

10 Disqualification

- (1) A person may not be appointed or continue to serve as a member of the Board if he or she:
 - (a) is an unrehabilitated insolvent;
 - (b) has at any time been convicted of an offence involving dishonesty;
 - (c) has, as a result of improper conduct, been removed from an office of trust; or
 - (d) has been declared by a court to be mentally ill or disordered.
- (2) A member of the Board must vacate his or her office if he or she is absent from three consecutive meetings of the Board without the prior leave of the chairperson.
- (3) The Minister may, at any time, after consulting the Board, terminate the term of office of any member of the Board if, in the Minister's opinion, there are good reasons for doing so.

11 Conditions of appointment

- (1) The conditions of appointment of members of the Board, who are not in the employ of an organ of state, are determined by the Minister, after consultation with the Minister of Finance.
- (2) The conditions of appointment may include remuneration and allowances payable by SANAS.
- (3) Members who are employed by an organ of state are not entitled to remuneration and allowances but must be reimbursed out of pocket expenses by SANAS.
- (4) Members, other than the Chief Executive and senior management of SANAS, are appointed in a non-executive capacity.

12 Powers of the Board

- (1) The Board is responsible for managing the business and affairs of SANAS.
- (2) The Board may do all that is necessary or expedient to perform its functions including:
 - (a) acquiring or disposing of any right in or to property, but ownership in significant immovable property may be acquired or disposed of only with the consent of the Minister;
 - (b) opening and operating banking accounts in the name of SANAS;
 - (c) investing any of SANAS' money;

- (d) insuring SANAS against:
 - (i) any loss, damage or risk;
 - (ii) any liability it may incur in the application of this Act;
 - (e) performing legal acts, including acts in association with or on behalf of any other person or organ of state;
 - (f) subject to sub-section (3), conclude agreements with organs of state and other persons;
 - (g) instituting or defending any legal action.
- (3) An agreement concluded in terms of sub-section (2)(f) may not:
- (a) conflict with any international requirement binding on SANAS;
 - (b) provide for any person external to SANAS to perform any function in respect of accreditation.

13 Operating procedures of Board

- (1) The Board must meet at least four times a year.
- (2) The chairperson of the Board decides when and where the Board will meet, but a majority of Board members may request the chairperson in writing to convene a meeting at a time set out in the request.
- (3) If the chairperson is absent from a meeting, the Board may elect another member to preside at that meeting.
- (4) The majority of the members of the Board constitute a quorum for a meeting of the Board.
- (5) Decisions of the Board require a supporting vote of a majority of members present at the meeting.
- (6) The Board must keep minutes of its proceedings and decisions.
- (7) The Board may, by resolution, make rules to further regulate its proceedings.

14 Committees

- (1) The Board must form such committees as necessary to enable it to perform its functions.
- (2) The Board must determine the composition, rules and procedures of committees established in terms of this section.
- (3) The Board may from time to time dissolve or reconstitute a committee.

15 **Advisory Forum**

- (1) The Board must establish an advisory forum with a balance of interest consisting of representatives of organisations with either an interest in accreditation or appropriately representative of accredited bodies.
- (2) The Forum must advise the Board on:
 - (a) matters in respect of which SANAS could play a role;
 - (b) any other matter on which the Board requests advice.
- (3) The Board must establish a constitution and, if necessary, rules for the Forum.

EXECUTIVE MANAGEMENT

16 **Appointment of Chief Executive Officer**

- (1) The Board, after consulting the Minister, must appoint a suitably qualified person as the Chief Executive Officer.
- (2) The Chief Executive Officer is an employee of SANAS and is accountable to the Board.
- (3) The Chief Executive Officer is responsible for the efficient management of SANAS and must perform any duty assigned or delegated to the Chief Executive by the Board.
- (4) The Chief Executive Officer holds office for an agreed term not exceeding five years and may be re-appointed upon expiry of that term of office.
- (5) The Chief Executive Officer may appeal against a decision of the Board to terminate his or her contract of employment prior to its expiry to the Minister. The appeal must:
 - (a) be lodged in writing within 14 days from the date of notification of the decision to terminate the contract; and
 - (b) comply with any other requirements that may be prescribed in respect of an appeal.
- (6) If the Chief Executive Officer is unable to fulfil his or her functions, the Board may appoint an acting Chief Executive Officer to exercise the powers and perform the functions of the Chief Executive Officer.

