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THE NEDLAC ACT

Act No. 35 of 1994:

National Economic Development and Labour Council Act, 1994

ACT

To provide for the establishment of a national economic, development and labour council; to repeal certain provisions of the Labour Relations Act, 1959; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 23 November 1994.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-

- (i) "Council" means the National Economic, Development and Labour Council established by section 2; (ix)
- (ii) "Minister" means the Minister of Labour; (v)
- (iii) "National Manpower Commission" means the Commission established by section 2A of the Labour Relations Act, 1956 (Act No. 28 of 1956); (vi)
- (iv) "national summit" means the annual meeting of representatives of organised business, organised labour, organisations of community and development interests, the State and interested parties convened by the Council in terms of section 7; (vii)
- (v) "organisations of community and development interests" means those non-governmental organisations identified by the Minister without Portfolio in the Office of the President in terms of section 3(5) as representing community interests relating to reconstruction and development; (viii)
- (vi) "organised business" means business represented by those employer and business associations and federations of such associations that are the founding parties of the Council and any association that is admitted thereafter; (ii)
- (vii) "organised labour" means the federations of trade unions that are the founding parties of the Council and any association that is admitted thereafter; (i)
- (viii) "socio and economic policy" includes financial, fiscal and monetary policy, socio-economic programmes, trade and industrial policy, reconstruction and development programmes and all aspects of labour market policy, including training and human resource development; (iv)
- (ix) "this Act" includes any regulation made under section 10. (iii)

Establishment of National Economic, Development and Labour Council

2.

(1) There is hereby establish a council to be known as the National Economic, Development and Labour Council.

(2) The Council shall be governed by an executive council and shall in addition consist of four chambers, namely-

- (a) a public finance and monetary policy chamber;
- (b) a trade and industry chamber;
- (c) a labour market chamber; and
- (d) a development chamber.

(3) The Council shall be a juristic person.

Membership of Council

3.

(1) The Council shall consist of-

- (a) members who represent organised business;
- (b) members who represent organised labour;
- (c) members who represent organised community and development interests;
- (d) members who represent the State.

(2) The members referred to in subsection 1(a) shall be appointed by the Minister on nominations made by organised business.

(3) The members referred to in subsection 1(b) shall be appointed by the Minister on nominations made by organised labour.

(4) The members referred to in subsection 1(c) shall be appointed by the Minister without Portfolio in the Office of the President from persons nominated by the organisations of community and development interest identified by the Minister without Portfolio in the Office of the President in terms of subsection (5).

(5) The Minister without Portfolio in the Office of President shall in consultation with the executive council identify organisations of community and development interest that-

- (a) represent a significant community interest on a national basis;
- (b) have a direct interest in reconstruction and development; and
- (c) are constituted democratically.

(6) The President shall appoint the members referred to in subsection (1)(d).

(7) The members appointed in terms of subsections (2), (3), (4) and (6) shall hold office in accordance with the constitution of the Council.

Constitution of Council

4. Subject to the provisions of this Act, the constitution of the Council shall provide for-

- (a) the manner in which organised business may nominate persons for appointment as members and the manner in which members may be removed;
- (b) the manner in which organised labour may nominate persons for appointment as members and the manner in which members may be removed;
- (c) the criteria by which and manner in which organised business shall admit employers and business associations or federations of such associations;
- (d) the criteria by which and manner in which organised labour shall admit federations of trade unions;
- (e) the appointment of alternates to members;
- (f) the appointment of ex officio members of the council in either a representative or

- expert capacity;
- (g) the removal of members;
- (h) the appointment, removal, duties and powers of the chairpersons, office-bearers and officials;
- (i) the establishment, composition, and functions of the executive council;
- (j) the establishment, composition, powers and functioning of the chambers;
- (k) the establishment, composition, powers and functioning of committees, including a management committee, of the Council;
- (l) the convening of, quorum for and conduct of meetings of the executive council, chambers and committees;
- (m) the convening of, the chairpersonship of, and the criteria for the participation of organised business, organised labour, organisations of community and development interest and other interested parties in, the national summit;
- (n) the keeping of minutes;
- (o) the manner in which decisions are taken;
- (p) the amendment of the constitution;
- (q) any other matters necessary for or incidental to the performance of its functions.

Objects, powers and functions of Council

5.

(1) The Council shall-

- (a) strive to promote the goals of economic growth, participation in economic decision-making and social equity;
- (b) seek to reach consensus and conclude agreements on matters pertaining to social and economic policy;
- (c) consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament;
- (d) consider all significant changes to social and economic policy before it is implemented or introduced in Parliament;
- (e) encourage and promote the formulation of co-ordinated policy on social and economic matters.

