



**NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL**

**DRAFT NEDLAC REPORT  
ON THE SOUTH AFRICAN POST OFFICE (SAPO) SOC LTD AMENDMENT BILL**

**1. BACKGROUND**

- 1.1. In March 2022, the Department of Communications and Digital Technologies (DCDT) obtained approval from Cabinet to publish the South African Post Office (SAPO) SOC LTD Amendment Bill (“SAPO Amendment Bill”) in the Government Gazette, for public comment.
- 1.2. The SAPO Amendment Bill was published in the Government Gazette on 20 April 2022 and interested parties had 30 calendar days within which to submit written comments.
- 1.3. On 25 May 2022, DCDT presented the SAPO Amendment Bill (the version that was published in the Government Gazette) to Nedlac’s Development Chamber, as part of the consultation process and to enable Nedlac social partners to make preliminary inputs. At this meeting, it was agreed that the DCDT would return to Nedlac after the public comment process was concluded to formally table the revised SAPO Amendment Bill incorporating any changes made following the public comments processes, for further Nedlac engagement.
- 1.4. The Development Chamber agreed to convene a capacity-building workshop on the SAPO Amendment Bill to capacitate social partners to understand the Bill, analyse it and make proposals to enhance the SAPO Amendment Bill.
- 1.5. The Development Chamber established a six-a-side task team consisting of social partners from Government, Business, Labour, and Community Constituencies to engage on the SAPO Amendment Bill.
- 1.6. The task team developed this Nedlac Report which provides a summary of the process and outlines the areas of agreement and disagreement.

## 2. THE PURPOSE OF THE SAPO AMENDMENT BILL

- 2.1. The SAPO Amendment Bill seeks to:
  - 2.1.1. Amend the South African Post Office SOC Ltd Act, 2011, to provide for the revised duties and expand on the mandate of the South African Post Office as provided for in this Act and the Postal Services Act, 1998;
  - 2.1.2. Provide for the repurposing of the Post Office infrastructure to provide diversified and expanded services and exploit the infrastructure capacity to extract value and forge partnerships with other stakeholders; and
  - 2.1.3. Provide for the revised governance structure of the South African Post Office; the establishment, appointment, and functions of the Stamp Advisory Committee.

## 3. PROCESS AT NEDLAC

- 3.1. On 01 September 2022, Nedlac convened a capacity-building workshop, where the DCDT formally tabled the revised SAPO Amendment Bill that incorporated the public comments for engagement by social partners.
- 3.2. Upon conclusion of the workshop, it was agreed that social partners would have an opportunity to convene bilateral meetings with the DCDT to obtain clarity and to reach a common understanding of different positions of social partners.
- 3.3. On 13 September 2022, a bilateral meeting between Business and Government was convened. Both Constituencies reported back to the task team on the outcome of the meeting. Business appreciated that Government had agreed to consider alternative wording that Business had proposed and submit it to the task team. Government also indicated that it was satisfied with the outcomes of the bilateral meeting and was looking forward to receiving the Constituencies' inputs.
- 3.4. The task team agreed that it would neither convene a line-by-line analysis nor focus on the formatting and grammatical issues of the Amendment Bill. It was agreed that the task team would only discuss areas where there was possible disagreement to try and to reach consensus.
- 3.5. The task team met on the following dates:
  - 3.5.1. 14 September 2022; and
  - 3.5.2. 07 October 2022
- 3.6. The documents submitted by Constituencies during the process of engagements were as follows:

Annexure 2	Revised SAPO Amendment Bill incorporating public comments tabled by Government
Annexure 3	Business' written submission

#### 4. AREAS OF AGREEMENT

4.1. This section outlines areas where the social partners agreed with the amendments to the SAPO Bill proposed by government.

