

REPUBLIC OF NAMIBIA

NATIONAL ASSEMBLY

**NAMIBIA FINANCIAL
ASSISTANCE FUND AMENDMENT
BILL**

(As passed by the National Assembly)

(Introduced by the Minister of Higher Education, Technology and Innovation)

BILL

To amend the Namibia Financial Assistance Fund Act, 2000, so as to insert new definitions; to provide and enhance objects of the Act and Fund; to integrate the Fund under the auspices of the Ministry of Higher Education, Technology and Innovation; to expand provisions regarding approval of institutions of higher education; to reconstitute the Namibia Students Financial Assistance Fund Board and rename it to the Selection and Advisory Board to advise the Minister; to expand provisions regarding secretariat of the Fund; to expand provisions of finances of the Fund; to make provision for the application and selection processes; to make provision relating to the recovery of loans, and to provide for incidental matters.

(Introduced by the Minister of Higher Education, Technology and Innovation)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Substitution of long title of Act 26 of 2000

1. The Namibia Students Financial Assistance Fund Act, 2000 (in this Act referred to as the principal Act) is amended by the substitution for long title of the following long title:

“To provide for the establishment of the Namibia Students Financial Assistance Fund; to provide for the management and control of the said Fund by the Namibia Students Financial Assistance Fund Selection and Advisory Board; to provide for the constitution of the said Board; to define the powers, duties and functions of the said Board; to empower the Minister to establish by regulation a policy framework for the granting of financial assistance to eligible students at approved institutions of higher education; and to provide for matters incidental thereto.”

Amendment of section 1 of Act 26 of 2000

2. Section 1 of principal Act is amended by –

- (a) the deletion of the definition “additional member of the Board”;
- (b) the substitution for the definition “Board” of the following definition:

““Board” means the Namibia Students Financial Assistance Fund Selection and Advisory Board referred to in section 5;”;

- (c) the insertion after the definition of “Board” of the following definitions:

““borrower” means a student to whom a loan has been awarded in terms of this Act;”;

“Executive Director” means the person appointed as the Executive Director of the Ministry;”;

- (d) the insertion after the definition of “Fund” of the following definitions:
- ““grant” means the form of financial assistance awarded to a student on multi-dimensional parameters, including but not limited to academic excellence, marginalised status and multilateral scholarship or special initiative, and for which the beneficiary is not expected to repay, save if the beneficiary commits breach of contract;
- “grantee” means a student to whom a grant has been made in terms of this Act;”;
- (e) the substitution for the definition of “higher education” of the following definition:
- ““higher education” means all learning programmes leading to qualifications higher than grade Namibia Senior Secondary Certificate at Advanced Subsidiary Level or Higher Level or its equivalent, and includes tertiary education as contemplated in Article 20(4) of the Namibian Constitution and vocational education and training as defined in section 1 of the Vocational Education and Training Act, 2008 (Act No. 1 of 2008);”;
- (f) the insertion after the definition of “higher education” of the following definitions:
- ““institution of higher education” means an institution that provides higher education and which is –
- (a) contemplated in the Vocational Education and Training Act, 2008 (Act No. 1 of 2008);
- (b) established by or under the law; or
- (c) registered as a private higher education institution under the Higher Education Act, 2003 (Act No. 26 of 2003);”; and
- ““loan” means the form of financial assistance awarded to a student on multidimensional parameters, including but not limited to academic excellence, marginalized status and multilateral scholarship or special initiative, for which the beneficiary is expected to repay;”;
- (g) the insertion after the definition “Minister” of the following definition:
- ““Ministry” means the Ministry responsible for higher education;”;
- (h) the insertion after the definition “prescribed” of the following definition:
- ““secretariat” means the secretariat of the Fund established in terms of section 12;”; and
- (i) the substitution for the definition of “student” of the following definition:
- ““student” means a person who -
- (a) is a Namibian citizen; and

- (b) is eligible for admission or is **[admitted]** enrolled for an accredited course of study at a local institution of higher education registered with the Council of Higher Education or a foreign institution registered with an equivalent regulatory body in the host country;”.

