



FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

Published by Authority

Uitgegee op Gesag

No. 106

BLOEMFONTEIN, 5 FEBRUARY 2010
BLOEMFONTEIN, 5 FEBRUARIE 2010

GENERAL NOTICE 8 OF 2009/2010

**PUBLICATION OF THE PHAKISA
MAJOR SPORT EVENTS AND
DEVELOPMENT CORPORATION
AMENDMENT BILL**

It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 147 of the Rules and Orders of the Free State Legislature.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, 9300 to reach him not later than **19 February 2010**.

**TB PHITSANE
ACTING SECRETARY: FREE STATE
LEGISLATURE**

**ALGEMENE KENNISGEWING 8 VAN
2009/2010**

**PUBLIKASIE VAN DIE
WYSIGINGSWETSONTWERP OP
DIE PHAKISA KORPORASIE VIR
GROOT SPORTBYEENKOMSTE EN
SPORTONTWIKKELING**

Dit word vir algemene kennisname en kommentaar bekendgemaak dat bostaande Wetsontwerp hierby gepubliseer word in terme van Reël 147 van die Reëls en Orders van die Vrystaatse Wetgewer.

Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, 9300 om hom nie later as **19 Februarie 2010** te bereik nie.

**TB PHITSANE
WAARNEMENDE SEKRETARIS:
VRYSTAATSE WETGEWER**

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
 _____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Phakisa Major Sport Events and Development Corporation Act, 1997, to make it subject to the provisions of the Public Finance Management Act, 1999; to amend the portfolio of the responsible Member; to include an appointment procedure for the board of directors; to extend the term of office of board members; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Free State Province as follows:-

Amendment of section 1 of Act No. 4 of 1997

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1. Section 1 of the Phakisa Major Sport Events and Development Corporation Act, 1997 (Act No. 4 of 1997) (hereafter referred to as the “Act”) is amended by -

1.1 the insertion of the following definition after the definition of “**Province**”:

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“ ‘Public Finance Management Act’ means the Public Finance Management Act, 1999 (Act No. 1 of 1999);” and

1.2 the substitution for the definition of “**responsible Member**” of the following definition:

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“ **‘responsible Member’** means the Member of the Executive Council of the Province responsible for Sport, Arts and Culture [, **Science and Technology**].”.

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Amendment of section 4 of Act No. 4 of 1997

2. Section 4 of the Act is amended by the substitution for the introductory sentence of the following sentence:

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“4. The Corporation may, subject to this Act, [or] any law of the Province and the Public Finance Management Act -”.

Amendment of section 5 of Act No. 4 of 1997 as amended by Act No. 2 of 2003

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3. Section 5 of the Act is amended by the substitution of subsection (2) of the following subsection:

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“(2) The board of directors shall consist of not less than 6 and not more than 12 persons [**appointed by the responsible Member with the approval of the Executive Council of the Province**].”.

Insertion of section 5A in Act No. 4 of 1997

4. The following section is inserted after section 5 of the Act:

5 **“5A. Appointment procedure of board of directors of the Corporation**

(1) The board of directors is, subject to subsection (2), appointed by the responsible Member in consultation with the Executive Council of the Province.

10 (2) Prior to appointment –

15 (a) the responsible Member must invite nominations from the public in the *Provincial Gazette* and media for directors to be appointed on the board of directors;

(b) the responsible Member must submit the nominations to a committee of the Free State Provincial Legislature, constituted in terms of the Rules and Orders of the Free State Provincial Legislature;

20 (c) the committee envisaged in paragraph (b) must, within 30 days of receipt of the nominations, submit recommendations to the responsible Member regarding persons who could be appointed on the board of directors.”.

Amendment of section 6 of Act No. 4 of 1997

5. Section 6 of the Act is amended by -

30 (a) the substitution of subsection (1) for the following subsection:

35 “(1) A director shall be appointed for a term not exceeding **[18 months]** 3 years, specified in the instrument of appointment, **[but is eligible for reappointment, subject to section 7(1)]** and such term may, on expiry, be extended for a maximum period of 2 years by the responsible Member, in consultation with the Executive Council.”; and

40 (b) the insertion of subsection (3):

“(3) A director is eligible for reappointment.”.

Amendment of section 7 of Act No. 4 of 1997

6. Section 7 of the Act is amended by the substitution for subsection (3) of the following subsection:

50 “(3) If a director ceases to hold office, the responsible Member must, subject to the provisions of section 5(2) and section 5A, appoint a person to fill the vacancy on the board.”.

Amendment of section 13 of Act No. 4 of 1997

7. Section 13 of the Act is amended by –

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7.1 the substitution of the heading of the following heading:

“**[Accountability, audit and annual report] Financial Management**”;

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7.2 the substitution for subsection (1) of the following subsection:

“(1) [(a) **The board must present, for the approval of the responsible Member, a budget for each year;**

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(b) **The proposed budget must be presented to the responsible Member on or before such date as may be determined by the responsible Member] The financial management of the Corporation is regulated by the Public Finance Management Act.”;**

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7.3 the deletion of subsection (2);

7.4 the renumbering of subsection (3) and the substitution for subsection (3) of the following subsection:

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“**[(3)] (2)** The financial records **[referred to in subsection (2)(b)] of the Corporation** shall be audited annually by the Auditor General.”;

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7.5 the deletion of subsection (4); and

7.6 the deletion of subsection (5).