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Sections as per the SAPO Amendment Bill	Issues as contained in the SAPO Amendment Bill which were agreed to by the social partners
Amendment of section 1 of Act 22 of 2011 – on the definitions	<p>The definitions were agreed to read as follows:</p> <ul style="list-style-type: none"> <li>i) <b>Department</b> means the Department of Communications <u>and digital technologies</u>;</li> <li>ii) <b>Stamp Advisory Committee</b> <u>means the Stamp Advisory Committee established by section 14A (1)</u>;</li> <li>iii) <b>universal postal services</b> <u>means universal services as defined in the licence issued in terms of section 16 of the Postal Services Act.</u></li> </ul>
Amendment of section 4 of Act 22 of 2011 – on the duties and mandate of the Post Office	<ul style="list-style-type: none"> <li>(i) Agreed to the duties and mandate of the post office and the substitution in subsection (1) for paragraph (l) to read as follows: <ul style="list-style-type: none"> <li>ensure compliance with international commitments relevant to the postal <b>[industry]</b> <u>and related industries in the provision of postal, courier and other related services to the extent that is permitted by domestic laws; and</u></li> </ul> </li> <li>(ii) Agreed to the new additions after paragraph (l) to read as follows: <ul style="list-style-type: none"> <li><u>(n) serve as digital hub for businesses and communities;</u></li> <li><u>(o) serve as a Designated Authentication Authority that also fulfils its role as a national Trust Centre in the age of digital identity and services;</u></li> <li><u>(p) serve as a hub for government services and other agency services;</u></li> <li><u>(q) provide different services at the post office and service points based on the needs assessments for a particular area and to ensure the effective usage and enhancement of the retail offering and services;</u></li> <li><u>(s) ensure the implementation of national address system and development and maintenance of national address database.</u></li> </ul> </li> </ul>

<p><b>Amendment of section 7 of Act 22 of 2011 on the expenditure of the post office</b></p>	<p>Agreed to the amendment of section 7 of the Principal Act and substituted subsection (1) to read as follows:</p> <p>“Parliament may fund the normal expenditure of the Post Office <u>to ensure universal postal services and any other social mandate services as determined by the Minister</u>, out of money appropriated for the purpose.”</p>
<p><b>Amendment of section 8 of Act 22 of 2011, as amended by section 3 of act 38 of 2013 on the Constitution of the Board</b></p>	<p>Agreed to the amendment of section 8 of the Principal Act as follows:</p> <p>a) The substitution for subsection (2) to read “The Board consists of not more than <b>[10]</b> <u>nine and not less than five</u> non-executive members appointed in terms of section 11”.</p> <p>b) Subsection (3) was rephrased as follows: “The Chairperson <b>[and Deputy Chairperson]</b> must be appointed by the Minister from the non-executive members of the Board;</p> <p>c) Subsection (4) was substituted for the subsection to read “The Board may designate any other non-executive member to act as chairperson if <b>[both]</b> the Chairperson <b>[and Deputy Chairperson are]</b> <u>is</u> absent or unable to perform <b>[their]</b> <u>his or her</u> functions”</p> <p>d) Social partners agreed to the deletion of subsections (5) and (6).</p>
<p><b>Amendment of section 11 of Act 22 of 2011, as amended by section 4 of Act 38 of 2013 on the appointment of non-executive members of the Board</b></p>	<p>Agreed to the amendment and substitution of subsection (1) to read as follows:</p> <p>(a) “to submit, within the period and in the manner mentioned in the notice, the names of persons fit to be appointed as members of the Board <b>[, with due regard to section 8 (5)].</b>”</p> <p>(b) by the deletion in subsection (4) of paragraph (a) (vi).</p> <p>(c) by the deletion in subsection (4) of paragraph (c);</p> <p>Agreed to the substitution of subsection (7) for paragraph(a) <i>to read as follows:</i></p> <p>“The Minister must appoint — (i) two non-executive members of the Board from suitable persons nominated by trade unions contemplated in subsection (1)(b) <u>with required skills, knowledge, qualifications and experience as contemplated in subsection (4)</u>”.</p> <p>Agreed to the substitution in subsection (8) for paragraph (a) to read as follows:</p>