Insertion of section 1A into Act 26 of 2000

3. The principal Act is amended by the insertion after section 1 of the following section:

“Objects of Act

1A. The objects of this Act are to establish the Namibia Students Financial Assistance Fund and the Namibia Students Financial Assistance Fund Selection and Advisory Board to provide financial assistance to eligible students at approved institutions of higher education and advise the Minister on student funding matters and policy related matters.”.

Substitution of section 2 of Act 26 of 2000

4. The principal Act is amended by the substitution for section 2 of the following section:

“2. (1) The Minister may, from time to time, by notice in the *Gazette*, approve one or more -

- (a) local institutions of higher education based on the registration status with the Council of Higher Education; and
- (b) foreign institutions of higher education based on the registration status with a regulatory body in the host country, equivalent to the Council of Higher Education.

in respect of which students can, for this Act, qualify for financial assistance.

(2) An institution of higher education that has not been approved as contemplated in subsection (1), may apply to the Minister to be approved as contemplated in that subsection.

(3) An application referred to in subsection (2) shall –

- (a) be in the prescribed manner and form;
- (b) be submitted to the Ministry before the end of June of each year;
- (c) be accompanied by documents and information as may be prescribed;
and
- (d) be accompanied by the receipt of payment of the prescribed fee.

(4) The Minister shall give notice in the *Gazette* of local institutions of higher education approved in terms of subsection (1) (a) and subsection (2) and foreign institutions of higher education approved in terms of subsection (1)(b).”

Substitution of section 3 of Act 26 of 2000

5. The principal Act is amended by the substitution of section 3 for the following section:

“3. (1) There is hereby established a fund to be known as the Namibia Students Financial Assistance Fund, which shall consist of -

- (a) moneys appropriated by Parliament for student funding for the achievement of its object;
- (b) **[moneys borrowed under section 10(d)]**
- (c) domestic and foreign grants, donations or bequests made for student funding subject to approval by the Treasury;
- (d) interest derived from the investment of moneys referred to in section 10(f); and
- (e) moneys accruing to the Fund from any other source, including repayments of financial assistance.

(2) The Fund shall be a **[juristic person]** department under the Ministry responsible for higher education and controlled by the Board subject to the policy direction of the Minister, and have the objects, functions and powers provided for in this Act.”.

Substitution of section 4 of Act 26 of 2000

6. The principal Act is amended by the substitution for section 4 of the following section:

“4. The object of the Fund is to contribute to the national human capital development through the provision of financial assistance, subject to this Act, to students in order -

- (a) to enable students to study or to do research; and
- (b) more specifically, but without limiting the foregoing, to facilitate the training of students in prescribed courses or fields of study at approved institutions of higher education.”.

Substitution of section 5 of Act 26 of 2000

7. The principal Act is amended by the substitution for section 5 of the following section:

“5. (1) The affairs of the Fund shall be **[managed and]** controlled by a board to be known as the Namibia Students Financial Assistance Fund Selection and Advisory Board which is hereby established and which shall exercise the powers and perform the duties and functions conferred or imposed upon the Board by or under section 10 **[of this Act.]** and subject to the policy direction of the Ministry.

(2) The affairs referred to in subsection (1) include the business processes of the Fund, including –

- (a) invitations for applications for financial assistance;
- (b) selection of successful applicants;
- (c) awarding loans and grants and contracting regarding loans and grants; and
- (d) repayments and recovery of loans.

(3) Notwithstanding subsection (1), the Minister may outsource or delegate by notice in the *Gazette* the repayment and recovery of loans function to any competent entity.”.

Substitution of section 6 of Act 26 of 2000

8. The principal Act is amended by the substitution for section 6 of the following section:

“Constitution of Selection and Advisory Board

6. (1) The Board shall consist of not less than five and not more than nine members as the Minister may appoint, of whom the Executive Director shall be the chairperson of the Board.

(2) The Minister shall designate any other member of the Board as the vice chairperson of the Board.

(3) The remuneration and allowances of a member of the Board, shall be determined by the Minister, in concurrence with the Minister responsible for finance.

