



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

NEDLAC REPORT ON THE NATIONAL NUCLEAR REGULATOR AMENDMENT BILL

26 AUGUST 2022

1. BACKGROUND

- 1.1. The National Nuclear Regulator Act, (Act No. 47 of 1999) is a statute of Parliament establishing the National Nuclear Regulator. The National Nuclear Regulator is responsible for the protection of persons, property, and the environment against nuclear damage.
- 1.2. The National Nuclear Regulator issues nuclear authorisation for operation of any nuclear installations and vessels propelled by nuclear power.
- 1.3. In 2011, the National Nuclear Regulator Board made recommendations to the Minister for the amendment of the National Nuclear Regulator Act to address challenges that relate to developments in the nuclear regulatory environment.
- 1.4. The process of amending the NNRA was subsequently agreed to by Cabinet.
- 1.5. As part of consultation on the amended Bill, the Department of Energy and Mineral Resources tabled the National Nuclear Regulator Amendment Bill for engagement at Nedlac on 14 April 2022. The Bill seeks to, among other, amend the National Nuclear Regulator Act, 1999, so as to substitute certain definitions and insert new definitions, and clauses.
- 1.6. A task team comprised of Government, Business, Labour and Community constituencies was established to engage on the Bill. The task team developed this Nedlac Report which provides a summary of the process and outlines the areas of agreements reached during engagements.

2. OBJECTIVE OF THE NATIONAL NUCLEAR REGULATOR

- 2.1. The objectives of the National Nuclear Regulator Amendment Bill are to:

- 2.1.1. Amend the National Nuclear Regulator Act, 1999, so as to substitute certain definitions and insert new definitions;
- 2.1.2. Authorise the Regulator to perform additional regulatory functions;
- 2.1.3. Provide for the transfer of an authorisation;
- 2.1.4. Provide for additional powers of inspectors;
- 2.1.5. Provide for financial provision for costs associated with safe rehabilitation or decommissioning of nuclear facilities;
- 2.1.6. Provide for administrative fines;
- 2.1.7. Provide for the establishment of the National Dose Register to provide for a centralised database of radiation workers; and
- 2.1.8. Provide for matters connected therewith.

3. PROCESS AT NEDLAC

- 3.1. The Department of Energy and Mineral Resources tabled the National Nuclear Regulator Amendment Bill for engagement at Nedlac on 14 April 2022. The Bill seeks to, among other, amend the National Nuclear Regulator Act, 1999, so as to substitute certain definitions and insert new definitions, and clauses.
- 3.2. The task team to engage and consider amendments into the Bill was established.
- 3.3. The following documents were submitted by Government for consideration:
 - National Nuclear Regulator Act. 1999;
 - Draft National Nuclear Regulator Amendment Bill, 2021 as Gazetted for Public Comment;
 - National Regulator Amendment Bill (31 May 2022_final); and
 - NNR cooperative agreements - matrix Nedlac.

4. AREAS OF AGREEMENT

[text*] = delete _____ = insert

4.1. AMENDMENT OF SECTION 1 OF ACT 47 OF 1999

- 4.1.1. The clarity seeking questions raised by the task team were sufficiently responded to by government, as a result the amendments to section 1 were agreed to by the task team as presented.

4.2. AMENDMENT OF SECTION 2 - 7 OF ACT 47 OF 1999

- 4.2.1. The task team did not propose any amendments on section 2 to 7, as a result, these sections were agreed to as presented.

4.3. AMENDMENT OF SECTION 8 OF ACT 47 OF 1999

- 4.3.1. Government tabled the amendments made in this section.

4.3.2. Labour indicated that the section that refers to the Department of Environmental Affairs, Forestry and Fisheries should be changed to “Department responsible for Environmental Affairs” given that the names of Government Departments regularly change. This will assist in avoiding unnecessary name change amendments in the future.

4.3.3. The proposed amendment by Labour was agreed by the task team.

4.4. **AMENDMENT OF SECTION 9 OF ACT 47 OF 1999**

4.4.1. On section 9, business sought clarity on whether gross misconduct had not been considered for removal and if whether there was a view of changing the actual composition of the Board based on constituency as the current structure was segmented by types of stakeholders or constituencies.

4.4.2. In its response, government stated that the provision was incorporated in order to prevent abuse of Board members being removed without due process followed or sufficient evidence being provided. Additionally, it was clarified that the composition of the Board will not be changed as the Act was not amended on this issue.

4.4.3. Labour sought clarity on whether calling Board members ‘directors’ would not cause confusion with public service posts. Government responded by stating that the use of the word ‘director’ is based on the Companies Act and therefore there would not be confusion with public service posts. In the context of legislation, the term director is used in relation to the Board of the National Nuclear Regulator and therefore interpreting it any other way is not reasonable.

