

THE SCIENTIFIC RESEARCH COUNCIL ACT

No 46 of 1988
(as amended by Act 71/1990)

STATUTES OF THE REPUBLIC OF SOUTH AFRICA – SCIENTIFIC RESEARCH SCIENTIFIC RESEARCH COUNCIL ACT NO. 46 OF 1988

(ASSENTED TO 15 APRIL 1988)

(DATE OF COMMENCEMENT: 1 JUNE 1988)

(English text signed by the State President)

as amended by

Scientific Research Amendment Act, No. 71 of 1990

ACT

To provide for the continued existence of the Council for Scientific and Industrial Research and for the management thereof by a Board; and for matters connected therewith.

1. **Definitions** – In this act, unless the context otherwise indicated –

“**Board**” means the Board referred to in Section 7;

“**Chairman**” means the chairman of the Board appointed in terms of section 7 (2)(a);

“**Executive Management Board**” means the Executive Management Board referred to in section 8;

“**Minister**” means the Minister to whom the administration of this Act has been assigned in terms of section 20;

“**President**” means the person appointed in terms of section 10 as the chief executive officer of the CSIR;

“**Regulation**” means a regulation in force in terms of this Act;

“**Research**” means the augmentation and improvement of knowledge through scientific investigations and methods directed towards the scientific and technological requirements of the private and public sectors, including the solution of relevant problems in the national interest, and includes the development, acquisition and transfer of expertise and technology;

(Definition of “research” submitted by s. 1 of Act No. 71 of 1990.)

“**the CSIR**” means the Council for Scientific and Industrial Research referred to in section 2;

“**This Act**” includes a regulation.

2. **Continued existence of Council for Scientific and Industrial Research.** –

(1) The Council for Scientific and Industrial Research established by section 2 of the Scientific Council Act, 1945 (Act No. 33 of 1945), shall, notwithstanding the repeal of the

Scientific Research Council Act, 1984 (Act No. 82 of 1984), by this Act, continue to exist as a juristic person known as the CSIR.

- (2) The registrar of deeds concerned shall make the entries or endorsements in or on any a relevant register, title deed or other document in his office to him, that he may deem necessary in order to give effect to the provisions of subsection (1), and no office fee or other charge shall be payable in respect of any such entry or endorsement.

3. **Objects of CSIR.-** The objects of the CSIR are, through directed and particularly multi-disciplinary research and technological innovation, to foster, in the national interest and in fields which in its opinion should receive preference, industrial and scientific development, either by itself or In co-operation with principals from the private or public sectors, and thereby to contribute to the improvement of the quality of life of the people of the Republic, and to perform any other functions that may be assigned to the CSIR by or under this Act.

(S.3 substituted by s. 2 of Act No. 71 of 1990)

4. Functions, powers and duties of CSIR.-

(1) The functions of the CSIR shall be to achieve its objects with the means at its disposal, and for the purposes of achieving those objects the CSIR may-

- (a) undertake research in connection with-
- (i) the better utilization of the resources of the Republic, and the improvement of the productive capacity of its population;
 - (ii) the improvement of technical processes and methods to improve industrial production, and the promotion and the expansion of existing, and the establishment of new industries;
 - (iii) standardization in industry and commerce;
- (b) utilize the technological expertise in its possession or make it available to any person;
- (c) foster the training of its manpower;

(Para. (c) substituted by s. 3 (a) of Act No. 71 of 1990.)

- (d) publish information concerning its objects and functions, and establish facilities for the collection and dissemination of information in connection with research;
- (e) establish and control facilities in those fields of research which the Board may from time to time approve;
- (f) co-operate with State departments, societies, institutions and other persons that are nationally or internationally involved in research.

(Para. (f) substituted by s. 3 (b) of Act No. 71 of 1990.)