(4) A person may not be appointed as a member of the Board under the subsection (1) if that person -

- (a) is not a Namibian citizen;
- (b) is a member of Parliament, a regional council or a local authority council;
- (c) has been convicted, whether in Namibia or elsewhere of theft, corruption, fraud, forgery or perjury or any other offence involving dishonesty;
- (d) is an unrehabilitated insolvent;
- (e) has under any law been declared to be of unsound mind; or
- (f) has been removed from an office of trust.

(5) The Minister shall give notice in the *Gazette*, of the names, date of appointment and period of appointment of persons appointed as members of the Board in terms of subsection (1). [(1) The Board shall, subject to subsection (2)(a), consist of five members appointed by the Minister, and who shall -

- (a) be Namibian citizens permanently resident in Namibia; and
 - (b) be persons who, in the opinion of the Minister, are of high standing and merit and are suited to serve on the Board by virtue of their qualifications, expertise and experience.
- (2) The Board shall, subject to subsection (2)(a), consist of five members appointed by the Minister, and the Minister may -
- (a) if he or she deems it expedient, for a particular purpose and on such terms and conditions and for such period as he or she may determine, but subject to subsection (5), appoint one other fit person as an additional member of the Board, but such additional member shall not have the right to vote at meetings of the Board;
 - (b) having regard to subsection (1), appoint an alternate member to every member of the Board appointed under that subsection.
- (3) An alternate member appointed under subsection (2)(b) shall act as member of the Board only when the member to whom he or she is alternate is for any reason absent or unable to perform his or her functions on the Board.
- (4) The Minister shall designate a member of the Board appointed under subsection (1) as chairperson and another such member as vice-chairperson of the Board.
- (5) A member or an alternate member of the Board (including an additional member of the Board) who is not in the full-time employment of the State shall be paid from the Fund such remuneration and allowances, if any, as the Minister with the concurrence of the Minister responsible for Finance may from time to time determine.]

Substitution of section 7 of Act 26 of 2000

9. The principal Act is amended by the substitution for section 7 of the following section:

“(1) Subject to subsection (2), a member of the Board, other than the chairperson of the Board whose term office is pegged to his or her official capacity as the Executive Director, shall hold office for a term of three years and shall, upon the expiry of his or her term of office, be eligible for reappointment.

“(2) Persons who at the commencement of this Act held office as members of the Board may continue to hold office until the expiry of their term of office or for six months, whichever period is the shorter, from the date of commencement of this Act.

“(3) A person who serves as member of the Board may serve no more than two terms of office.

“(4) A member of the Board shall cease to hold office -

“(a) if his or her estate is sequestrated, or he or she enters into a compromise with his or her creditors;

- (b) if he or she, by notice in writing addressed and delivered to the Minister, resigns as a member of the Board;
- (c) if her or she is in terms of any law detained as a person with a mental disability;
- (d) if he or she is, whether in Namibia or elsewhere, convicted of any offence and sentenced to imprisonment without the option of a fine;
- (e) if he or she is removed from office under subsection (3) by the Minister;
or
- (f) if he or she is absent from three consecutive meetings of the Board without leave of the chairperson of the Board.

(5) The Minister may at any time, after having afforded a member of the Board an opportunity to be heard, in writing remove such member or alternate member from office if the Minister is satisfied that such member or alternate member is for whatever reason unfit or unable to effectively perform his or her functions on the Board.

(6) If a member of the Board for any reason ceases to hold office before the expiry of his or her term of office, the Minister may, having regard to the applicable provisions of section 6, appoint another person in his or her stead to hold office for the unexpired period of his or her term of office.”. [(1) **Subject to subsection (2), a member or an alternate member of the Board (other than an additional member of the Board) shall hold office for a period of three years and shall, upon the expiry of his or her term of office, be eligible for reappointment.**

(2) **A member or an alternate member of the Board shall cease to hold office -**

