



Chair of NPO Working Group
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Honorable Minister Zulu

Nonprofit Amendment Bill 2021

We write as members of a Working Group mandated by 180 representatives from non-profit organisations (NPOs) to brief the non-profit and civil society sector on matters pertaining to the NPO Amendment Bill. We note that we have been in mutually helpful discussions with representatives of the Department of Social Development (DSD) Non Profit Directorate regarding the Bill. These have led to greater understanding of the intentions of the DSD, by the NPO sector, and in turn, more awareness by the DSD of the strong reservations which numerous NPOs have regarding aspects of the Bill.

The interventions to date are summarised in the list of communiqués attached hereto.

We support the sentiments that have led to the drafting of the Bill, with the intention that the Bill aims to lesson administrative bottlenecks and to remedy governance challenges. Though we understand and support the intention to cut red tape, improve efficiencies and create an enabling environment, in practice, however, the proposed changes are complex and often contradict such intentions.

The sector thus has many misgivings about the Bill in its current form. We outline below considerations, both regarding the Bill, and related matters such as broader relations and communication between the NPO sector and the DSD.

1. Drafting of the NPO Amendment Bill : We believe that the Bill, as it currently stands, is not fit for purpose and should be recalled immediately. Our concerns include but are not limited to the following:
 - a. The drafting of the Bill is substandard and has many errors.
 - b. Many clauses are open to interpretation and are ambiguous.

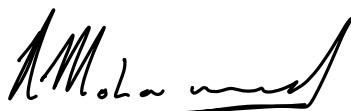
- c. Some clauses are unconstitutional and would result in litigation.
- d. The content of the Bill is not purely administrative. The Bill has policy implications and is onerous in its impact on the sector.
2. Sector participation: It is imperative that the sector is able to participate fully in the policy development process that will lead to the review and amendment of the NPO Act.
3. Covid-19 pandemic: Given that clauses of the Bill were drafted in 2018, the proposed legislation does not take into account the devastating and long-term impact of the Covid-19 pandemic (and the resulting two-year State of Disaster) on the sector. Numerous NPOs are struggling to cope with diminished leadership and scarce donor funding, while simultaneously grappling with increased demands for their services and/or a shift in focus of services. It is essential to incorporate input from the sector, in this Covid-19 context.
4. Insufficient resources in the NPO Directorate: There is limited capacity in both national and provincial departments of the DSD to focus on the Bill, the implementation of the NPO Act, and for effective coordination with the NPO sector generally. This includes insufficient coordination, alignment and communication regarding governance responsibilities in the provincial departments. This is severely impacting the sector.

Based on the above, we propose the following:

1. The NPO Amendment Bill 2018 be recalled. A joint drafting committee be formed in its place with civil society organisations and the DSD.
2. The joint drafting committee be tasked with initiating and completing a review of a comprehensive NPO policy and legislative framework.
3. Time-frames and a process of consultation on the policy development for a new NPO Act to be shared with the NPO sector.
4. Measures to be put in place by government, to support NPOs impacted by the pandemic, to be shared with the sector by the end of May 2022.

We look forward to your response so that we can take the process forward together and address the obstacles currently impeding the achievement of our joint mandates.

Kind regards



Nazeema Mohamed
Chair: The NPO Working Group

For more details on these communiques, see <https://www.inyathelo.org.za/important-information.html>

1. Communiqué 1: 28 October 2021
Inyathelo webinar convened on 21 October 2021 on the DSD's call for comments on the Non-Profit Amendment Bill 2021.
2. Communiqué 2: 3 November 2021
The Working Group on the Nonprofit Organisation Amendment Bill (WG-NOAB) submitted a letter requesting an extension to the deadline for comments on the NPO Amendment Bill, along with preliminary comments on the Bill to the Acting Director-General, Mr. Mchunu, on 31 October 2021.
3. Communiqué 3: 9 November 2021
Further communication with the DSD. Agenda received for a meeting scheduled for 10 November 2021.
4. Communiqué 4: 16 November 2021
Comments and resolutions from the meeting of 10 November 2021, called by the DSD to address the concerns raised by the Working Group regarding the NPO Amendment Bill and a request for a deadline for comments by civil society organisations.
5. Communiqué 5: 3 March 2022
On 27 January 2022, the Working Group emailed Chief Director: NPO Information and Registration Management, Mpho Mngxitama, to query the outcome of Cabinet's decision on the request for an extension to the date for submissions on the NPO Amendment Bill.
6. Communiqué 6: 11 March 2022
Virtual meeting with the NPO sector on 10 March 2022 with feedback on the NPO Act Amendment process.
7. Communiqué 7: 23 March 2022
Subsequent to the last communication wherein nominations were requested to attend the meeting proposed by DSD and planned for 23 March 2022, the DSD advised that this meeting would only be convened virtually.
8. Communiqué 8: 25 March 2022
The NPO representative Working Group and nominees from the NPO sector participated in a virtual meeting organised by the DSD on 23 March to discuss the NPO Amendment Bill. Although the original intention of the meeting was a workshop format, the DSD conducted the meeting as a structured presentation with question-and-answer slots at the end of each presentation.
9. Communiqué 9: 06 April 2022
It was advised that the NPO Working Group would host a workshop on 13 April, that would help the NPO sector make submissions on the NPO Act Amendment Bill, 2021. The Working Group would also present its views on the next steps to be followed.