4.4.4. Following the responses from Government, ultimately, this section was agreed to.

4.5. **AMENDMENT OF SECTION 12 - 15 OF ACT 47 OF 1999**

4.5.1. The task team did not propose any amendments to section 12 to 15, as a result, these sections were agreed to as presented. Business however indicated that it notes the overlapping authority given to the minister on section 15. Government responded by stating that it has provided a process to provide safeguards.

4.6. **AMENDMENT OF SECTION 16 OF ACT 47 OF 1999**

4.6.1. Community raised its concerns regarding sections that were deleted by seeking clarity on whether the NNR Task Team would still have an opportunity to engage on those deleted sections or not.

Government subsequently highlighted what the deleted sections were and social partners were provided with an opportunity to engage on those deleted sections.

4.6.2. Following the above, ultimately, this section was agreed to.

4.7. AMENDMENT OF SECTION 17-20 OF ACT 47 OF 1

4.7.1. The task team did not propose any amendments on section 17 to 20, as a result, these sections were agreed to as presented.

4.8. SUBSTITUTION OF SECTION 21 OF ACT 47 OF 1999

4.8.1. Government tabled the amendments made in this section.

4.8.2. Business sought clarity on why the Chief Executive Officer (CEO) was performing the same functions as the Chief Financial Officer (CFO). It was of the view that there was an over-reliance on the CEO. In its response, Government stated that it was more about entrenching the position of the CFO on the Board. The CEO reference was about accountability which includes, among others, ensuring that financials are prepared timeously.

4.8.3. Community sought clarity on whether there was a guideline for outright refusal to issue a licence. Government responded by stating that the decision of refusal to issue a licence is determined by the NNR Board.

4.8.4. Community also sought clarity on when will these amendments be implemented. Government stated that for the current situation, the current Act applies as is.

4.8.5. Following the responses from Government, ultimately, this section was agreed to.

4.9. INSERTION OF SECTION 21A OF ACT 47 OF 1999, SUBSTITUTION OF SECTION 27 - 30 and SECTION 32, AND AMENDMENT OF SECTION 22-26 AND 31 OF ACT 47 OF 1999

4.9.1. The task team did not propose any amendments to section 21 to 36, as a result, these sections were agreed to as presented.

4.10. AMENDMENT OF SECTION 37 OF ACT 47 OF 1999

4.10.1. On section 37, business sought clarity as to why the Minister of Finance was involved in financial matters of the NNR. Government

responded by stating that the administrative funds (including fines) by their nature will become part of the revenue of the Regulator, and that the monies for the Regulator are appropriated by Parliament. The administrative fines are therefore a fiscal matter involving the Minister of Finance, and the NNR budget is the Minister's responsibility for tabling through the Minister's budget vote.

4.10.2. Following the above, ultimately, this section was agreed to.

4.11. **AMENDMENT OF SECTION 48 OF ACT 47 OF 1999**

4.11.1. Government tabled the amendments made in this section.

4.11.2. Business sought clarity on whether final approval of finance was made by the Minister only, or in consultation with the Board.

4.11.3. In its response, Government indicated that both the Minister and the Board must agree.

4.11.4. Following the responses from Government, ultimately, this section was agreed to.

4.12. **AMENDMENT OF SECTION 49 – 51 OF ACT 47 OF 1999**

4.12.1. The task team did not propose any amendments on section 49 to 51, as a result, these sections were agreed to as presented.

4.13. **AMENDMENT OF SECTION 52 OF ACT 47 OF 1999**

4.13.1. On section 52, community sought clarity behind the motivation for a 3-month cap and Government stated that this cap aims to limit the discretion of the prescribing officer so that a period longer than the 3 months cannot be imposed for the offences outlined.

4.13.2. Although Community was of the view that the 3-month limitation was not necessary, it conceded and this section was agreed to.

4.14. **SHORT TITLE AND COMMENCEMENT**

4.14.1. Government tabled the amendments made in this section.

4.14.2. This section was agreed to by the social partners as outlined without any amendments.

5. AREAS OF DISAGREEMENT

5.1. There were no recorded areas of disagreements on the Bill.

6. CONCLUSION

6.1. This report therefore concludes considerations at Nedlac on the National Nuclear Regulator Amendment Bill. The Report is submitted to the Portfolio Committee on Mineral Resources and Energy, the Department of Mineral Resources and Energy (DMRE), and the Minister of Employment and Labour in terms of Section 8 of the NEDLAC Act No 35 of 1994

ANNEXURE 1

NNR TASK TEAM MEMBERS - 2022

BUSINESS	COMMUNITY	GOVERNMENT	LABOUR
H. Khambule	T. Radebe	Z. Zibi	M. Parks
N. Mphahlele (alternate)	N. Ndlovu (alternate)	G. Nhlapho (alternate)	L. Mulaisi (alternate)
		M. Makgale (alternate)	