- (a) **if his or her estate is sequestrated, or he or she enters into a compromise with his or her creditors;**
- (b) **if he or she, by notice in writing addressed and delivered to the Minister, resigns as a member or an alternate member of the Board;**
- (c) **if her or she is in terms of any law detained as a mentally disordered person;**
- (d) **if he or she is, whether in Namibia or elsewhere, convicted of any offence and sentenced to imprisonment without the option of a fine;**
- (e) **if he or she is removed from office under subsection (3) by the Minister; or**
- (f) **in the case of such member, if he or she is absent from three consecutive meetings of the Board without leave of the Board or, in the case of such alternate member, if he or she is so absent during the absence or vacancy in the office of the member of the Board to whom he or she has been appointed as alternate member.**

(3) **The Minister may at any time, after having afforded a member or an alternate member of the Board an opportunity to be heard, in writing remove**

such member or alternate member from office if the Minister is satisfied that such member or alternate member is for whatever reason unfit or unable to effectively perform his or her functions on the Board.

(4) If a member or an alternate member of the Board for any reason ceases to hold office before the expiry of his or her term of office, the Minister may, having regard to the applicable provisions of section 6, appoint another person in his or her stead to hold office for the unexpired period of his or her term of office.

(5) The provisions of this section, except subsection (1), shall apply (so far as relevant) to an additional member of the Board as if such additional member were a member of the Board appointed under section 6(1).]

Amendment of section 9 of Act 26 of 2000

10. Section 9 of the principal Act is amended –

(a) by the substitution for subsection (2) of the following subsection:

“(2) A simple majority of [Three] voting members of the Board shall constitute a quorum for a meeting of the Board.”;

(b) by the insertion after subsection (3) for the following subsection:

“(3A) An acting chairperson referred to in subsection (3) shall at any meeting at which he or she presides, have all the powers and perform all the duties and functions of the chairperson with decisions taken at such meetings subject to the ratification of the substantive chairperson.”; and

(c) in subsection (7) by the substitution for the definition of “member” of the following definition:

““voting member” means a member of the Board entitled to vote.”.

Substitution of section 10 of Act 26 of 2000

11. The principal Act is amended by the substitution for section 10 of the following section:

“10. Subject to this Act, the Board shall exercise powers and perform duties and functions of the Board which are to –

(a) initiate formulation of policy and a regulatory framework for the administration of the Fund and the granting of financial assistance for minister’s consideration;

(b) advise the minister on all selection and award policy related issues and incidental matters;

(c) take such measures, including the engagement of governmental or non-governmental institutions, as are appropriate for the proper realisation of the objects of the Fund;

(d) recommend investigations any matter related to the object of the Fund;

- (e) advise on the manner and forms and the periods to be observed with regard to applications for financial assistance and the consideration and processing of applications for financial assistance;
- (f) advise on a system that would ensure fairness, transparency and accountability in the awarding of financial assistance to all eligible students;
- (g) advise on the appropriate funding and sustainability models to be adopted by the Fund;
- (h) advise on the appropriate criteria and conducive environment or conditions for the granting of financial assistance in consultation with key stakeholders and in support of the State's decentralisation process, including projections of priority fields of study and data on the number of students;
- (i) advise on the effective loan recovery mechanism, which includes instituting legal action in the name of the ministry for the purposes of recovery of loans;
- (j) advise on the appropriate manner for data maintenance and analysis, which will promote loan recovery; and
- (k) carry out research and advise on better administration of the Fund.”.

[10. Subject to this Act, the Board shall be accountable and responsible for the proper management, administration and control of the financial and other affairs of the Fund, and may do or cause to be done all or any of such things that are necessary or reasonably required for or incidental to the carrying into effect of the object of the Fund, and more specifically (but without derogating from the generality of the foregoing) may –

- (a) initiate formulation of policy and provide a regulatory framework for the administration of the Fund and the granting of financial assistance;**
- (b) enter into agreements (in the name of the Fund) with students on the terms and conditions under which financial assistance is provided in each case;**
- (c) take such measures, including the engagement of governmental or non-governmental institutions, as are appropriate to properly administer and control the affairs of the Fund;**
- (d) borrow money on such terms and conditions as may be approved by the Minister with the concurrence of the Minister responsible for Finance;**
- (e) accept grants, donations and bequests, and may recover any moneys due to the Fund;**
- (f) invest in its discretion any moneys standing to the credit of the Fund not immediately required for use: Provided that such investments shall be made by placements in financial institutions of good standing;**

