 4221 20 December 2023

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 11 of 2023: The Fund-Raising Amendment Act, 2023

DIE PRESIDENSIE

No. 4221 20 Desember 2023

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

Wet No. 11 van 2023: Wysigingswet op Fondsinsamelings, 2023



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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.

(English text signed by the President)
(Assented to 17 December 2023)

ACT

To amend the Fund-raising Act, 1978, so as to amend certain definitions; to effect certain textual amendments to provide greater clarity; to provide for the discontinuation of certain funds and for the dissolution of any boards responsible for those funds; to establish the Disaster Relief and National Social Development Fund and to transfer any amounts remaining in the discontinued funds to the Disaster Relief and National Social Development Fund; to empower the Minister to make regulations in respect of the financial year of a fund; 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 107 of 1978, as amended by section 1 of Act 41 of 1980

1. Section 1 of the Fund-raising Act, 1978 (Act No. 107 of 1978) (hereafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “Minister” of the following definition:
- “**Minister**” means the Minister [of Social Welfare and Pensions] responsible for social development and, for the purposes of Chapter II, [includes] means the Minister [of Defence] responsible for defence in so far as that Chapter applies in relation to the South African Defence Force Fund;” and
- (b) by the substitution for the definition of “Secretary” of the following definition:
- “**Secretary**” means the [Secretary for Social Welfare and Pensions] Director-General of the Department of Social Development and, for purposes of Chapter II, [includes] means the [Head of the South African Defence Force] Secretary of Defence in so far as that Chapter applies in relation to the South African Defence Force Fund;”.

Substitution of section 17 of Act 107 of 1978

- 2.** Section 17 of the principal Act is hereby amended—
(a) by the substitution for subsection (3) of the following subsection:

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk in vierkantige hake dui uitlatings uit bestaande verordeninge aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 17 Desember 2023)

WET

Tot wysiging van die Wet op Fondsinsameling, 1978, ten einde sekere omskrywings te wysig; sekere wysigings aan die teks aan te bring om meer duidelikheid te voorsien; voorsiening te maak vir die afskaffing van sekere fondse en vir die ontbinding van enige rade verantwoordelik vir daardie fondse; die Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling in te stel en om enige oorblywende bedrae in die ontbinde fondse aan die Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling oor te dra; die Minister te bemaagtig om regulasies uit te vaardig ten opsigte van die boekjaar van 'n fonds; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 107 van 1978, soos gewysig deur artikel 1 van Wet 41 van 1980

1. Artikel 1 van die Wet op Fondsinsameling, 1978 (Wet No. 107 van 1978) (hierna die Hoofwet genoem), word hierby gewysig— 5

(a) deur die omskrywing van “Minister” deur die volgende omskrywing te vervang:

“‘Minister’ die Minister [**van Volkswelsyn en Pensioene**] verantwoordelik vir maatskaplike ontwikkeling en, by die toepassing van Hoofstuk II, [**ook**] die Minister [**van Verdediging**] verantwoordelik vir verdediging vir sover daardie Hoofstuk met betrekking tot die Suid-Afrikaanse Weermagfonds van toepassing is;” en 10

(b) deur die omskrywing van “Sekretaris” deur die volgende omskrywing te vervang: 15

“‘Sekretaris’ die [**Sekretaris van Volkswelsyn en Pensioene**] Direkteur-generaal van die Departement van Maatskaplike Ontwikkeling en, by die toepassing van Hoofstuk II, [**ook**] die [**Hoof van die Suid-Afrikaanse Weermag**] Sekretaris van Verdediging vir sover daardie Hoofstuk met betrekking tot die Suid-Afrikaanse Weermagfonds van toepassing is;”. 20

Vervanging van artikel 17 van Wet 107 van 1978

2. Artikel 17 van die Hoofwet word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) A board shall consist of not more than **[fifteen]** ~~ten~~ members, of whom at least one half shall be appointed on a full-time basis.”;
- (b) by the substitution for subsection (4) of the following subsection:
- “(4) At least half of the members of a board shall be persons who are not officers in the public service or the security services referred to in section 199(1) of the Constitution of the Republic of South Africa, 1996.”; and
- (c) by the substitution for subsection (11) of the following subsection:
- “(11) A member who is not an officer of the public service or the security services shall be paid such allowances from the Fund in question as the Minister may with the concurrence of the Minister of Finance determine.”.

