

Government Gazette

REPUBLIC OF SOUTH AFRICA

No. 67 of 2001: Academy of Science of South Africa Act, 2001 (Amended: Science and Technology Laws Amendment Act, No. 16 of 2011, and Act No. 7 of 2014)

ACT

To establish a juristic person known as the Academy of Science of South Africa; to determine its objectives, functions and method of work; to prescribe the manner in which it is to be managed and governed; to provide for the repeal of the Suid- Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959; and to provide for matters connected therewith.

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.

1 Definitions

In this Act, unless the context indicates otherwise-

'Academy' means the Academy of Science of South Africa, established by section 2;

'Council' means the Council of the Academy elected in terms of section 6;

'financial year' means the period from 1 April in any year to 31 March in the following year;

'Member' means an elected Member of the Academy of Science of South Africa;

'Minister' means the Minister of [cabinet member responsible for Arts, Culture,] Science and Technology;

'prescribed' means prescribed by regulation;

'president' means president of the Academy elected and appointed in terms of section 6;

'regulation' means a regulation made under this Act;

'this Act' includes the regulations.

2 Establishment of Academy

- (1) A juristic person known as the Academy of Science of South Africa is hereby established.
- (2) The Academy must comply with the provisions of the Public Finance Management Act, 1999 (Act. No. 1 of 1999).

3 Objectives of Academy

The objectives of the Academy are-

- (a) to promote common ground in scientific thinking across all disciplines, including the physical, mathematical and life sciences, as well as human, social and economic sciences;
- (b) to encourage and promote innovative and independent scientific thinking;
- (c) to promote the optimum development of the intellectual capacity of all people;
- (d) to provide effective advice and facilitate appropriate action in relation to the collective needs, opportunities and challenges of all South Africans; and
- (e) to link South Africa with scientific communities of the highest levels, in particular within the Southern African Development Community, the rest of Africa and internationally.

4 Relationship with Government

- (1) The Academy is the only academy of science recognised by Government.
- (2) The Minister may direct the Academy to perform acts on behalf of Government which are in accordance with its objectives.

5 Composition of Academy

- (1) There is only one category of **[members]** Members of the Academy, but a **(member)** Member may become an emeritus **[member]** Member from the beginning of the year in which the **[member]** Member turns 70 years of age.
- (2) A **[member]** Member of the Academy is a person who can be expected by the Academy to significantly assist the Academy in achieving its objectives.

(3) The criterion for election to **[membership]** Membership of the Academy is significant achievement in the pursuit, advancement or application of science.

(4) New candidates for **[membership]** Membership of the Academy are proposed and recommended at least once a year by means of a prescribed certificate signed by not less than four **[members]** Members, at least two of whom have personal knowledge and understanding of the scientific work and significant contribution to science of the candidate.

(5) The certificate must contain a draft citation explaining why the election of the candidate to **[membership]** Membership of the Academy would further the objectives of the Academy.

(6) The certificate must be accompanied by a prescribed statement from the candidate indicating the candidate's willingness to be considered for election to **[membership]** Membership of the Academy, together with a curriculum vitae.

(7) The Council of the Academy must annually evaluate, in terms of the prescribed criteria for **[membership]** Membership, all new candidates and candidates brought forward from a previous year.

(8) **[All e]** Existing **[members]** Members of the Academy will then be required, in a secret ballot, to cast votes that are either for or against every candidate passed by the Council or that indicate a neutral position.

(9) Members of the Academy who do not vote are regarded as having recorded neutral votes.

(10) A candidate having at least three times as many votes for him or her as against him or her is considered elected to **[membership]** Membership of the Academy, as long as at least half of the votes cast are in his or her favour.

(10A) Membership shall be subject to the requirement that any annual subscription fee set by Council has been paid as prescribed.

(11) Every person who is elected a **[member]** Member of the Academy must **[attend an annual general meeting of the Academy to]** sign the register of **[members]** Members and **[to]** subscribe to the following obligation within a year of election:

- (a) 'I (full names) hereby promise to promote the well-being of South Africa through scientific thought and generally to further the objectives of the Academy of Science of South Africa as far as this lies within my power; and
- (b) I shall also observe the prescribed constitution and prescribed standing orders of the Academy for as long as I remain **[member]** Member thereof.'