	<p>“Any vacancy occurring in the Board in terms of section 12, must be filled <b>[in the manner provided for in this section]</b> <u>with suitable persons in a transparent manner determined by the Minister in terms of this Act</u>”</p> <p>Agreed to the substitution in subsection (9) for paragraph (a) of the following paragraph to read as follows:  “A non-executive member of the Board —holds office for a period not exceeding three years, <u>subject to review at the annual general meeting and the Minister may after due process has been followed remove the Board member for any reason as provided for under this Act at the annual general meeting and in accordance with the assessment report provided by the Board.</u>”</p>
<p><b>Amendment of section 12 of Act 22 of 2011 on the resignation, removal from office and vacancies</b></p>	<p>Agreed that section 12 of the principal Act was amended by the deletion in subsection (2) of paragraph (f).</p>
<p><b>Insertion of sections 14A to 14F in Act 22 of 2011</b></p> <p><b>Section 14A on the appointment and composition of Stamp Advisory Committee</b></p>	<p>Agreed to the following sections inserted after section 14 of the principal Act:  Agreed with all the insertions as proposed under section 14A of the SAPO Amendment Bill to read as follows:</p> <p>(1) <u>The Minister, must establish a Stamp Advisory Committee and appoint not more than 9 persons as members of the Stamp Advisory Committee.</u></p> <p>Agreed to the composition of the committee to be as follows:</p> <p>(2) <u>The Stamp Advisory Committee consists of—</u>  (a) <u>two members appointed from the non-executive members of the Board;</u>  (b) <u>one representative from departments responsible for communications and digital technologies, arts, sports and culture and basic education; and</u>  (c) <u>not more than four persons appointed on the basis of their knowledge, experience and expertise in the areas referred to in subsection (8).”</u></p> <p>Agreed that the Minister must appoint a non-executive member of the committee as follows:  (3) <u>The Minister must appoint a non-executive member contemplated in subsection (2)(a) as Chairperson of the Stamp Advisory Committee.</u></p>

	<p><u>(4) For the purposes of appointing the persons contemplated in subsection (2)(c), the Minister must, by notice in the Gazette and in two national newspapers published an invitation to the public to submit nominations for membership of the Stamp Advisory Committee.</u></p> <p>Supported the insertion of the time period for submission of nominations as follows:</p> <p><u>(5) The notice contemplated in subsection (4) must specify a period of at least 30 days for nominations to be submitted to the Minister.</u></p> <p><u>(6) The Minister must appoint a panel to consider the nominations received in terms of subsection (5).</u></p> <p><u>(7) The panel must compile a shortlist of not more than 8 candidates to be considered by the Minister and the Board for appointment as members of the Stamp Advisory Committee.</u></p> <p><u>(8) The panel must ensure that the candidates—</u></p> <p style="padding-left: 40px;"><u>(a) are representative of the South African society and represent the public and private sectors, academic or research institutions, non-governmental organisations and philately organisations; and</u></p> <p style="padding-left: 40px;"><u>(b) have appropriate expertise in the areas of—</u></p> <p style="padding-left: 80px;"><u>(i) arts and culture;</u></p> <p style="padding-left: 80px;"><u>(ii) marketing;</u></p> <p style="padding-left: 80px;"><u>(iii) environmental development;</u></p> <p style="padding-left: 80px;"><u>(iv) education;</u></p> <p style="padding-left: 80px;"><u>(v) history;</u></p> <p style="padding-left: 80px;"><u>(vi) graphic design; or</u></p> <p style="padding-left: 80px;"><u>(vii) any other field of expertise relevant to stamp design.</u></p> <p>Agreed that the board must consist of representatives with relevant skills, qualifications, and knowledge as follows:</p> <p><u>(9) The Minister and the Board must ensure that the members contemplated in subsection (2)(c) represent a sufficient spread of skills, knowledge, qualifications and expertise referred to in subsection (8).</u></p> <p>Agreed on the timeframe for Minister to publish a notice in the Gazette as follows:</p> <p><u>(10) The Minister must, within 30 days after appointing the members, publish a notice in the Gazette containing the names of the persons appointed as members of the Stamp Advisory Committee.</u></p>
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	<p>Agreed on the period for Stamp Advisory Committee as follows:</p> <p><u>(11) A member of the Stamp Advisory Committee contemplated in subsection (2)(c)—</u></p> <p>(a) <u>holds office for a period not exceeding three years;</u></p> <p>(b) <u>may be reappointed after his or her term of office has expired, but may not serve for more than two consecutive terms;</u></p> <p>(c) <u>is appointed on a part-time basis; and</u></p> <p>(d) <u>must be paid from the revenue of the Post Office such remuneration and such allowances as may be determined by the Minister with the concurrence of the Minister of Finance.</u></p> <p><u>(12) A member of the Stamp Advisory Committee contemplated in subsection (2)(c) may resign by giving 30 days written notice to the Minister through the Board.</u></p> <p><u>(13) The Stamp Advisory Committee that exists immediately before the South African Post Office SOC Ltd Amendment Act takes effect continues to exist for a period of six months or for such period until the new committee is established and members are appointed.</u></p> <p><u>(14) The members appointed under subsection (2) (a) and (b) will be serving for a period of three years as long as they are under the employ of the organisation that has nominated them or any period as provided by the respective organisation.</u></p> <p><u>(15) The organisations referred to in subsection (2) must inform the Minister when a member that has been appointed can no longer serve in the committee and provide a substitute for that member.</u></p>
<b>Section 14B - Functions of Stamp Advisory Committee</b>	Insertions of the functions of the advisory committee were agreed as outlined in the SAPO Bill with no amendment.
<b>Section 14 C - Disqualification from membership of Stamp Advisory Committee</b>	Insertions of the disqualification from membership of the advisory committee were agreed as outlined in the SAPO Bill with no amendment.
<b>Section 14D - Removal from the Stamp Advisory Committee</b>	Insertions of the removal from the advisory stamp committee were agreed as outlined in the SAPO Bill with no amendment.
<b>Section 14E - Vacancies in Stamp Advisory Committee</b>	Insertions of the vacancies in the advisory stamp committee were agreed as outlined in the SAPO Bill with no amendment.
<b>Section 14F - Meetings and recommendations by Stamp Advisory Committee</b>	Insertions of meeting and recommendations by the advisory stamp committee were agreed as outlined in the SAPO Bill with no amendment.