(2) For the purpose of subsection (1), the Council-

- (a) may make such investigations as it may consider necessary;
- (b) shall continually survey and analyse social and economic affairs;
- (c) shall keep abreast of international developments in social and economic policy;
- (d) shall continually evaluate the effectiveness of legislation and policy affecting social and economic policy;
- (e) may conduct research into social and economic policy;
- (f) shall work in close co-operation with departments of State, statutory bodies, programmes and other forums and non-governmental agencies engaged in the formulation and the implementation of social and economic policy.

(3) Nothing in this section shall preclude the Council from considering any matter pertaining to social and economic policy.

Powers of executive council

6.

(1) The powers of the executive council shall be-

- (a) to exercise and perform the powers and functions referred to in section 5;
- (b) to agree to the constitution of the Council and amend it from time to time subject to the provisions of this Act;
- (c) to establish the chambers referred to in section 2(2);
- (d) to establish committees, including a management committee, to assist it in the exercise of its powers and the performance of its functions and to delegate or assign such powers and functions as it deems appropriate to such committees, and the chambers contemplated in paragraph (c);
- (e) to conduct enquiries in the performance of its functions and the exercise of its powers;
- (f) generally, but subject to this Act, to exercise those powers and perform those functions as are necessary to realise the objectives of the Council.

(2) The executive council may under its constitution authorise any committee or person to conduct enquiries and exercise the powers and perform the functions conferred on the executive council under this Act.

(3) The executive council shall develop conventions and regulate its relationships with Parliament and its standing committees and the Ministries and Departments affected by the decisions of the Council.

(4) The executive council shall develop rules and protocols for the conduct of relations with other institutions engaged in the formulation or implementation of aspects of social and economic policy.

(5) The executive council may develop codes of conduct to regulate the conduct of members and representatives.

(6) The executive council shall appoint a secretariat on such terms and conditions as it may determine.

Duties of executive council

7.

(1) The executive council shall annually convene a national summit of interested parties, to report on and to consider the activities of the Council.

(2) The executive council shall as soon as possible after 31 December in each year furnish the Minister with a report, including an audited financial account and balance sheets of the Council, in respect of its activities and the state of social and economic matters in the Republic during the year ending on that date.

(3) The Council shall be publicly funded and the executive council shall prepare an annual budget for the financing of the Council for submission to the Minister by 1 September in each year for his or her approval and the concurrence of the Minister of Finance.

Reports

8. Any report of the Council, including the annual report or a report on any proposed legislation or policy relating to or affecting social and economic matters shall be submitted to the Minister and every such report shall as soon as practicable be laid upon the Table of the Senate and of the National Assembly.

Amendment of laws and transitional measures

9.

(1) The Minister shall be the interim chairperson of the Council.

(2) The interim chairperson shall for the purposes of subsection (6) convene an inaugural meeting of the Council by fixing a date, time and venue for such a meeting.

(3) The Minister shall invite the representatives of the employer and business associations, federations or such associations and federations of trade unions

represented on the National Manpower Commission and the National Economic Forum to attend the meeting.

(4) The Minister, in consultation with the Minister without Portfolio in the Office of the President, shall invite persons who represent organisations of community and development interests to attend the meeting.

(5) The President shall appoint the representatives of the State to attend the inaugural meeting.

(6) The duties of the inaugural meeting of the Council shall be to-

(a) adopt a constitution for the Council;

(b) appoint the chairpersons in terms of the constitution and relieve the interim chairperson of his or her duties;

(c) establish the chambers and the management committee and such other committees as are prescribed by the constitution and appoint the members to such committees;

(d) confirm the appointment of a secretariat on such terms and conditions as it may determine.

(7) The provisions of the Act mentioned in the Schedule are hereby repealed with effect from the date of the inaugural meeting referred to in subsection (2).

(8) For the purposes of section 33(5)(b) of the Constitution, the Council shall replace the National Manpower Commission, which shall cease to exist with effect from the date of the inaugural meeting referred to in subsection (2), and from that date all rights, duties, assets and liabilities, whether contractually or otherwise obtained or accumulated in connection with matters entrusted to that Commission, shall pass to the Council.

Regulations

10. The Minister in consultation with the executive council may make regulations prescribing-

(a) any matter which by this Act is required or permitted to be prescribed; and

(b) generally, all matters which he or she considers necessary or expedient to prescribe in order to achieve the objects of this Act.

Offences

11.

(1) Any person who, except when required to do so before a court of law or under any law, discloses any confidential information in regard to the financial or business affairs of any person, business or firm, or the State, acquired in the exercise of his or her powers in the performance of his or her duties under the Act or the constitution of the Council or its committees shall be guilty of an offence.

(2) Any person who is convicted of an offence in terms of subsection (1) shall be liable to a fine not exceeding R1 000.

Short title and commencement

12. This Act shall be called the National Economic, Development and Labour Council Act, 1994, and shall come into operation on a date fixed by the President by Proclamation in the Gazette.

SCHEDULE 1

Labour Relations Act, 1956 (Act No. 28 of 1956): Sections 2A to 2D, and definition of "Commission" in section 1.

