

REPUBLIC OF SOUTH AFRICA

**PROPOSED PORTFOLIO COMMITTEE
AMENDMENTS
TO**

**NATIONAL COUNCIL ON
GENDER-BASED VIOLENCE
AND FEMICIDE BILL**

[B 31—2022]

(Portfolio Committee on Women, Youth and Persons with Disabilities)

[B 31A—2022]

ISBN 978-1-4850-xxxx-x

No. of copies printed 150

PROPOSED AMENDMENTS TO

**NATIONAL COUNCIL ON GENDER-BASED VIOLENCE AND
FEMICIDE BILL**
[B 31—2022]

PREAMBLE

1. On page 2, after the long title, to insert the following:

“PREAMBLE

RECOGNISING that South Africa continues to wrestle with the impact of decades of institutionalised racism, sexism, exclusion, structural violence and other factors that have continued to undermine human development and positive social cohesion;

RECOGNISING further that gender-based violence and femicide is a serious social evil and that victims of gender-based violence and femicide are among the most vulnerable members of society; that gender-based violence takes on many forms;

HAVING REGARD to the Constitution of the Republic of South Africa, 1996 and in particular, the right to equality and to freedom and security of the person; and the international commitments and obligations of the State towards ending gender-based violence and femicide;

CONVINCED THAT gender-based violence and femicide will be eliminated only when a multi-sectoral, co-ordinated government and whole of society approach is implemented in fighting the scourge; and

THEREFORE it is necessary to harness the roles, responsibilities, resources and commitments across government, labour, civil society, movements, youth structures, faith-based structures, traditional structures, the media, development agencies, the private sector, academic institutions and all other stakeholders.”.

ENACTING PROVISION

1. On page 2, in line 2, after “**IT**” to insert “**THEREFORE**”.

TABLE OF CONTENTS

1. On page 2, in line 13, to omit “Remuneration” and to substitute “Reimbursement”.

CLAUSE 1

1. On page 2, in line 42, to omit “perceived female” and to substitute “a”.
2. On page 2, in line 43, after “identity” to insert “as a female”.
3. On page 3, in line 2, after “economic,” to insert “domestic,”.

4. On page 3, from line 12, to omit the definition of “National Strategic Plan” and to substitute the following definition:

“**national strategy on gender-based violence and femicide**” means relevant national policies and action plans developed and implemented by the Executive Authority to address issues relating to gender-based violence and femicide, and as far as it aligns with these national policies and action plans include the National Strategic Plan on Gender-Based Violence and Femicide developed in terms of Article 3 of the Presidential Summit Declaration against Gender-Based Violence and Femicide of 2018;”.

5. On page 3, in line 22, to omit “National Strategic Plan” and to substitute “national strategy on gender-based violence and femicide”.
6. On page 3, in line 25, to omit “;” and to substitute “.”.

CLAUSE 2

1. On page 3, in line 31, to omit “provide for” and to substitute “co-ordinate”.
2. On page 3, in line 32, to omit “National Strategic Plan” and to substitute “national strategy addressing gender-based violence and femicide”.

CLAUSE 3

1. On page 3, in line 48, after “leadership” to insert “and co-ordination”.

CLAUSE 4

1. On page 3, in line 55, to omit “facilitate a co-ordinated and” and to substitute “co-ordinate a”.
2. On page 4, from line 2, to omit “National Development Plan outcomes, Medium Term Strategic Framework, Medium Term Expenditure Framework priorities and National Strategic Plan on Gender Based Violence” and to substitute “national strategy addressing gender-based violence and femicide”.
3. On page 4, in line 5, to omit “ensure the establishment and maintenance of a platform for” and to substitute “facilitate the”.

CLAUSE 5

1. Clause rejected.
2. That the following be the new clause:

“**Functions of Council**”

5. (1) In order to achieve the purpose of this Act, the Council must—
 - (a) develop an action plan, not later than six months after its establishment, for the implementation of the national strategy addressing gender-based violence and femicide, which must—
 - (i) be adequately costed and implemented effectively;