(2) The CSIR may-

- (a) test and calibrate precision instruments, gauges and other apparatus, determine their degree of accuracy, and issue certificates in regard thereto on payment of the fees and subject to the conditions which the Board may determine;

- (b) Approve, subject to the conditions that the Board may determine, of facilities, under the control and supervision of other persons, for the testing and calibration, and for the determination of the degree of accuracy, of precision instruments, gauges and other apparatus, and those persons may issue certificates in regard thereto on payment of the fees approved by the Board-
- (3) The CSIR shall maintain primary scientific standards of physical quantities for the Republic. and compare those standards with international standards from time to time.
- (4) For the achievement of its objects contemplated in section 3, the CSIR may in the field of research co-operate with departments of State, universities, technikons, colleges, scientific institutions and other persons.

(Sub-s. (4) substituted by s. 3 (c) of Act No. 71 of 1990.)

- (5) The CSIR may, in order to fulfil its functions or attain any of its objects-
 - (a) enter into agreements with any, person or, subject to the provisions of section 5, any government or administration. on the terms and conditions upon which the Board and that person, government or administration agree;
 - (b) purchase or otherwise acquire, or possess or dispose of movable and immovable property, and hire, let pledge or otherwise encumber that property;
 - (c) borrow money from time to time on the terms and conditions approved by the Board by way of loans from any source and against the security which the Board may deem fit;
 - (d) establish any company, or in association with any person establish a company, for the purpose of developing or exploiting in any manner whatsoever any invention or technological expertise, and for this purpose acquire an interest in or control over a company or statutory body;
 - (e) perform or exercise any function or power entrusted to or conferred upon the CSIR by any other Act, and
 - (f) in addition to the other things which the CSIR is required or empowered to do in terms of the other provisions of this Act or in terms of any other Act, do everything which is conducive to the achievement of its objects or is calculated directly or indirectly, to enhance the value of or render profitable the property or rights of the CSIR.
- (6) The CSIR shall, subject to its other functions in terms of this Act or any other Act-
 - (a) undertake the investigations or research which the Minister may require; and
 - (b) advise the Minister on research in general.

4. Exercise of powers of CSIR outside Republic.-

- (1) The CSIR may at the request or with the prior approval of the Minister undertake research in any territory outside the Republic on behalf of any person (including any government or administration) in any such territory.
- (2) Subject to the provisions of subsection (3) the provisions of this Act shall, in so far as they can be applied, apply *mutatis mutandis* in connection with the exercising by the CSIR of its powers in terms of this section as if the territory in which it so exercises its powers were within the Republic.

- (3) Notwithstanding anything to the contrary in this Act contained, the terms and conditions on which the CSIR may undertake research in terms of subsection (1), shall be such as may be agreed upon by the CSIR and the person (including any government or administration) on whose behalf research is to be undertaken, and approved of by the Minister.
- (4) The Minister may with the concurrence of the Minister of Finance indemnify the CSIR against any losses which it may incur consequent on any act or omission of the government or administration of any territory outside the Republic.

6. Transfer of functions and powers of CSIR.-

- (1) Subject to the provisions of sub-section (2) the Minister may, after consulting with the Board, in writing transfer any function or power of the CSIR to any body of persons established by or under any Act of Parliament or to any department of State to be performed or exercised by that body or department of State to the exclusion of the CSIR.
- (2) The transfer referred to in subsection (1) shall be made only with the concurrence of the other Minister concerned of the other authority whose relationship to the body concerned in the opinion of the Minister materially corresponds to the Minister's relationship to the Board.
- (3) The Minister may with the concurrence of the Board determine that any property (excluding land and buildings) of the CSIR used by the CSIR in connection with the performance or exercise of the function or power transferred in terms of subsection (1), shall be transferred to the body of persons or department of State concerned.
- (4) The Minister may with the concurrence of the Minister of Finance and after consulting with the Board, determine that such part of the funds of the CSIR as would, during the financial year in which the transfer contemplated in subsection (1) takes place, have been utilized by the CSIR in connection with the function or power in question, shall be paid over to the body of persons or department of State concerned, in order to be utilized by that body or department of State in connection with the performance or exercise of that function or power.