(12) A **[member]** Member of the Academy is, subject to subsection (9), eligible **[obliged]** to take part in the elections of new **[members]** Members of the Academy and the members of the Council.

(13) An unsuccessful candidate or a Member who had his or her Membership terminated may appeal to the Council in the prescribed manner

(14) A Member whose conduct has in the opinion of the Council brought the Academy into disrepute may be required to appear before the Council to be dealt with in the manner prescribed.

6 Council

(1) The Academy is controlled and governed in accordance with this Act by the Council.

(2) The Council must ensure that the objectives of the Academy are actively pursued and must exercise general control over the performance of the functions of the Academy.

(3) The Council consists of the following persons:

- (a) The president of the Academy who is the chairperson;
- (b) two vice-presidents, one of whom must be designated by the president to chair the meeting in the absence of the president;
- (c) the general secretary;
- (d) the treasurer;
- (e) seven other members; and
- (f) one member of the National Advisory Council on Innovation appointed by the Minister.

(4) The members of the Council, except the member contemplated in subsection (3) (f), are elected by **[members]** Members of the Academy from their number and appointed by the Minister.

(5) The Chairperson of the Council shall be styled "The President of the Academy of Science of South Africa" and shall be elected by secret ballot from among the members of the incoming Council, at its first meeting in conjunction with the relevant Annual General Meeting. Nominations of Council members for election as President shall require the support of at least two members of an incoming Council.

(6) The two Vice-Presidents, the Treasurer and the General Secretary of the Academy shall be elected by secret ballot at the same meeting from among the members of the Council after nomination in each case by at least two members of the incoming Council.

(7) The Council exercises the powers and performs the duties conferred or imposed upon the Council by or under this Act.

(8) (a) The Council meets at such times and places as the president may direct.

(b) A quorum for a meeting of the Council is a simple majority of its members.

7 Disqualification, vacation of office and filling of vacancies

(1) A person may not be elected as a member of the Council if that person-

(a) is not ordinarily resident in the Republic;

(b) is an unrehabilitated insolvent;

(c) has been convicted of **[an offence in the Republic, other than an offence committed prior to 27 April 1994 associated with political objectives, and was]=**

(i) a crime and sentenced to a term of imprisonment without [an] the option of a finer[, or, in the case of fraud, to a fine or imprisonment]; or

(ii) fraud, corruption or any other crime involving dishonesty, within a period of IO years preceding the date of nomination in terms of section 6;";

(d) has, as a result of improper conduct, been removed from **[an office] a position** of trust[.]; or;

(e) is not fit and proper to hold office.;

(2) A member of the Council **[must vacate]** ceases to hold office if the member-

(a) becomes disqualified in terms of subsection (1) from being appointed as a member of the Council;

[(b) resigns by written notice addressed to the Council;]

(c) is declared by the High Court to be of unsound mind or mentally disordered or is detained under the Mental Health Act, 1973 (Act 18 of 1973);

(d) has without leave of the Council been absent from three consecutive meetings of the Council;

(e) has had more than three prescribed defaults recorded by the president during the previous five years, for which no satisfactory reasons have been given to the Council by the member;

- (f) has been found guilty of misconduct after a formal hearing for conduct which may bring the Academy into disrepute [**, but a member may not vacate office until the next annual general meeting at which the vacation of office must appear on the agenda.**].
- (g) **[subject to this subsection, addresses his or her resignation in writing to the president, the Council accepts such resignation and all outstanding subscription fees have been paid.]**

(2A) The Council must be reconstituted every four years, and a member of the Council may not serve for more than two consecutive terms.

(2B) Despite subsection (2A), the Minister may, after consultation with the Council, extend the period of office of any or all of the members of the Council for a period of not more than six months or until a new Council has been appointed, whichever comes first.";

(3) Any member of the Council wishing to resign his or her membership must tender his or her resignation in writing to the president; all outstanding subscription shall remain due.

(4) Membership lapses if subscription fees, as prescribed, have not been paid [**within three months after they become due**] as prescribed.