- (ii) set indicators and timelines to be complied with by all relevant stakeholders; and
- (iii) co-ordinate the monitoring and evaluation of the implementation of the national strategy addressing gender-based violence and femicide;
- (b) co-ordinate measures for education and training concerning the prevention and combating of gender-based violence and femicide;
- (c) ensure co-ordination between all structures established in terms of this Act in matters relating to the implementation of the national strategy addressing gender-based violence and femicide;
- (d) facilitate strategic partnerships between the Council and relevant stakeholders, as and when required;
- (e) in consultation with the Minister, facilitate the establishment of inter-sectoral and multi-sectoral structures to jointly prevent and respond to gender-based violence and femicide; and
- (f) co-ordinate the prioritisation of gender-based violence and femicide programmes at national, provincial and local level, and at community and other forums.
- (2) The Council must advise the Minister on—
 - (a) any developments relating to the prevention of, and response to, gender-based violence and femicide;
 - (b) relevant international standards to be adhered to; and
 - (c) any matter falling within the purpose of this Act.
- (3) The Council must report to the Minister at least four times a year on its activities, the performance of its functions and the achievement of its objectives, and the Minister must cause such report to be tabled in Parliament as required: Provided that the Council may at any time submit any other report if it is deemed necessary by Parliament.
- (4) The Council must review strategic and action plans as identified by the Minister every five years or as required after the date of commencement of this Act.”.

CLAUSE 6

1. Clause rejected.
2. That the following be the new clause:

“Board of Council

- 6.** (1) The Board must consist of not more than 15 members, comprising—
- (a) seven representatives from civil society and the private sector;
 - (b) one representative from each of the following organs of state:
 - (i) The Department of Women, Youth and Persons with Disabilities;
 - (ii) the Department of Justice and Constitutional Development;
 - (iii) the Department of Social Development;
 - (iv) the Department of Health;
 - (v) the Department of Co-operative Governance and Traditional Affairs;
 - (vi) the South African Police Service;
 - (vii) the Department of Basic Education; and
 - (viii) the National Prosecuting Authority; and
 - (c) the Chief Executive Officer, who is an *ex officio* member of the Board without voting rights.

(2) Only members of the Board referred to in subsection (1)(a) must be appointed by the President, and must before appointment be subjected to a security screening as envisaged in section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).

(3) The President must, whenever it becomes necessary to appoint the members of the Board referred to in subsection (1)(a), make an appointment from a list of persons recommended by the National Assembly by way of resolution with a supporting vote of a majority of the members of the Assembly.

(4) Each member referred to in subsection (1)(b) must—

(a) be nominated by the respective Cabinet members responsible for women, youth and persons with disabilities, justice and constitutional development, social development, health, co-operative governance and traditional affairs, police and basic education; and

(b) hold a rank that is not lower than that of Deputy Director-General.

(5) Members appointed in terms of this section must—

(a) be fit and proper persons to hold office;

(b) be persons with applicable knowledge and expertise with regard to matters that are related to the purpose of this Act; and

(c) reflect the demographics and geographical spread of South Africa.

(6) (a) The President must designate one of the members as Chairperson and another member as Deputy Chairperson.

(b) The President must ensure that the positions of Chairperson and Deputy Chairperson are held alternately by a person contemplated in subsection (1)(a) and (b).

(7) Whenever the Chairperson is for any reason unavailable, the Deputy Chairperson must perform the responsibilities and duties of Chairperson. Should both the Chairperson and Deputy Chairperson not be available to fulfil their responsibilities, the President may designate one of the members to temporarily act as a Chairperson or Deputy Chairperson for a period not exceeding six months.

(8) The Board, in managing the execution of the functions of the Council, as contemplated in section 5, must—

(a) monitor the implementation of the action plan of the Council; and

(b) exercise general control over the Council's powers and the execution of the Council's functions.

(9) The Minister may co-opt any person for a period not exceeding six months at the request of the Board, to assist the Board with regard to its functions in order to—

(a) advise and provide the necessary expertise in their specific field; or

(b) represent a relevant stakeholder.

(10) A person co-opted in terms of subsection (9) may take part in the proceedings of the Board or its committee but is not entitled to vote.

CLAUSE 7

1. On page 5, in line 57, to omit “misconduct involving” and to substitute “any form of misconduct, including sexual harassment, corruption,”.

CLAUSE 9

1. On page 6, in line 18, after “re-appointment for” to insert “only”.
2. On page 6, in line 18, to omit “consecutive” and to substitute “additional”.

3. On page 6, in line 21, after “member” to insert “contemplated in section 6(1)(a)”.
4. On page 6, in line 22, to omit “Minister” and to substitute “President”.
5. On page 6, after line 22, to add the following paragraph:
“(c) A member contemplated in section 6(1)(b) may resign from office by submitting at least one month’s written notice to the relevant Cabinet member who must inform the Minister of the Resignation.”.
6. On page 6, in line 24, to omit “Chief Executive Officer” and to substitute “Minister”.
7. On page 6, in line 25, to omit “nomination or”.