<p><b>Section 10 - Amendment of section 25 of Act 22 of 2011 on the intervention by the Minister</b></p>	<p>Agreed to the rephrased wording in subsection (3) to read as follows:</p> <p>If the <b>[Post Office] Board</b> fails to comply with the directive contemplated in subsection (1) within the stated period, the Minister may—</p> <p>(a) after having given the <b>[Post Office] Board</b> a reasonable opportunity to be heard; and</p> <p>(b) after having afforded the <b>[Post Office] Board</b> a hearing on any submissions received, replace the members of the Board <b>[in the same manner as the departing members have been appointed]</b> or, where circumstances so require, appoint a person as an administrator to take over the relevant function of the <b>[Post Office] Board.</b>”;</p> <p>Agreed with substitution of subsection (4) for paragraph (a) to read as follows:</p> <p>“the administrator may do anything which the <b>[Post Office] Board</b> might otherwise be empowered or required to do by or under this Act <b>[, to the exclusion of the Post Office;]</b>”.</p> <p>Agreed to the deletion of subsection (4) (b).</p>
	<p>Agreed to the substitution in subsection (5) for paragraph(b) on the time period to appoint the administrator to read as follows:</p> <p>“within <b>[six] 12</b> months of appointing the administrator, table a report on his or her findings in the National Assembly.”; and</p> <p>Agreed to the rephrased substitution in subsection (7) (c) for subparagraph(ii) as follows:</p> <p>“must, as soon as it is feasible but not later than <b>[three] twelve</b> months after the dissolution of the Board, replace the members of the Board <b>[in the same way in which they were appointed]</b> <u>in accordance with section 11 of this Act.</u>”.</p>



## 5. AREAS OF DISAGREEMENT

The section below outlines key matters that were disagreed by social partners and their positions on these matters.