Short title

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8. This Act is called the Phakisa Major Sport Events and Development Corporation Amendment Act, 2010.

MEMORANDUM

1. Purpose of Bill

The Phakisa Major Sport Events and Development Corporation Act, 1997 (the “Act”) must be brought in line with the Public Finance Management Act, 1999. Currently the appointment process does not include public participation. The Act is therefore amended to include public participation. Furthermore, to strengthen continuity of the Board, the term of office of the Board is extended to a maximum period of 3 years, which may be further extended.

2. Clause-by-clause explanation

2.1. Clause 1

The definition of Public Finance Management Act is inserted in the definition section and the portfolio of the responsible Member is corrected.

2.2. Clause 2

The introductory sentence of section 4 is amended to ensure that the functions and powers of the Corporation are executed subject to the Public Finance Management Act.

2.3 Clauses 3 and 4

These clauses deal with the appointment of the board of directors. A new appointment procedure is inserted, which includes recommendations from a committee of the Legislature.

2.4 Clause 5

The term of office of directors is extended from 18 months to 3 years to promote continuity, which term may be extended by the responsible Member, in consultation with the Executive Council.

2.5 Clause 6

Due to the insertion of the appointment procedure in clause 4, section 7 of the Act should be amended.

2.6 Clause 7

This clause provides specifically that the financial management of the Corporation is regulated by the Public Finance Management Act. All other unnecessary subsections are deleted.

2.7 Clause 8

This clause provides for the short title of the Act.



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Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, 9300 om hom nie later as **19 Februarie 2010** te bereik nie.

**TB PHITSANE
WAARNEMENDE SEKRETARIS:
VRYSTAATSE WETGEWER**

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.
-

WETSONTWERP

Tot wysiging van die Wet op die Phakisa Korporasie vir Groot Sportbyeenkomste en Sportontwikkeling, 1997, om dit onderhewig te maak aan die bepalings van die Wet op Openbare Finansiële Bestuur, 1999; om die portefeulje van die verantwoordelike Lid te wysig; om 'n aanstellingsprosedure vir die direksie in te sluit; om die aanstellingstermyn van direkteure te verleng; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie Vrystaat soos volg:-

Wysiging van artikel 1 van Wet No. 4 van 1997

1. Artikel 1 van die Wet op die Phakisa Korporasie vir Groot Sportbyeenkomste en Sportontwikkeling, 1997 (Wet No. 4 van 1997) (hierna verwys as die "Wet") word gewysig deur -

1.1 die volgende definisie na die definisie van "**verantwoordelike Lid**" in te voeg:

“ **Wet op Finansiële Openbare Bestuur**’ die Wet op Finansiële Openbare Bestuur, 1999 (Wet No. 1 van 1999);” en

1.2 die definisie van "**verantwoordelike Lid**" met die volgende definisie te vervang:

“ **verantwoordelike Lid**’ die Lid van die Uitvoerende Raad van die Provinsie verantwoordelik vir Sport, Kuns en Kultuur [, **Wetenskap en Tegnologie.**];”.

Wysiging van artikel 4 van Wet No. 4 van 1997

2. Artikel 4 van die Wet word gewysig deur die inleidende sin met die volgende sin te vervang:

“4. Die Korporasie kan, behoudens hierdie Wet, [of] enige ander wet van die Provinsie en die Wet op Openbare Finansiële Bestuur -”.

Wysiging van artikel 5 van Wet No. 4 van 1997 soos gewysig deur Wet No. 2 van 2003

3. Artikel 5 van die Wet word gewysig deur subartikel (2) met die volgende subartikel te vervang:

“(2) Die direksie bestaan uit minstens 6 en hoogstens 12 persone [wat deur die verantwoordelike Lid met die goedkeuring van die Uitvoerende Raad van die Provinsie aangestel word].”.

Invoeging van artikel 5A in Wet No. 4 van 1997

4. Die volgende artikel word hierby na artikel 5 van die Wet ingevoeg:

5 “5A. Aanstellingsprosedure van direksie van die Korporasie

10 (1) Die direksie word, onderhewig aan subartikel (2), aangestel deur die verantwoordelike Lid in oorleg met die Uitvoerende Raad van die Provinsie.