Amendment of section 18 of Act 107 of 1978, as amended by section 4 of Act 41 of 1980, section 1 of Act 19 of 1981, section 2 of Act 82 of 1983, section 4 of Act 115 of 1991 and section 2 of Act 43 of 1994

3. Section 18 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of the following paragraph:
- “(a) the board of the Disaster Relief and National Social Development Fund shall be, with due regard to the financial position of that Fund and the requirements of each case [,]—
- (i) to render to persons, organizations and bodies who or which suffer damage or loss caused by a disaster; and
- (ii) to identify the prescribed social development activities or empowerment projects,
- and to provide, such assistance, in cash or otherwise, as the board may deem fair and reasonable;”;
- (b) by the substitution for paragraph (b) of the following paragraph:
- “(b) the board of the South African Defence Force Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such aid as the board may deem fair and reasonable to—
- (i) **[members and]** former members of the South African Defence Force and of auxiliary services established and designated in accordance with section 80(1) of the Defence Act, 1957 (Act No. 44 of 1957), and their dependants; and
- (ii) members and former members of the South African National Defence Force and auxiliary services established and designated under section 199 of the Constitution of the Republic of South Africa, 1996, and sections 11, 16, and 17 of the Defence Act, 2002 (Act No. 42 of 2002), and their dependants,
- who suffer financial hardship or financial distress arising, directly or indirectly, out of any service or duties contemplated in section 3(2) of the Defence Act, 1957, section 201(2) of the Constitution of the Republic of South Africa, 1996, and sections 18 and 19 of the Defence Act, 2002, performed by such members, and to provide facilities to or for such members and former members who perform or performed such service or duties~~[;]~~.”; and
- (c) by the deletion of paragraphs (c) to (e).

Amendment of section 20 of Act 107 of 1978

4. Section 20 of the principal is hereby amended by the addition of the following subsection:

- “(3) A board must ensure the disbursement of funds or provision of assistance is done within a reasonable time, in consultation with the Minister, in line with section 50 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

- “(3) ’n Raad bestaan uit hoogstens **[vyftien]** tien lede, van wie minstens die helfte op ’n heeltidse grondslag aangestel moet word.”;
- (b) deur subartikel (4) deur die volgende subartikel te vervang:
- “(4) Minstens die helfte van die lede van so ’n raad moet persone wees wat nie beamptes in die staatsdiens of veiligheidsdienste bedoel in artikel 199(1) van die Grondwet van die Republiek van Suid-Afrika, 1996, is nie.”; en
- (c) deur subartikel (11) deur die volgende subartikel te vervang:
- “(11) Aan ’n lid wat nie ’n beampte in die Staatsdiens of die veiligheidsdienste is nie, word die toelaes uit die betrokke Fonds betaal wat die Minister met die instemming van die Minister van Finansies bepaal.”.

Wysiging van artikel 18 van Wet 107 van 1978, soos gewysig deur artikel 4 van Wet 41 van 1980, artikel 1 van Wet 19 van 1981, artikel 2 van Wet 82 van 1983, artikel 4 van Wet 115 van 1991 en artikel 2 van Wet 43 van 1994