- (g) **pay all expenses incurred for or in connection with the establishment and administration of the Fund;**
- (h) **investigate or deal with or cause to be investigated or to be dealt with any matter related to the object of the Fund; and**
- (i) **determine the manner and forms and the periods to be observed with regard to applications for financial assistance and the consideration and processing of applications for financial assistance.] Amendment of section 11 of Act 26 of 2000**

12. Section 11 of the principal Act is amended by the insertion after subsection (1) of the following subsection:

“(1A) The meetings of any committee of the Board shall be held at such times and at such places as the chairperson of committee may determine.”.

Substitution of section 12 of Act 26 of 2000

13. The principal Act is amended by the substitution for section 12 of the following section:

“12. (1) There shall be a secretariat of the Board, consisting of administrative personnel, to execute the day-to-day administration and incidental work of the Board as may be required.

(2) The administrative personnel forming the secretariat referred to in subsection (1) shall be drawn from the staff complement of the Ministry responsible for higher education and are subject to the control of the Executive Director, with the oversight of the Minister.

(3) The secretariat shall perform the administrative work in connection with the functions of the Fund and the provision of the secretarial services to the Board and any committee thereof.

(4) A person employed under subsection (1) is a staff member as defined by section 1 of the Public Service Act, 1995 (Act No. 13 of 1995).”.

“[(1) The Board may, subject to such conditions (including conditions of service) as the Minister may approve in writing, establish a secretariat and employ such number of persons as are necessary or reasonably required to discharge, subject to the directions of the Board, the day-to-day administration of and control over the Fund.

(2) A person employed by the Board under subsection (1) shall be paid from the Fund such remuneration and allowances as the Board in consultation with the Minister may from time to time determine.]”

Substitution of section 13 of Act 26 of 2000

14. The principal Act is amended by the substitution for section 13 of the following section:

“13. (1) The [Board] Ministry shall open and maintain [a] bank accounts in the name of the Fund [with a banking institution] at one or more banking institution authorised or considered to have been registered to conduct business as

banking institutions in Namibia, in terms of the Banking Institutions Act, 2023 (Act No. 13 of 2023) -

- (a) into which shall be deposited all moneys accruing to or obtained for the benefit of the Fund; and
- (b) from which shall be defrayed all expenditure in connection with the administration of the Fund and be paid any amounts with which the Fund is charged in terms of this Act.

(2) No payment contemplated in paragraph (b) of subsection (1) shall be made as a charge to the Fund except by authority of the **[Board]** Minister or of any person or persons generally or particularly authorised thereto in writing by the Minister.

(3) The **[Board]** Ministry shall apply any grant, donation or bequest contemplated in paragraph (c) of section 3(1) in accordance with the conditions, if any, imposed by the grantor, donor or bequeathed concerned.”.

Amendment of section 14 of Act 26 of 2000

15. Subsection (2) of section 14 of the principal Act is amended by the substitution for the word “Board” of the word “Ministry”.

Substitution of section 15 of Act 26 of 2000

16. The principal Act is amended by the substitution for section 15 of the following section:

“**15.** (1) Subject to subsections (2) and (3), the **[Board]** Ministry shall as soon as possible, but not later than six months after the end of each financial year, prepare, or cause to be prepared, and submit to the Minister –

- (a) annual financial statements in respect of the financial year in question, together with a report by **[the Auditor-General]** an accountant and auditor contemplated in subsection (3) relating to such statements; and
- (b) a report on its activities during that financial year.

(2) The annual financial statements referred to in subsection (1)(a) shall be in such form as the **[Board]** Minister may determine and shall contain –

- (a) detailed particulars of moneys received by the Fund and expenditure incurred by the Fund during the financial year in question; and
- (b) such additional particulars as **[the Auditor-General]** an accountant or auditor contemplated in subsection (3) may reasonably require.

(3) The accounts and records and the annual financial statements referred to in section 14(2) and subsection (1)(a), respectively, shall be examined and audited by **[the Auditor-General]** a person registered as an accountant and auditor in terms of the Public Accountants and Auditors’ Act, 1951 (Act No. 51 of 1951) and appointed by the Ministry with the concurrence of the Auditor- General.