Insertion \_\_\_\_\_ [ ] = deletion

<b>Preamble of the Amendment Bill</b>	
<p><b>Business Position on the preamble of the Amendment Bill</b></p>	<p>It disagreed with, and questioned Government's rationale for expanding the mandate of SAPO's services by including the section of the preamble that states: to "<i>provide for the repurposing of the South African Post Office</i>". In this regard, it disagreed with for the following reasons:</p> <p>a) The proposed amendments to expand and provide diversified services of the SAPO were not necessary in law (in that the expanded services need not be written in law) for the following reasons:</p> <p>(i) SAPO is already offering these expanded services under the current legislation. The fact that the services are already being rendered, means that Government does not need to make a legislative change to permit SAPO to render these services. Therefore, Business questioned the rationale for amending the SAPO Act, and believed that Government wanted to use the amended Act to benefit it in the current on-going litigation concerning SAPO on the monopolisation of it being the only entity permitted to send packages below 1kg. As such, Business proposed that this amendment should not be effected currently, but should be reconsidered later, subject to the outcome of the litigation.</p> <p>(ii) SAPO is a state-owned entity. It is a public business and therefore it has a Memorandum of Incorporation (MOI) The SAPO Act currently requires that SAPO's MOI must, amongst other things, provide that SAPO's main object and business to conduct "postal services", which are defined by the Postal Services Act (PSA) should include both the reserved and unreserved postal services as contemplated in Schedules 1 and 2 of the PSA. As such, a legislative change was not necessary. Business requested, on several occasions, to see a copy of SAPO's MOI but a copy was not furnished.</p>
<p><b>Labour's position on the preamble of the Amendment Bill</b></p>	<p>Labour agreed with the proposed broader mandate to extend services, including the proposed new governance structures as outlined in the Amendment Bill. It, therefore, supported the objectives and the proposed interventions as set out in the SAPO Amendment Bill.</p>

<p><b>Community’s response on the preamble of the Amendment Bill</b></p>	<p>Community expressed that it understood the directive obtained from Cabinet that necessitated Government to review the Act to cater for the different needs of stakeholders. It, therefore, agreed to the preamble as proposed by Government and stated that the Principal Act of SAPO confirms the objects/ and mandate of the Post Office.</p>
<p><b>Government response on the preamble of the Amendment Bill</b></p>	<p>Government acknowledged that Business did not have a problem with SAPO expanding on their mandate, and that its concern was on the expansion of the legislation. Government however disagreed with Business’ proposal that the Act should not be amended to accommodate this expansion and provided clarity as follows:</p> <ul style="list-style-type: none"> <li>(a) The mandate of the SAPO was governed by legislation and therefore SAPO was accountable to Parliament concerning the implementation of its mandate. In this regard, an enabling Act of Parliament was necessary for the SAPO to expand its mandate.</li> <li>(b) Its proposed amendments to the Act on the expanded mandate of SAPO was not undertaken to create any monopoly in favour of SAPO. Instead, they were purely to ensure the realisation of the financial and operational sustainability of the entity. This would ensure that the SAPO was guided by law and would be responsive to the new developments and services required by the country.</li> </ul>
<p><b>Amendment of section 1 of Act 22 of 2011 – on the definitions</b></p>	
<p><b>Business position on the Amendment of section 1 of Act 22 of 2011 – on the definitions</b></p>	<p>Business disagreed to the proposed definition of “<i>financial services</i>” as it appears in the Amendment Bill. Business was of the view that the term “financial services” should be defined to mean the services of being a payment services provider, ticket and voucher sales and distribution, and similar activities provided that are not activities subject to the National Credit Act and/or for which a license under the Banks Act is required.</p>
<p><b>Labour and Community’s response on the Amendment of section 1 of Act 22 of 2011 – on the definitions</b></p>	<p>Labour and Community were in support of the definition as proposed by Government in the Bill.</p>
<p><b>Government response on the Amendment of section 1 of Act 22 of 2011 – on the definitions</b></p>	<p>Government indicated that the Bill was consulted with the Office of the Chief State Law Advisor (OSLA), and no objection was obtained to the proposed definition. In this regard, it disagreed with the proposed definition by Business. Furthermore, it indicated that SAPO belonged to the Universal Postal Union and Pan African Postal Union, which are international and continental organisations, respectively responsible for the development and provision of universal postal services. SAPO, therefore, had to</p>