15 (2) Voor aanstelling –

 (a) moet die verantwoordelike Lid nominasies inwin in die Provinsiale Koerant en media vanaf die publiek vir die aanstelling van direkteure op die direksie;

20 (b) moet die verantwoordelike Lid die nominasies voorlê aan ‘n komitee van die Vrystaatse Provinsiale Wetgewer saamgestel ingevolge die Reëls en Orders van die Vrystaatse Provinsiale Wetgewer;

25 (c) moet die komitee beoog in paragraaf (b), binne 30 dae van ontvangs van die nominasies, voorstelle aan die verantwoordelike Lid voorlê rakende die persone wat aangestel kan word op die direksie.”

Wysiging van artikel 6 van Wet No. 4 van 1997

30 5. Artikel 6 van die Wet word gewysig deur -

 (a) subartikel (1) met die volgende subartikel te vervang:

35 “**(1)** ‘n Direkteur word aangestel vir ‘n termyn van hoogstens [18 maande] 3 jaar, bepaal in die aanstellingsdokument, [maar kan, behoudens artikel 7(1), heraangestel word] en sodanige termyn kan by verstryking, verleng word vir ‘n maksimum tydperk van 2 jaar deur die verantwoordelike Lid, in oorleg met die Uitvoerende Raad.”; en

40 (b) die invoeging van subartikel (3):

“(3) ‘n Direkteur kan heraangestel word.”.

Wysiging van artikel 7 van Wet No. 4 van 1997

45 6. Artikel 7 van die Wet word gewysig deur subartikel (3) met die volgende subartikel te vervang:

50 “(3) Indien ‘n direkteur ophou om sy of haar amp te beklee, moet die verantwoordelike Lid, behoudens die bepalings van artikel 5(2) en artikel 5A, iemand aanstel om die vakature in die direksie te vul.”.

Wysiging van artikel 13 van Wet No. 4 van 1997

7. Artikel 13 van die Wet word gewysig deur -

5 7.1 die opskrif met die volgende opskrif te vervang:

“**[Aanspreeklikheid, oudit en jaarverslag] Finansiële Bestuur**”;

10 7.2 subartikel (1) met die volgende subartikel te vervang:

“(1) [(a) **Die direksie lê ‘n begroting vir elke jaar voor vir goedkeuring deur die verantwoordelike Lid;**

15 (b) **Die beoogde begroting word aan die verantwoordelike Lid voorgelê op of oor die datum wat die verantwoordelike Lid bepaal] Die finansiële bestuur van die Korporasie word gereguleer deur die Wet op Openbare Finansiële Bestuur.”;**

20 7.3 subartikel (2) te skrap;

7.4 subartikel (3) te hernoem en subartikel (3) met die volgende subartikel te vervang:

25 “[~~(3)~~] (2) Die finansiële rekords [**bedoel in subartikel (2)(b)**] van die Korporasie word jaarliks deur die Ouditeur-generaal geoudit[**eer**].”;

30 7.5 subartikel (4) te skrap; en

7.6 subartikel (5) te skrap.

Kort titel

35 8. Hierdie Wet heet die Wysigingswet op die Phakisa Korporasie vir Groot Sportbyeenkomste en Sportontwikkeling, 2010.

MEMORANDUM

1. Doel van Wet

Die Wet op die Phakisa Korporasie vir Groot Sportbyeenkomste en Sportontwikkeling, 1997 (die “Wet”) moet ooreenkomstig met die Wet op Openbare Finansiële Bestuur, 1999 gebring word. Huidiglik maak die aanstellingsproses nie voorsiening vir publieke deelname nie. Die Wet word dus gewysig om publieke deelname in te sluit. Verder, om kontinuïteit van die direksie te versterk, word die maksimum termyn verleng tot 3 jaar wat verder verleng mag word.

2. Klousule-vir-klausule uiteensetting

2.1 Klousule 1

Die definisie van Wet op Openbare Finansiële Bestuur word ingevoeg in die woordomsrywingsartikel en die portefeulje van die verantwoordelike Lid word reggestel.

2.2 Klousule 2

Die inleidende sin van artikel 4 word gewysig om te verseker dat die werksaamhede en bevoegdhede van die Korporasie onderhewig aan die Wet op Openbare Finansiële Bestuur uitgevoer word.

2.3 Klousule 3 en 4

Hierdie klousules handel met die aanstelling van die direksie. ‘n Nuwe aanstellingsprosedure word ingevoeg wat aanbevelings van ‘n komitee van die Wetgewer insluit.

2.4 Klousule 5

Die termyn van direkteure word verleng van 18 maande tot 3 jaar om kontinuïteit te bevorder, welke termyn deur die verantwoordelike Lid, in oorleg met die Uitvoerende Raad, verleng kan word.

2.5 Klousule 6

As gevolg van die invoeging van die aanstellingsprosedure in klousule 4, moet artikel 7 van die Wet gewysig word.

2.6 Klousule 7

Hierdie klousule maak spesifiek voorsiening daarvoor dat die finansiële bestuur van die Korporasie deur die Wet op Openbare Finansiële Bestuur gereël word. Alle ander onnodige subartikels word geskrap.

2.7 Klousule 8

Hierdie klousule maak voorsiening vir die kort titel van die Wet.