(4) The **[Board] Ministry** shall, not later than three months before the commencement of each financial year, submit to the Minister for his or her approval an annual budget reflecting the estimated income and expenditure of the Fund for the next ensuing financial year: Provided that the **[Board] Ministry** may at any time during any financial year submit to the Minister an additional budget reflecting any additional income and expenditure of the Fund for that financial year.

(5) The Minister shall lay upon the Table of the National Assembly all the financial statements and reports, including the audit report, received by him or her in terms of subsection (1), within 30 days from the date of receipt thereof, if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.”.

Substitution of section 17 of Act 26 of 2000

17. The principal Act is amended by the substitution for section 17 of the following section:

“17. (1) Any student may, in prescribed form and manner, subject to this Act, apply **[in writing]** to the **[Board] Ministry** for financial assistance.

(2) The approval of the financial assistance in the form of a loan shall include a premium consideration for a credit insurance against the said loan amount in the event of the death of the borrower before fulfilling his or her repayment obligation.

(3) The Ministry shall secure the credit insurance referred to in subsection (2) within 30 days of approval of financial assistance in the form of a loan.”.

Amendment of section 18 of Act 26 of 2000

18. Section 18 of the principal Act is amended by the substitution for the word “Board” of the word “Ministry” where it appears.

Insertion of sections 18A to 18F in Act 26 of 2000

19. The principal Act is amended by the insertion after section 18 of the following sections:

““**Fields of study and courses to be given priority for purpose of financial assistance**

18A. The Minister, after consulting the Board, shall each year before the end of January publish by notice in the *Gazette* and post on the official website of the Ministry a list of the fields of study and courses which, for the purposes of financial assistance in terms of this Act, are to be given priority.

Third-party agreement

18B. The Ministry, with the concurrence of the Minister, may enter into third-party agreements or memoranda of understanding with offices, ministries and agencies, public institutions and public enterprises for the purposes of recovery of loans disbursed in terms of this Act.

Collaboration between Fund and other public institutions

18C. (1) For award purposes and, specifically for means testing to determine the eligibility of an applicant, the Ministry may request the Namibia Inland Revenue Agency established by the Namibia Revenue Agency Act, 2017(Act No. 12 of 2017) to share income-related information belonging to an applicant for financial assistance or the parents of such an applicant.

(2) The Ministry may inform the Namibia Inland Revenue Agency on agreed intervals, by a written notice to send by registered mail or otherwise, the list of borrowers and grantees liable for reimbursement under this Act.

(3) For debt recovery purposes, the Ministry may request the Social Security Commission established by the Social Security Act, 1994 (Act No. 34 of 1994) and the Namibian Revenue Agency to share employment-related information for a grantee or borrower of the Fund.

(4) For citizenship or national identity verification the Ministry through the Executive Director may request the ministry responsible for the maintenance of civil records to share citizenship or national identity-related information belonging to an applicant for financial assistance or the parents of such an applicant.

(5) The ministry responsible for civil records shall provide the Ministry with the information specifically requested in terms of this section, to the extent such is known to the institutions.

Repayment of loans

18D. (1) A loan shall be repaid as provided for in the loan agreement between the Fund and a borrower.

(2) A borrower may repay a loan wholly or in part before the due date.

(3) If a borrower fails to make repayments as provided for in this Act, the Ministry may place his or her name on a list of defaulting debtors published by any person or body whose business it is to compile and publish such lists.

(4) The Ministry may not place the name of a borrower on the list contemplated in subsection (3) unless the borrower –

(a) has been notified by the Ministry by registered post addressed to his or her chosen *domicilium citandi et executandi* or e-mail of failure to make repayments and of the intention of the Ministry to act in terms of subsection (3); and

(b) has been afforded a reasonable opportunity to pay the arrear amount and has failed to do so.

(5) Nothing in this subsection prevents the Ministry from instituting legal action in the magistrate court against a borrower to recover the amount due to the Fund in terms of a loan.