3. Artikel 18 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) deur die volgende paragraaf te vervang:
- “(a) die raad van die **[Rampnoodlenigingsfonds]** Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling is om, met behoorlike inagneming van die geldelike toestand van bedoelde Fonds en die vereistes van elke geval die hulp, in kontant of andersins, wat die raad billik en redelik ag, te verleen aan [;]—
- (i) persone, organisasies en liggame wat skade of verlies ly wat deur ’n ramp veroorsaak word; en
- (ii) die voorgeskrewe maatskaplike ontwikkelingsaktiwiteite of bemagtigingsprojekte wat deur die raad geïdentifiseer is;”;
- (b) deur paragraaf (b) deur die volgende paragraaf te vervang:
- “(b) die raad van die Suid-Afrikaanse Weermagfonds is om, met behoorlike inagneming van die geldelike toestand van bedoelde Fonds en die vereistes van elke geval, die hulp wat die raad billik en redelik ag, te verleen aan—
- (i) **[lede en]** voormalige lede van die Suid-Afrikaanse Weermag en van hulpdienste ingestel en aangewys ooreenkomstig artikel 80(1) van die Verdedigingswet, 1957 (Wet No. 44 van 1957), en hul afhanklikes; en
- (ii) lede en voormalige lede van die Suid-Afrikaanse Nasionale Weermag en hulpdienste ingestel en aangewys kragtens artikel 199 van die Grondwet van die Republiek van Suid-Afrika, en artikels 11, 16 en 17 van die ‘Defence Act, 2002’ (Wet No. 42 van 2002), en hul afhanklikes, wat geldelike ontbering ondervind of geldelike nood ly wat regstreeks of onregstreeks ontstaan as gevolg van enige diens of pligte bedoel in artikel 3(2) van die Verdedigingswet, 1957, artikel 201(2) van die Grondwet van die Republiek van Suid-Afrika, 1996, en artikel 18 en 19 van die ‘Defence Act, 2002’, deur sodanige lede verrig, en om geriewe te voorsien vir of aan sodanige lede en voormalige lede wat sodanige diens of pligte verrig of verrig het[;].”;
- (c) deur paragrafe (c) tot (e) te skrap.

Wysiging van artikel 20 van Wet 107 van 1978

4. Artikel 20 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- “(3) ’n Raad moet verseker dat die uitbetaling van fondse of voorsiening van hulp binne ’n redelike tyd, in oorleg met die Minister, ooreenkomstig artikel 50 van die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999), gedoen word.”.

Amendment of section 22 of Act 107 of 1978

5. Section 22 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The Funds referred to in section 16, read with section 25A (2)(b), shall consist of—”; and

- (b) by the substitution for subsections (4) to (8) of the following subsections, respectively:

“(4) A board shall deposit all the moneys received by it in an account which it shall open with a banking institution registered in terms of the Banks Act, [1965 (Act No. 23 of 1965)] 1990 (Act No. 94 of 1990).”

(5) A board shall from time to time invest with the **[Public Debt Commissioners]** Public Investment Corporation Limited established by section 2(1) of the Public Investment Corporation Act, 2004 (Act No. 23 of 2004), or in such other manner as the Minister may, with the concurrence of the Minister of Finance, determine, all moneys which are not required for immediate use or as a reasonable working balance.

(6) The financial year of a fund shall terminate on 31 March in each year or as prescribed by the Minister.

(7) Each Fund is, subject to the directions of the Minister, under the control of the Secretary, who—

(a) is the accounting officer of the Fund; and

(b) must keep full and proper records of the financial affairs of the Fund and must prepare financial statements for each financial year, in terms of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(8) The records and financial statements contemplated in subsection (7) must be audited by the Auditor-General and must—

(a) be included as part of the annual report and audited financial statements of the Department of Social Development or the Department of Defence and Military Veterans, as the case may be, referred to in section 40 of the Public Finance Management Act, 1999; and

(b) be submitted to the relevant Minister to enable compliance with section 65 of the Public Finance Management Act, 1999.”.

Substitution of section 25 of Act 107 of 1978

6. The following section is hereby substituted for section 25 of the principal Act:

“Performance of administrative work of boards

25. (1) The administrative work, including receipt and disbursement of money incidental to the performance of the functions or the exercise of the powers of a board or of any committee of the board, must—

(a) in the case of the Disaster Relief and National Social Development Board, be performed by officers in the public service designated by the Secretary and who must be under his or her control;

(b) in the case of the South African Defence Force Fund Board, be performed by members of the South African National Defence Force designated by the Secretary and who must be under his or her control.