17 Employment contract and performance agreement

- (1) The employment contract of the Chief Executive Officer must be in writing and must incorporate in an appropriate form the provisions of section 57 of the Public Finance Management Act of 1999.
- (2) The Board and the Chief Executive Officer must conclude a performance agreement for the Chief Executive Officer:
 - (a) within a reasonable time after the appointment of the Chief Executive Officer; and
 - (b) thereafter, annually within one month of the commencement of each financial year.
- (3) The performance agreement must include:
 - (a) measurable performance objectives and targets that must be met, and the time frames within which those performance objectives and targets must be met;
 - (b) standards and procedures for evaluating performance and intervals for evaluation; and
 - (c) the consequences of substandard performance.

18 Services of non-employees

SANAS may contract for the services of any person, other than an employee, to perform any specific act or function.

19 Delegation and assignment

- (1) The Board may delegate any of its power to the Chief Executive Officer in accordance with this section.
- (2) The Chief Executive may delegate any power or assign the performance of any duty conferred or imposed upon the Chief Executive by or under this Act to:
 - (a) any other person with appropriate knowledge and experience who is under the control of the Chief Executive;
- (3) A delegation or assignment under subsections (1) or (2) must be in writing and:
 - (a) may be subject to any conditions or restrictions determined by the Board or Chief Executive;

- (b) does not prevent the exercise of that power by the Board or Chief Executive;
- (c) may be withdrawn or amended by the Board or Chief Executive.

FINANCIAL MANAGEMENT

20 Funding and investments

- (1) The funds of SANAS consist of:
 - (a) money appropriated by Parliament;
 - (b) initial accreditation and compliance fees;
 - (c) annual fees paid by accredited organisations;
 - (d) fees generated as a result of training or other projects;
 - (e) money received from any other source.
- (2) SANAS may invest any of its funds not immediately required:
 - (a) subject to any investment policy that may be prescribed in terms of section 7 (4) of the Public Finance Management Act; and
 - (b) in such a manner as may be approved by the Minister.

21 Financial year and accounting

SANAS' financial year is from 1 April in any year to the 31 March of the following year except that in the year in which it is established, the financial year will be from the date that this Act comes into effect to the 31 March.

GENERAL PROVISIONS

22 Applications for accreditation or GLP monitoring

- (1) Any person seeking accreditation or GLP compliance status from SANAS must apply in accordance with the procedures determined by the Board.
- (2) SANAS must:
 - (a) evaluate every application for accreditation or GLP compliance monitoring in accordance with any procedure and criteria determined by the Board and in accordance with the appropriate national and/or international criteria;
 - (b) issue a certificate of accreditation to applicants that meet those criteria specifying any conditions applicable to the accreditation or GLP compliance monitoring.

- (3) The Board may formulate and make publicly available rules consistent with the provisions of this Act on any matter necessary or expedient for the administration of this Act including but not limited to:
 - (a) the form and procedure for applications for accreditation;
 - (b) the fees applicable to different categories of accreditation;
 - (c) the proper use within South Africa of the name , accreditation body logo and /or accreditation symbol of SANAS; and
 - (d) the proper use of regional and international logos such as those of ILAC and IAF.

23 Accreditation certificates

- (1) An accreditation certificate or certificate of GLP compliance issued in terms of section 22(2)(b), must be signed by the Chief Executive Officer or a person with delegated authority to do so in terms of section 19.
- (2) SANAS may authorise a person in the employ of SANAS to certify a copy of an accreditation certificate or a certificate of GLP compliance issued in terms of sub-section (1) as being a true copy of the certificate.
- (3) In any legal proceedings, a document that purports to be a certificate issued in terms of sub-section (1) or a copy of such an accreditation certificate certified in terms of sub-section (2) must upon its production be evidence of the facts contained therein.
- (4) An accreditation certificate or certificate of GLP compliance is the property of SANAS and must be returned by an accredited facility when requested to do so.

24 Maintenance of Accreditation by an Accredited Facility

- (1) Accredited facilities have a responsibility to comply at all times with SANAS accreditation criteria including the specific competencies defined in their accreditation schedule;
- (2) Misuse of accreditation, including misrepresentation of data from an accredited facility and /or the accreditation symbol is an offence.