	comply with the international obligations. Financial services was amongst those services that SAPO has to provide as a designated operator. The proposed definition by Business would therefore be too limiting for SAPO to be able to comply with its obligations.
<b>Amendment of section 4 of Act 22 of 2011 -Duties and mandate of the Post Office</b>	
<b>Business position in terms of -Section 4(c)</b>	Business disagreed and stated that while it did not have substantive objections to the amendment of section 4(1)(l), no duty should be imposed to any other provider of courier or express logistics or any other related services in terms of the PSA compliance with the international commitments. The postal services industry was regulated by the Independent Communications Authority of South Africa (ICASA) per the Productivity South Africa (PSA) and the ICASA Act, and not the SAPO Act.
<b>Labour and Community's response Section 4(c)</b>	Labour and Community were in support of the definition as proposed by Government in the Bill.
<b>Government response Section 4(c)</b>	Government stated that the Act, was a governance Act of SAPO and there was no intention through this amendment to impose any duty on other private operators.
<b>Amendment of section 4 of Act 22 of 2011 -Duties and mandate of the Post Office</b>	
<b>Business position in terms of Section 4(d)(m)</b>	Business disagreed with the insertion " <u>to provide logistics and e-commerce services and serve as a logistics partner for e-commerce and other logistics players including SMME and informal traders</u> ". The Business position was that none of these amendments were necessary to enable SAPO to provide courier and express logistics services to any group of customers. Courier and express logistics services already fell under unreserved postal services as contemplated by section 16 of the Postal Service Act (PSA). Business noted that the reserved postal services include letters, postcards, printed matter, small parcels and other postal articles, of which currently, the South African Post Office is the only licensed entity. No person may operate a reserved postal service unless they have a licence to do so. The unreserved services are the services that relate to transportation and/or delivery of goods or items through courier services. Therefore, there was no statutory limit to SAPO providing any services which fall under the unreserved postal services. Neither the PSA nor the SAPO Act limited the category of customers to which SAPO could sell those services.
<b>Labour and Community's response in terms of Section 4(d)(m)</b>	Labour and Community were in support of the insertion as proposed by Government as it was noted that currently the provision " <u>to provide logistics and e-commerce services and serve and logistics partner for e-commerce and other logistics players including SMME and informal traders</u> " was not provided for in the legislation.

<p><b>Government response Section in terms of Section 4(d)(m)</b></p>	<p>Government maintained its position on the provision and reiterated that SAPO was a creature of statute and the provisions were inserted to expand on the mandate of the Post Office to provide relevant services, in line with developments locally and globally. Consultations were held with the Office of the Chief State Law Advisor on issues of legality and drafting requirements. No objection was obtained from the OCSL in this regard.</p>
<p><b>Amendment of section 4 of Act 22 of 2011 -Duties and mandate of the Post Office</b></p>	
<p><b>Business position in terms of Section Business 4(d)(r)</b></p>	<p>Business disagreed with the proposed insertion “<u>to continuously adjust its business model in line with technological developments ...</u>” Business disagreed and stated that there was no statutory limit placed on SAPO's ability to change its business model to respond to prevailing conditions and demands. In addition, there was neither an obligation for SAPO to roll out service points for services beyond the UPS, in areas where this is not commercial nor any statutory impediment to it contracting with third parties to serve customers in areas where SAPO could not offer these services directly to customers. Section 16(4)(b) allowed SAPO to engage any party on an agency basis to provide the reserved postal service as long as it does so per the License. SAPO was therefore free to conclude any agreements with third parties in the provision of the unreserved postal service where its market conduct is not regulated by the PSA or SAPO Act. In this regard, it was unclear why the proposed Amendments were necessary for these circumstances unless they sought to compel third parties to give SAPO access to their infrastructure for SAPO's benefit without their consent or on uncommercial terms.</p> <p>It is on the above-mentioned that Business proposed section 4(d)(r) should be deleted from the Amendment Bill.</p>
<p><b>Labour and Community</b></p>	<p>Labour and Community were in support of the insertion 4(d)(r) as proposed by Government.</p>
<p><b>Government response Section in terms of Section 4(d)(r)</b></p>	<p>Government stated that it maintained its position and reiterated that extensive discussions were held with Business at the bilateral meeting on this matter. It believed that Business' opposition to the amendments was to maintain the status quo and for SAPO to be governed by legislation that has been overtaken by developments. Government, therefore, believed that the old legal framework needed to be changed in order for the mandate of SAPO to be revised or changed.</p> <p>This matter, therefore, remained an area of disagreement.</p>
<p><b>Amendment of section 4 of Act 22 of 2011 -Duties and mandate of the Post Office</b></p>	
<p><b>Business position in terms of Section 4(d)(t)</b></p>	<p>Business disagreed with the proposed insertion to “<u>provide any business that is responsive to the needs of users, consumers and citizens and exploit the infrastructure</u>”</p>