7. Control over, and management of affairs of, CSIR.-

- (1) The affairs of the CSIR shall be managed by a board, which shall determine the policy and objectives of the CSIR and shall exercise control generally over the performance of its functions, the exercise of its powers and the execution of its duties by the CSIR.
- (2) The Board shall consist of-
 - (a) a chairman, appointed by the Minister after consultation with the Board.
 - (b) not fewer than five but not more than nine other members, appointed by the Minister, and
 - (c) the president, who shall serve on the Board by virtue of his office.

(Sub-s. (2) substituted by s. 4 of Act No. 71 of 1990)

- (3) A member of the Board, excluding the president, shall hold office for a period not exceeding three years, but shall be eligible for reappointment.
- (4) The chairman and the members of the Board, excluding a member who is in the full-time employment of the State, shall be appointed on such conditions, including conditions relating to the payment of remuneration and allowances, as the Minister may determine with the concurrence of the Minister of Finance.

- (5) The members of the Board, including the chairman, shall all be persons who have achieved distinction in science or industry or who have special knowledge or experience in relation to some aspect of the CSIR's functions.
- (6) The chairman, or in his absence a member of the Board elected by the members present, shall preside at any meeting of the Board.
- (7)(a) The Minister may from time to time reserve any matter provided for in this Act, as a matter in respect of which a decision of the Board shall be subject to the consent of the Minister.
- (b) The Minister and the Minister of Finance may jointly, from time to time reserve any financial matter provided for in this Act as a matter in respect of which a decision of the Board shall be subject to the consent of the Minister with the concurrence of the Minister of Finance.

8. Executive Management Board.-

The Board shall appoint an Executive Management Board, which shall consist of the president and so many other members, who shall be employees of the CSIR, as the Board may deem necessary, and which shall be responsible for the management of the affairs of the CSIR in accordance with the policy and objectives set by and subject to the directives and control of the Board.

9. Committees for specific purposes.-

- (1) The Board may nominate one or more committees, which may subject to the instructions of the Board, perform those functions of the Board that the Board may determine.
- (2) Such a committee shall consist of one or more members of the Board, including employees of the CSIR, as the Board deems necessary and the Board may at any time dissolve or reconstitute such a committee.
- (3) If a committee referred to in subsection (1) consists of more than one member, the Board shall designate a member of the committee as chairman thereof.
- (4) The Board shall pay the members of a committee referred to in subsection (1) who are not employees of the CSIR the remuneration and allowances determined by the Board.
- (5) The Board shall not be absolved from any functions performed in terms of the provisions of this section by any committee of the Board.

10. President of CSIR.-

- (1) The Board shall appoint the chief executive officer of the CSIR, who shall occupy the post of president of the CSIR.
- (2) The president shall be the chairman of the Executive Management Board and, in collaboration with the Executive Management Board, shall be responsible for the management of the affairs of the CSIR and shall report on those affairs to the Board as may be required of him by the Board.
- (3) The president shall be appointed for a period of not more than five years on the conditions, including conditions relating to the payment of remuneration and allowances, that the Board may determine.
- (4) Whenever for any reason the president is absent or unable to carry out its duties, or whenever there is a vacancy in the office of the president, the Board may, subject to such conditions and

the payment of such remuneration and allowances as it may determine, appoint an employee of the CSIR to act as president during such absence or inability, or until a president has been appointed in terms of subsection (1), and that other person shall, while so acting, have all the powers and perform all the duties of the president.

11. Meetings of Board.-

- (1) The meetings of the Board shall be held at such times and places as the Board may fix.
- (2) The chairman may at any time call a special meeting of the Board, which shall be held at such time and place as he may direct.
- (3) The quorum for a meeting of the Board shall be a majority of its members.
- (4) A decision of the Board shall be taken by resolution of the majority of the members present at any meeting of the Board and, in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote as a member of the Board.