(2) The disbursement of funds or provision of assistance as contemplated—

(a) in section 18(a) must be carried out by the South African Social Security Agency established by section 2 of the South African Social Security Agency Act, 2004 (Act No. 9 of 2004);

Wysiging van artikel 22 van Wet 107 van 1978**5. Artikel 22 van die Hoofwet word hierby gewysig—**

- (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die Fondse in artikel 16, gelees met artikel 25A(2)(b), bedoel, bestaan uit—”; en

- (b) deur subartikels (4) tot (8) onderskeidelik deur die volgende subartikels te vervang:

“(4) ’n Raad moet al die gelde deur hom ontvang in ’n rekening stort wat hy moet open by ’n bankinstelling wat kragtens die Bankwet, [1965 (Wet No. 23 van 1965)] 1990 (Wet No. 94 van 1990), geregistreer is.

(5) ’n Raad moet al die gelde wat nie vir onmiddellike gebruik of as ’n redelike bedryfsaldo nodig is nie, van tyd tot tyd belê by die [Staatskuldkommissaris] Openbare Beleggingskorporasie Beperk wat ingevolge artikel 2(1) van die Wet op die Openbare Beleggingskorporasie, 2004 (Wet No. 23 van 2004), ingestel is, of op die ander wyse wat die Minister [van tyd tot tyd] met die instemming van die Minister van Finansies bepaal.

(6) Die boekjaar van ’n fonds eindig op 31 Maart in elke jaar of soos deur die Minister voorgeskryf.

(7) Elke Fonds is, behoudens die lasgewings van die Minister, onder beheer van die Sekretaris, wat—

- (a) die rekenpligtige beampte van die Fonds is; en
(b) volledige en behoorlike rekords moet hou van die finansiële sake van die Fonds en finansiële state van elke boekjaar moet voorberei, ingevolge die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(8) Die rekords en finansiële state in subartikel (7) beoog, moet deur die Ouditeur-generaal geoudit word en—

- (a) moet ingesluit word as deel van die jaarverslag en geouditeerde finansiële state van die Departement van Maatskaplike Ontwikkeling of die Departement van Verdediging en Militêre Veterane, na gelang van die geval, in artikel 40 van die Wet op Openbare Finansiële Bestuur, 1999, bedoel; en
(b) moet aan die tersaaklike Minister voorgelê word om voldoening aan artikel 65 van die Wet op Openbare Finansiële Bestuur, 1999, moontlik te maak.”.

Vervanging van artikel 25 van Wet 107 van 1978**6. Artikel 25 van die Hoofwet word hierby deur die volgende artikel vervang:****“Verrigting van administratiewe werk van rade 40**

25. (1) Die administratiewe werk, met inbegrip van ontvangs en uitbetaling van gelde insidenteel tot die verrigting van die werksaamhede of die uitoefening van die bevoegdhede van ’n raad of van enige komitee van die raad—

- (a) moet, in die geval van die Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling se raad, deur beamptes in die staatsdiens gedoen word wat deur die Sekretaris aangewys is en wat onder sy of haar beheer moet wees;
(b) moet, in die geval die Suid-Afrikaanse Weermagfondse se raad, uitgevoer word deur lede van die Suid-Afrikaanse Nasionale Weermag wat deur die Sekretaris aangewys is en wat onder sy of haar beheer moet wees.

(2) Die uitbetaling van fondse of voorsiening van hulp soos beoog—

- (a) in artikel 18(a), moet uitgevoer word deur die Suid-Afrikaanse Agentskap vir Maatskaplike Sekerheid soos deur artikel 2 van die Wet op die Suid-Afrikaanse Agentskap vir Maatskaplike Sekerheid, 2004 (Wet No. 9 van 2004), ingestel;

- (b) in section 18(b) must be carried out by the Board referred to in that section.”.