Loan write off

18E. The Ministry may, subject to directives issued by the Minister with the concurrence of the Minister of Finance, write off a loan awarded and disbursed to a borrower.

Loan recovery

18F. (1) Notwithstanding the provisions of the Prescription Act, 1969 (Act No. 68 of 1969), a debt incurred under this Act shall be extinguished by prescription after 30 years from the date on which such debt becomes due and payable by the borrower or grantee.

(2) In order to aid in the process of debt recovery, the Ministry may call on an employer of a borrower to share the borrower's employment information, and such employer shall comply with the request.

(3) In order to further aid in debt recovery, every borrower of the Fund shall disclose to the Fund when he or she has secured employment.

(4) A person who contravenes subsections (2) to (3) above shall be liable, on conviction, to a fine not exceeding N\$4000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment."

Substitution of section 19 of Act 26 of 2000

20. The principal Act is amended by the substitution for section 19 of the following section:

"19. No liability shall attach to the Fund, **[or, in his or her personal capacity,]** any member **[or alternate member]** of the Board **[(including an additional member of the Board)]** or any member of a committee of the Board or any staff member **[employee]** referred to in section 12(1) in respect of anything done or omitted in the *bona fide* performance of any function in terms of this Act."

Substitution of section 20 of Act 26 of 2000

21. The principal Act is amended by the substitution for section 20 of the following section:

"20. (1) The Minister may make regulations not inconsistent with this Act with regard to any matter which the Minister may **[deem]** consider necessary or expedient to prescribe in order to achieve or promote the object of this Act or to effectively administer this Act, including **[but not limited to]** -

- (a) **[the fields of study or courses which, for the purposes of financial assistance, shall be given priority;]**
- (b) the formulation of policy and the identification of national priorities and forecasts of labour power needs to be considered in connection with the granting of financial assistance after consultation with the minister responsible for finance;
- (c) the criteria for qualifying for financial assistance after consultation with the minister responsible for finance;

- (d) guidelines with regard to procedural aspects of or for the recovery of any moneys due from students or otherwise to the Fund; **[(including the payment of interest on any such moneys).]**
- (e) the obligations of employers to compel the job seekers or applicants to declare their indebtedness to the Fund at the time of application or joining employment, and for such employers to onward disclose same to the Fund and accompanying penalty for failure to do so;
- (f) the obligations of employers of borrowers of the Fund who have received financial assistance relating to deductions to be made from the salaries of those borrowers who are employed;
- (g) the funding ratios between students studying at local and international institutions of higher learning;
- (h) repayment of financial assistance granted to a borrower, after consultation with the minister responsible for finance; and
- (i) the funding ratios between students studying at public and private institutions of higher learning.

(2) A regulation made in terms of subsection (1) may prescribe penalties, for any contravention of a regulation or failure to comply with a regulation, not exceeding N\$4000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

Amendment of section 21 of Act 26 of 2000

22. Section 21 of the principal Act is amended by the deletion of paragraph (a) of that section.

Insertion of sections 21A and 21B in Act 26 of 2000

23. The principal Act is amended by inserting after section 21 of the following sections:

“Provisions of this Act prevail

21A. The provisions of this Act in so far as they advance the object of this Act shall prevail if a conflict arise between them and the provisions of any other Act.”;
and

“Transitional and savings provisions

21B. (1) Except otherwise provided in law, the assets, liabilities, rights and obligations existing in or accruing to the Fund are transferred to the department under the Ministry referred to in section 3(2).

(2) Despite any law to the contrary, the Ministry is vested with the ownership of the assets and rights, and is charged with the liabilities and obligations, transferred to it under subsection (1), with effect from the date of such transfer.

(3) The Ministry is substituted for the Fund as a contracting party in respect of any agreement transferred to the Ministry in terms of subsection (1).

(4) Contracts of employment between the Fund and staff members at the commencement of this Act are deemed to be contracts entered into between the Ministry and such staff members subject to the Public Service Act, 1995 (Act No. 13 of 1995)."

Short title and commencement

24. This Act is called the Namibia Students Financial Assistance Fund Amendment Act, 2025 and comes into operation on a date determined by the Minister by notice in the *Gazette*.