12. Staff of CSIR and conditions of service.-

- (1) (a) The Board may upon the conditions which it may determine appoint the employees of the CSIR whom it deems necessary to assist the CSIR in the performance of the CSIR's functions.
 - (b) The CSIR shall out of its funds pay to its employees such remuneration as the Board may determine in accordance with a system approved from time to time for that purpose by the Minister, with the concurrence of the Minister of Finance.
 - (c) In addition to the remuneration payable to employees of the CSIR in terms of paragraph (b), the CSIR may out of its funds pay its employees such allowances, subsidies and other benefits as the Board may approve.
 - (d) The Board may, on such conditions as it may deem fit, second an employee of the CSIR, either for a particular service or for a period of time, to the service of a department of State, the government of any other country or territory, or a person in or outside the Republic, provided such an employee's rights, privileges and benefits by virtue of his conditions of service as an employee of the CSIR are not adversely affected by such secondment: Provided that an employee shall not be seconded to the service of the government of such other country or territory, or such person outside the Republic, unless the employee consents thereto.
- (2) The Board may from time to time, on the conditions and against the security it deems fit-
 - (a) lend money or provide collateral security, including guarantees, to a registered financial institution in respect of a loan granted to an employee by that financial institution, to enable the employee to acquire, improve or enlarge immovable property for residential purposes, and may secure money so lent to an employee by the registration of a bond in its favour, and may cede or alienate a bond so registered.
 - (b) build, cause to be built, purchase or rent houses, flats or flat buildings for occupation by employees, and may sell or let those houses or flats to employees, or otherwise dispose of, let or otherwise deal with those houses, flats or flat buildings;
 - (c) establish, institute, erect or maintain sports or recreational societies, social clubs, social and health services, restaurants, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in its opinion may be beneficial to its employees;

- (d) advance from the Board's funds an amount of money to any employee of the CSIR in order to enable him to become a member of the pension fund established under the Associated Institution Pension Fund Act, 1963 (Act No. 41 of 1963).

13. Discoveries, inventions and improvements by employees of CSIR.-

- (1) Subject to the provisions of subsection (4) the rights in all discoveries and inventions and in all improvements in respect of processes, apparatus and machines made by employees of the CSIR in the course of their employment as employees of the CSIR shall vest in the CSIR, which shall make such discoveries, inventions and improvements available for use in the public interest subject to such conditions and the payment of such fees or royalties as the CSIR may determine.
- (2) If the rights in any discovery, invention or improvement are in terms of sub-section (1) vested in the CSIR, the Board may award to the discoverer or inventor in question such bonus as it deems fit, or make provision for financial participation by him in the profits derived from such discovery or invention.
- (3) The CSIR may apply for a patent in respect of any discovery, invention or improvement contemplated in subsection (1), and shall for the purposes of the Patents Act, 1978 (Act No. 57 of 1978), be regarded as the assignee of the discoverer or inventor in question.
- (4) The rights in a discovery, invention or improvement made by the CSIR in the course of an investigation for or on behalf of another person, government or administration shall vest in the CSIR unless it is otherwise agreed.

14. Auditing and annual report.-

- (1) The Auditor-General shall audit the accounts and balance sheet of the CSIR.
- (2)(a) The Board shall furnish to the Minister such information as he may call for from time to time in connection with the activities and financial position of the CSIR, and shall in addition submit to the Minister an annual report, including a balance sheet and a statement of income and expenditure certified by the Auditor-General, an estimate of expenditure in respect of the following financial year, and such other particulars as the Minister may require.
- (b) The Minister shall lay the said report on the Table in Parliament within 14 days after the receipt thereof, if Parliament is in ordinary session, or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