25 Certificates issued by Accredited Facilities

- (1) In any criminal proceedings, a document that purports to be a certificate issued by an accredited facility in terms of their approved accreditation and signed by a person deemed by SANAS as competent to do so, must upon its production be evidence of the facts contained therein.

26 Regulations

The Minister may make regulations concerning:

- (a) the scope of activity within which SANAS may grant accreditation or verify compliance to OECD principles for GLP;
- (b) responsibilities of accredited facilities; and
- (c) any other matter that may be prescribed in terms of this Act.

27 Offences

(1) Subject to the provisions of the Promotion of Access to Information Act, 2000

(Act No. 2 of 2000), a person commits an offence by disclosing the information that he or she obtained in the performance of any function contemplated in this Act unless—

- (a) the disclosure is necessary for the administration of this Act;
- (b) the disclosure is necessary for the purposes of the administration of justice; or
- (c) any other person is entitled to the information.

(2) Any person who knowingly—

- (a) makes or assist in making a report, return, notice or any other document to be sent to any other person, as required by this Act, that contains an untrue statement of a material fact; or
- (b) omits to state a material fact on any of the documents referred to in paragraph (a), that will be sent to any other person, as required by this Act, is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 24 months or to both a fine and such imprisonment.

(3) Any person who contravenes or who fails to comply with the requirements of this Act is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding 24 months or to both a fine and such imprisonment.

28 Breach of confidence

(1) Any person who is or was concerned in the performance of any function in terms of this Act, shall not disclose any information which he or she obtained in the performance of such a function except—

- (a) to the Minister;
- (b) to any person who of necessity requires it for the performance of his or her functions in terms of this Act;
- (c) if he or she is a person who of necessity supplies it in the performance of his or her functions in terms of this Act;

- (d) if such information is required in terms of any law or as evidence in any court of law;
- (e) to any competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution; or
- (f) by or on the authority of the Minister, the Chairperson of the Board or the Chief Executive Officer.

29 Liability of SANAS

- (1) The State Liability Act, 1957 (Act No. 20 of 1957), applies in respect of SANAS, and in such application a reference in that Act to the Minister of a department concerned must be construed as a reference to the Chief Executive of SANAS.
- (2) No person is liable for anything done or omitted in good faith when performing a function or exercising a power in terms of this Act.

30 Transitional provisions

- (1) For the purposes of this section:
 - (a) "association not for gain means an association not for gain established in terms of section 21 the Companies Act, 1973 (Act No. 61 of 1973);
 - (b) "effective date" means the date on which SANAS is established as a public entity; and
 - (c) "South African National Accreditation System" means the association not for gain established under that name.
- (2) As from the effective date, -
 - (a) the South African National Accreditation System ceases to exist as an association, not for gain in terms of Section 21 of the Companies Act of 1973;
 - (b) all assets, liabilities, rights and obligations of SANAS in terms of section 21 the Companies Act, 1973 (Act No. 61 of 1973) are deemed to be assets, liabilities, rights and obligations of SANAS the public entity;
 - (c) the Chief Executive Officer and all other employees of SANAS are transferred to SANAS as if section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995) were applicable;
 - (d) all accreditations by SANAS that are valid immediately prior to the effective date are deemed to have been made by SANAS in terms of this Act.

- (3) Any application for accreditation, appeal, complaint or other proceedings commenced prior to the effective date may be continued with as if they had been instituted in terms of this Act.
- (4) Any committees of SANAS established prior to the effective date are deemed to have been established by the Board in terms of this Act, provided that an audit committee must be established in terms of this Act within two years of the promulgation of this Act.
- (5) The Minister may make regulations not inconsistent with this Act concerning any matter necessary or expedient for regulating the transition of SANAS from its status as an association not for gain established in terms of the Companies Act, 1973 (Act No. 61 of 1973) to a public entity.
- (6) The transition of SANAS from an association not for gain to a public entity shall not affect any licences that have been granted prior to the transition.
- (7) SANAS as a public entity shall replace the association not for gain as the licensee in all licence agreements.
- (8) The effect of this section is a substitution of the licensee and does not constitute a sub-licence agreement.

31 Short title and commencement

This Act is called the Accreditation for Metrology, Conformity Assessment and Good Laboratory Practice Act, 2006.