Insertion of section 25A in Act 107 of 1978

7. The following section is inserted after section 25 of the principal Act:

“Discontinuation and transfer of certain funds

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25A. (1) In this section ‘**effective date**’ means the date of commencement of section 7 of the Fund-raising Amendment Act, 2023.

(2) As from the effective date—

- (a) the following funds established under section 16 cease to exist:
 - (i) The Refugee Relief Fund; 10
 - (ii) the State President’s Fund; and
 - (iii) the Social Relief Fund;
- (b) the Disaster Relief Fund established under section 16(a) continues to exist under the name of the Disaster Relief and National Social Development Fund; 15
- (c) all amounts credited to any fund referred to in paragraph (a) immediately before the effective date vest in the Disaster Relief and National Social Development Fund; 15
- (d) any board established by the Minister in terms of section 17 and responsible for managing a fund referred to in paragraph (a) is dissolved; and 20
- (e) subject to paragraph (c), all liabilities, assets and rights existing as well as accruing of the funds referred to in paragraph (a) must devolve upon the Department of Social Development.”.

Amendment of section 36 of Act 107 of 1978

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8. Section 36 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the financial year of the Fund as contemplated in section 22(6);”.

Short title and commencement

9. (1) This Act is called the Fund-raising Amendment Act, 2023, and takes effect on 30 a date fixed by the President by Proclamation in the *Gazette*.

(2) Different dates may, under subsection (1), be so fixed in respect of different provisions of this Act.

- (b) in artikel 18(b), moet deur die Raad bedoel in daardie artikel, verrig |
word.”.

Invoeging van artikel 25A in Wet 107 van 1978

7. Die volgende artikel word na artikel 25 van die Hoofwet ingevoeg:

“Afskaffing en oordrag van sekere fondse

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25A. (1) In hierdie artikel beteken ‘**effektiewe datum**’ die datum van inwerkingtreding van artikel 7 van die Wysigingswet op Fondsinsameling, 2023.

(2) Met ingang van die effektiewe datum—

- | | | |
|-----|--|----|
| (a) | hou die volgende fondse wat kragtens artikel 16 ingestel is, op om te bestaan: | 10 |
| | (i) Die Vlughtelinge-noodlenigingsfonds; | |
| | (ii) die Staatspresidentsfonds; en | |
| | (iii) die Fonds vir Maatskaplike Noodleniging; | |
| (b) | die Rampnoodlenigingsfonds kragtens artikel 16(a) ingestel, bestaan voort en heet voortaan die Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling; | 15 |
| (c) | alle bedrae wat onmiddellik voor die effektiewe datum aan enige fonds bedoel in paragraaf (a) gekrediteer is, vestig in die Fonds vir Rampnoodleniging en Nasionale Maatskaplike Ontwikkeling; | 20 |
| (d) | enige raad wat ingevolge artikel 17 deur die Minister ingestel is en wat verantwoordelik was vir die bestuur van ’n fonds bedoel in paragraaf (a), word ontbind; en | |
| (e) | behoudens paragraaf (c), moet alle laste, bates en regte wat bestaan en ook toeval aan die fondse bedoel in paragraaf (a), na die Departement van Maatskaplike Ontwikkeling afwentel.”. | 25 |

Wysiging van artikel 36 van Wet 107 van 1978

8. Artikel 36 van die Hoofwet word hierby gewysig deur in subartikel (1) paragraaf (c) deur die volgende paragraaf te vervang:

“(c) die boekjaar van die Fonds soos in artikel 22(6) beoog;”.

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Kort titel en inwerkingtreding

9. (1) Hierdie Wet heet die Wysigingswet op Fondsinsameling, 2023, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

(2) Verskillende datums kan, kragtens subartikel (1), aldus ten opsigte van verskillende bepalings van hierdie Wet vasgestel word.

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