15. Financing of CSIR.-

- (1) The funds of the CSIR shall consist of-
 - (a) money appropriated by Parliament to enable the CSIR to perform its functions,
 - (b) money paid to the CSIR in terms of section 8 (3) (b) of the Coal Act. 1983 (Act No. 32 of 1983);

- (c) revenue obtained by virtue of the provisions of subsections (4) and (5);
 - (d) money borrowed by the CSIR in terms of section 4 (5) (c);
 - (e) fees or royalties referred to in section 13 (1) which are paid to the CSIR;
 - (f) the proceeds from the sale of shares and from dividends on shares held by the CSIR in any company referred to in section 4 (5) (d);
 - (g) donations or contributions which the CSIR may receive from any person, body, government or administration.
- (2) (a) Subject to the provisions of section 9 (4) of the Coal Act, 1983, the CSIR shall utilize its funds for defraying expenses in connection with the performance of its functions or the exercise of its powers.
- (b) The CSIR shall utilize any money contemplated in subsection (1)(a) in accordance with the statement of its estimated income and expenditure referred to in sub-section (3), as approved by the Minister: Provided that, subject to the provisions of paragraph (a), the CSIR may utilize any amount or portion of any amount required to be so utilized for a particular purpose in connection with a specified matter for any other purpose in connection with that matter: Provided further that the CSIR may utilize any balance of such money remaining at the end of the CSIR's financial year in question for any expenses in connection with the exercise of its powers or the performance of its functions.
- (c) The CSIR shall utilize any donations or contributions contemplated in sub-section (1) (g) in accordance with conditions (if any) imposed by the donor or contributor in question.
- (3) (a) The Board-
- (i) shall in each financial year, at a time determined by the Minister, submit a statement of the CSIR's estimated income and expenditure during the following financial year;
 - (ii) may in any financial year submit supplementary statements of the CSIR's estimated expenditure, for that financial year, to the Minister for his approval, granted with the concurrence of the Minister of Finance.
- (b) The CSIR shall not incur any expenditure which exceeds the total amount approved under paragraph (a).
- (4) The CSIR may, in respect of any work completed or services rendered by it under this Act, or for the use of its facilities or rights consequent upon any discoveries, inventions or improvements, charge such fees or make such other financial arrangements as it may deem fit.
- (5) The Board may at its discretion invest any unexpended portion of the CSIR's money.
- (6) The CSIR may establish such reserve funds, and deposit therein such amounts, as it may deem necessary or expedient.

16. Accounting officer.-

In addition to the other functions and duties entrusted to him by this Act, the president shall be the accounting officer charged with the responsibility of accounting for all money received, the utilization thereof and the use and care of the property of the CSIR.

(5. 16 substituted by s. 5 of Act No. 71 of 1990)

17. Recovery of losses and damage.-

- (1) If a person who is or was in the employment of the CSIR caused the CSIR any loss or damage because he-
 - a) failed to collect money due to the CSIR and for the collection of which he is or was responsible;
 - (b) is or was responsible for an irregular payment of money of the CSIR or for a payment of such money not supported by a proper voucher;
 - (c) is or was responsible for fruitless expenditure of money of the CSIR owing to an omission to carry out his duties;
 - (d) is or was responsible for a deficiency in, or for the destruction of, or any damage to money of the CSIR, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the CSIR;
 - (e) is or was responsible for a claim against the CSIR owing to an omission to carry out his duties.

the accounting officer shall determine the amount of such loss or damage, and may order that person, by notice in writing, to pay to the CSIR, within 30 days from the date of such notice, the whole or any part of the amount so determined.