	<p><u>capacity to extract value and forge partnerships with other stakeholders with the approval of the Minister</u>"; Business disagrees with the approach and raised a concern that the proposed insertion as contemplated in section 4(d)(t) will impose a duty to business to extract value and forge partnerships with any business that is responsive to the needs of users with the citizens and customers with the approval of the Minister.</p>
<b>Labour and Community</b>	<p>Labour and Community were in support of the insertion 4(d)(t) as proposed by Government.</p>
<b>Government response Section in terms of Section 4(d)(t)</b>	<p>Government maintained its position and stated that extensive discussion were held with Business at the bilateral meeting on this on this matter. As indicated under section 4 amendment, SAPO would be empowered to provide more services that goes beyond "traditional postal services" as currently provided for in the law. SAPO needs to be empowered to continually adjust its business model as developments occur, and as a state- owned entity, the Minister needs to be engaged. This was to further ensure that SAPO would be accountable and not hide behind the law that has limiting powers and mandate.</p> <p>This matter, therefore, remained an area of disagreement.</p>
<b>Amendment of section 7 of Act 22 of 2011 - Government support to Post Office and loans by Post Office and subsidiaries</b>	
<b>Business position on the proposed addition of subsection 5</b>	<p>Business disagreed with the use of the word "encourage" as contained in the section which read: "<u>Government institutions which include national and provincial departments, national and provincial government components and municipalities are encouraged to utilise services offerings by Post Office and its infrastructure in the delivery of their services and set-aside certain services to be provided by the Post Office to assist in eliminating over-reliance on government funding by the Post Office.</u>" It provided clarity as follows:</p> <p>(a) The use of the word "<i>encourage</i>" from a legal drafting perspective was restrained. Furthermore, this word was ambiguous and would create uncertainties and the legislation would not be enforceable.</p> <p>(b) The insertion of the word "encourage" was not a matter for inclusion in the legislation, however, it was to be addressed through government policy. If government institutions required reserved postal services, they would have no choice but to use SAPO since it would be insulated from competition, and they would not need legislative encouragement to do so. In instances where government institutions required unreserved postal services, they would use SAPO if it</p>

	<p>offered the most competitive and efficient options as compared to other service providers. Similarly, Business would not need legislative encouragement to utilise SAPO services, but this would depend on whether SAPO offered competitive and efficient services. It was therefore not necessary to legislatively force customers, including Business and Government departments, to utilise tax-payers' funds to procure inefficient services.</p>
<p><b>Community and Labour's response on the proposed insertion of subsection 5</b></p>	<p>Community and Labour supported the provision as outlined in the Bills and requested the Government to consider replacing the word "encourage" with a word that is acceptable in terms of legal drafting.</p>
<p><b>Government response on the proposed insertion of subsection 5</b></p>	<p>Government responded to Business concerns and stated the following:</p> <ul style="list-style-type: none"> <li>(a) The intention of the amendment was for government institutions to use the Post Office infrastructure that is government-owned, to deliver services to communities. This would eliminate the need for users to travel long distances to apply for documents such as Identity Documents, Passports, motor vehicle licenses and accessing social grants whereas they could use a nearby post office to access those services. This proposal was aligned to Thusong centre principle where citizens can access multiple government services.</li> <li>(b) Government acknowledged that, the use of the word encourage might not be appropriate, and indicated that it could consider utilising an alternative word and furthermore, the revision of this provision would be considered.</li> </ul>

The above-mentioned matters remained areas of disagreement at the conclusion of the Nedlac engagements on the Amendment Bill.

## 6. CONCLUSION

- 6.1. This report, therefore, concludes considerations at Nedlac on the SAPO Amendment Bill. The Report is submitted to the Portfolio Committee on Communication, the Ministers of Communication and Digital Technology, and the Minister of Employment and Labour in terms of Section 8 of the NEDLAC Act No 35 of 1994.

## SOUTH AFRICAN POST OFFICE (SAPO) AMENDMENT BILL TASK TEAM MEMBERS

Business	Community	Labour	Government
Siobhan Leyden Jason Blackman Sanelisiwe Jantjies	Thembinkosi Josopu Lawrence Monyahi Karol Lehloo Joseph Moyo Duduzile Ngidi Matthews Mponzo	Matthew Parks Sipho Ndhlovu Godfrey Selematsela	Dimakatso Mojela Faith Sihlangu Mxolisi Mvimbi Renee Thompson Pumela Molosi Suzan Lepete