(5) If [**the office of**] a member of the Council [**becomes vacant**] ceases to hold office before the expiration of the term of office of that member, the Minister must, within 60 days and subject to subsection (1), appoint a person nominated by the Council to fill the vacancy for the unexpired portion of the period for which [**the**] that member who has vacated office was appointed.

[(5A) For the sake of continuity, at least one third of the Council must at all times consist of re-appointed members.]

(6) The Minister must, within 30 days of the appointment or reappointment of a member of the Council, submit a report to the National Assembly relating to such appointment or reappointment.

8 Committees of Academy

(1) The Council may establish one or more committees which may exercise such powers or perform such functions of the Academy as the Council may determine.

(2) A committee referred to in subsection (1) consists of such number of [**members**] Members of the Academy and employees of the Academy, if any, as the Council may deem necessary, as well as other persons, and the Council may at any time dissolve or reconstitute a committee.

(3) The Council must designate a member of the committee to be the chairperson thereof.

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

9 Accounting Officer

Section 9 of the Academy of South Africa of South Africa Act, 2001, is hereby repealed.

[(1) In addition to the other functions entrusted to the president by or under this Act, he or she shall be the accounting officer charged with the responsibility of accounting for all money received and the utilisation thereof and be responsible for the assets of the Academy.

(2) (a) The president may-

(i) delegate to another member of the Council a power conferred upon the accounting officer by or under this Act; or

(ii) authorise such person to perform a duty assigned by or under this Act to the accounting officer.

(b) A delegation under paragraph (a) does not prevent the exercise of the power in question or the performance of the duty in question by the accounting officer.]

10 Staff and conditions of service of employees

(a) The Council may, subject to paragraph (b) and on such conditions as it may determine, appoint such employees as it deems necessary to enable the Academy to perform its functions.

(b) The **[Council]** Academy must out of its own funds pay to its employees such remuneration, allowances, subsidies and other benefits as the Council may determine.

(c) The Council may, on such conditions as it may deem fit and if the employee consents thereto, second an employee, either for a particular task or for a period of time, to the service of a department of State, an organisation or institute in the Republic on condition that such employee's rights, privileges and benefits by virtue of his or her conditions of service as an employee of the Academy are not adversely affected by such secondment.

11 Financing

(1) The funds of the Academy consist of-

- (a) money paid to the Academy by users of its services;
- (b) donations or contributions lawfully received from any source;
- (c) interest on investments; **[and]**
- (d) income derived under this Act from any other source; and
- (e) money appropriated by Parliament to support particular activities of the Academy.

(2) The Academy must utilise any donations or contributions contemplated in subsection (1) (b) in accordance with the conditions, if any, imposed by the donor or contributor concerned.

(3) The Academy may, in respect of any work completed or service rendered by it under this Act, charge such fees or make such other financial arrangements as it may deem fit.

(4) The Academy may invest any unexpended portion of its funds with the Corporation for Public Deposits.

12 Audit, annual and financial report

(1) The accounts and balance sheet of the Academy must be audited internally and externally on an annual basis.

(2) The financial statements must be submitted to **[members]** Members within six months of the end of the financial year.

(3) The Academy must submit to the Minister the financial statements referred to in subsection (1) and such other particulars as the Minister may require within six months of the end of the financial year.

(4) The Minister must table the report referred to in subsection (3) in Parliament.

13 Functions of Academy

(1) In order to achieve its objectives the Academy may-

- (a) at the request of any person or on its own initiative, investigate matters of public interest concerning science and on the strength of the findings act in an opinion-forming and advisory manner;

- (b) publish scientific reports and other publications;
- (c) promote and inspire outstanding achievements in the different fields of South African science and grant recognition for excellence;
- (d) generally promote interest in science education;
- (e) establish reciprocal arrangements and enter into agreements with organisations with similar objectives locally and, subject to international legislation regarding international cooperation, in particular within the Southern African Development Community, the rest of Africa and other countries, in order to promote the exchange of information and ideas;
- (f) acquire any rights and privileges which it considers necessary or appropriate;
- (g) receive or make donations, grants and endowments, purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property, and erect any building;
- (h) invest its funds on such security as it may from time to time determine;
- (i) lawfully raise or borrow money in such manner as it deems fit, including by mortgage bonds or by the issue of debentures secured by mortgage bonds upon all or any part of its property, but against no other security than the assets of the Academy;
- (j) sell, improve, lease, dispose of or alienate or otherwise deal with all or any of the property of the Academy;
- (k) appoint, fix the remuneration of and discharge officers of the Academy; and
- (l) do all such things as are conducive to the attainment of its objects.