- (2) If a person who is in the employment of the CSIR and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the amount shall, subject to the provisions of subsections (4), (5) and (6), be deducted from his monthly salary: Provided that such deduction shall not in any month exceed a fourth of his monthly salary.
 - (3) If a person who was in the employment of the CSIR and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice in question, the accounting officer shall, subject to the provisions of subsections (4), (5) and (6), recover the amount from the person concerned by legal process.
 - (4) If a person who has in terms of subsection (1) been ordered to pay an amount makes within the period stipulated in the notice in question, an offer to pay the amount in instalments, the accounting officer may allow payment in such instalments as he may consider reasonable.
 - (5) A person who has in terms of subsection (1) been ordered to pay an amount may within a period of 30 days from the date of such order appeal in writing against such order to the Board, stating the grounds for his appeal, and the Board may, after such investigation as it may deem necessary, dismiss the appeal, or order that the appellant be exempted, either wholly or partly, according as the Board may deem fair and reasonable, from the payment of such amount.
 - (6) A person who has in terms of subsection (1) been ordered to pay an amount may, instead of appealing to the Board under subsection (5), apply within a period of 30 days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not convinced by the accounting officer on the merits of the case that the order was rightly made or that the amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.
- 7)(a) The accounting officer may-
- (i) delegate to any employee of the CSIR any power conferred upon the accounting officer by or under this section; or

- (ii) authorize any such employee to perform any duty assigned to the accounting officer by or under this Act.
- (b) Any delegation under subsection (7) shall not prevent the exercise of the relevant power or the performance of the relevant duty by the accounting officer himself.

18. Regulations.-

- The Minister may make regulations as to-
- (1) the circumstances under which a member of the Board shall vacate his office;
 - (2) the filling of casual vacancies on the Board and the appointment of persons to act for absent members;
 - (3) the matters in respect of which fees shall be payable to the CSIR, the amount of such fees and the persons who shall be liable for the payment thereof;
 - (4) the circumstances in which any fees so paid shall be refunded;
 - (5) the procedure at meetings of the Board, and generally, as to any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the objects of this Act.

19. Delegation of functions.-

- (1) The Board may-
 - (a) delegate to the chairman, president or any other employee of the CSIR any power conferred upon the Board by or under this Act, on such conditions as the Board may determine; or
 - (b) authorize the chairman, president or that other employee to perform any duty assigned to the Board by or under this Act.
- (2) The president may-
 - (a) delegate to an employee of the CSIR any power conferred upon the president by or under this Act; or
 - (b) authorize that employee to perform any duty assigned to the president by or under this Act.
- (3) Any delegation, under subsection (1) or (2) does not prohibit the exercise of the power in question by the Board or the president, as the case may be.

20. Administration of Act.-

The State President may by proclamation in the Gazette assign the administration of this Act to any Minister, and may determine that any power or duty conferred or imposed by this Act on such Minister, shall be exercised or carried out by that Minister after consultation with one or more other Ministers.

21. Application of Act to South West-Africa.-

This Act and any amendment thereof shall apply also in the territory of South West Africa.

22. Savings.-

- (1) At the commencement of this Act anything done in terms of the provisions of the Scientific Research Council Act, 1984 (Act No. 82 of 1984), prior to such commencement and which may be done in terms of the provisions of this Act, shall be deemed to have been done in terms of the latter provisions.
- (2) If at the commencement of this Act any matter has not been disposed of by the Council for Scientific and Industrial Research or a committee thereof, the Board established in terms of this Act may continue with the disposal of the matter in accordance with the provisions of this Act, and anything done in connection with that matter shall be deemed to have been done by the Board.
- (3) Any regulation made by the State President under section 20 of the Scientific Research Council Act, 1984, and in force at the repeal of that Act by section 23 of this Act shall, notwithstanding such repeal, remain in force after the commencement of this Act in so far as it deals with any matter in respect of which the Minister may make regulations under section 18, until it is replaced by a regulation made under section 18.
- (4) The conditions of service and the remuneration applicable to the incumbent of the post of president when this Act comes into operation, shall not be altered without his approval.

23. Repeal of Act 82 of 1984.-

The Scientific Research Council Act, 1984, is hereby repealed.

24. Short title.-

This Act shall be called the Scientific Research Council Act, 1988, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.