CLAUSE 10

1. On page 6, in line 26, to omit “**Remuneration**” and to substitute “**Reimbursement**”.
2. On page 6, in line 28, to omit the second “Board” and to substitute “Council”.
3. On page 6, in line 30, after “society” to insert “and private sector”.
4. On page 6, in line 30, to omit, “such an remuneration” and to substitute “a reimbursement”.
5. On page 6, from line 37 to omit “of the remuneration and allowances”.

CLAUSE 11

1. On page 6, in line 45, after “9(1)(b)” to insert “and (c)”.
2. On page 6, in line 49, to omit “by the Minister, who must comply with” and to substitute “as set out in”.
3. On page 6, after line 49, to add the following subsection:
“(3) A vacancy in the Council does not affect the validity of the proceedings or decisions of the Council.”.
4. On page 6, in line 50, to renumber the existing subsection (3) as subsection (4).

CLAUSE 12

1. Clause rejected.
2. That the following be the new clause:

“Removal from office

12. (1) (a) If the Minister is of the opinion that a member of the Board referred to in section 6(1)(a) should be removed on grounds set out in subsection (1)(b)(i) to (iv), the Minister may request the President and the National Assembly to act in accordance with subsection (1)(b).

(b) The President may, on the recommendation of the National Assembly, remove a member referred to in section 6(1)(a) from office—

- (i) on the ground of misconduct, incapacity or incompetence;
- (ii) for being absent from three consecutive meetings of the Board without permission of the Board;
- (iii) for engaging in any activity that is reasonably capable of undermining the purpose of this Act and the functions of the Council; or
- (iv) for failure on the part of a member to disclose any interests as contemplated in section 8.

(c) The President may, on the recommendation of the National Assembly, suspend a member listed in terms of section 6(1)(a) pending the outcome of subsection (1)(b).

(2) (a) If the Minister is of the opinion that a member of the Board referred to in section 6(1)(b) should be removed on grounds set out in subsection (2)(b)(i) to (iv), the Minister may request the President to act in accordance with subsection (2)(b).

(b) The President may, on the recommendation of the Minister remove a member referred to in section 6(1)(b) from office—

- (i) on the ground of misconduct, incapacity or incompetence;
- (ii) for being absent from three consecutive meetings of the Board without permission of the Board;
- (iii) for engaging in any activity that is reasonably capable of undermining the purpose of this Act and the functions of the Council; or
- (iv) for failure on the part of a member to disclose any interests as contemplated in section 8.

(c) The President may, on the recommendation of the Minister, suspend a member listed in terms of section 6(1)(b), pending the outcome of subsection (2)(b).

(3) Before submitting a subsection (1) or (2) request for removal of a member from the Board, the Minister must afford the member in question an opportunity to be heard.”.

CLAUSE 13

1. On page 7, in line 11, to omit “in consultation with the Chairperson of the Board”.

CLAUSE 14

1. On page 7, in line 36, to omit “in consultation with the Minister and”.
2. On page 7, in line 39, to omit “Remuneration” and to substitute “Reimbursement”.
3. On page 7, in line 39, after “;” to insert “and”.
4. On page 7, in line 40, after “Audit” to insert “and Risk”.
5. On page 7, in line 42, to omit “; and” and to substitute “,”.
6. On page 7, in line 43, to omit paragraph (d).
6. On page 7, in line 47, to omit “so many” and to substitute “the number of”.
8. On page 8, in line 15, to omit subsection (9).

CLAUSE 15

1. On page 8, in line 27, after “is” to insert “, notwithstanding serving on the Board as an *ex officio* member,”.

CLAUSE 16

1. On page 8, from line 47, to omit “pillars of the National Strategic Plan” and to substitute “national strategy to address gender-based violence and femicide”.

CLAUSE 17

1. On page 9, in line 21 to omit “six pillars of the National Strategic Plan” and to substitute “national strategy to address gender-based violence and femicide”.
2. On page 9, in line 25, to omit “day to day” and to substitute “day-to-day”.

CLAUSE 18

1. On page 9, in line 54, to omit “day to day” and to substitute “day-to-day”.

CLAUSE 19

1. On page 10, in line 19, to omit “may” and to substitute “must”.

CLAUSE 24

1. On page 11, in line 42, to omit paragraph (a).
2. On page 11, in line 43, to renumber the existing paragraph (b) as paragraph (a).
3. On page 11, in line 44, to renumber the existing paragraph (c) as paragraph (b).
4. On page 11, in line 45, after “;” to insert “and”
5. On page 11, from line 46, to omit paragraph (d).
6. On page 11, in line 48, to renumber the existing paragraph (e) as paragraph (c).