(2) The Academy must-

- (a) advise the Minister on matters concerning science;
- (b) undertake or cause to be undertaken such investigations and research concerning its objectives as the Minister may assign to it;
- (c) perform such duties in respect of its objectives as the Minister may assign to it;
- (d) from time to time review its structure, organisation and programmes.

14 Performance of functions outside Republic

(1) The Academy may, subject to legislation and formal agreements and policies regarding international cooperation and in order to achieve its objectives, render support relevant thereto to any South African citizen in any territory outside the Republic.

(2) This Act must, as far as it can be applied with the necessary changes, apply in connection with the performance by the Academy of its functions under subsection (1) as if the territory in which it so performs its functions were part of the Republic.

15 Meetings of Academy

[(1) The first meeting of the Academy is held at the time and place determined by the Minister, and thereafter meetings are held at such times and places as the president determines.]

(2) The Academy must meet at least once a year.

(3) The president may at any time convene a special meeting of the Academy, which must be held at such time and place as the president determines.

(4) All **[members]** Members of the Academy must be notified in writing of every meeting of the Academy at least 21 days before such meeting.

(5) A quorum for a meeting of the Academy is one quarter of **[its members]** the Members.

(6) Any decision of the Academy is taken by resolution of a simple majority of the **[members]** Members of the Academy present at any meeting of the Academy, and, in the event of an equality of votes on any matter, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote as a **[member]** Member of the Academy.

(7) A **[member]** Member of the Academy may not vote or in any manner participate in the proceedings at any meeting of the Academy nor be present at the venue where such a meeting is held, if, in relation to any matter before the Academy, he or she has any interest which precludes him or her from performing his or her functions as a **[member]** Member of the Academy in a fair, unbiased and proper manner.

16 Regulations

The Minister may in consultation with the Academy make regulations regarding-

- (a) any matter required to be prescribed in terms of this Act;
- (b) the code of conduct for **[members]** Members of the Academy;
and
- (c) any matter which it is necessary or expedient to prescribe in order to implement and administer this Act.

17 Repeal of law

The Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959 (Act 54 of 1959), is hereby repealed.

18 Dissolution of council

The council of 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' contemplated in section 1 of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Act, 1959 (Act 54 of 1959), is hereby dissolved subject to section 19.

[19 Transitional provisions

(1) The council of 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' may form a company in terms of section 21 of the Companies Act, 1973 (Act 61 of 1973), or establish any other legal entity.

(2) All assets, rights and obligations of the council of 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' shall, upon its dissolution, devolve upon the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity contemplated in subsection (1) without formal transfer and without payment of any fees, duties, taxes or other charges.

(3) Every employee of 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' immediately prior to the date of commencement of this Act becomes an employee of the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity contemplated in subsection (1) upon the commencement of this Act, on the same conditions of service as before.

(4) All the rights and obligations existing between 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' and each of its employees immediately prior to the date of commencement of this Act continue in force as if they were rights and obligations between the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity and each such employee.

(5) The change of the name of the employer from 'Die Suid-Afrikaanse Akademie vir Wetenskap en Kuns' to the Suid-Afrikaanse Akademie vir Wetenskap en Kuns Company or legal entity does not interrupt the continuity of service of any employee and must, for all purposes, be regarded as not being a change of employer.

(6) The Council of a voluntary association known as the Academy of Science of South Africa immediately prior to the date of commencement of this Act becomes the first Council of the Academy for a period not exceeding three years from the date of commencement of this Act.

(7) All persons who immediately before the date of commencement of this Act were members of the Academy of Science of South Africa referred to in subsection (6) are regarded as having been duly elected to the Academy in accordance with section 5.]

20 Short title and commencement

This Act is called the Academy of Science of South Africa Act, 2001 and comes into operation on a date fixed by the President by proclamation in the Gazette.