



NPO WORKING GROUP

Collaborating to create a vibrant civil society

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NPO Working Group - Fact Sheet 2021 - 2024

1. Introduction

- The Non-Profit Organisation's (NPO) Directorate, under the Department of Social Development (DSD), published a call for comments on the Non-Profit Amendment Bill, 2018 on 5 October 2021 with 30 October 2021 as a final date for submission of comments.
- Inyathelo - The South African Institute for Advancement, was alerted by Nicole Copley to a call for comment on what she described as *"clumsily drafted, mysterious provisions and was not supported by an explanatory memo"*.
- Inyathelo then called an NPO sector-wide meeting, thereby issuing an invitation via social media and national networked organisations, to convene a webinar on Thursday 21 October to unpack fundamental changes proposed in the NPO Amendment Bill and the lack of an Explanatory Memorandum.
- The open webinar, to address the proposed amendments with the NPO sector, was hosted by Inyathelo on 21 October 2021. A 190 representatives from 170 NPOs across the country and across various sectors attended.
- Inyathelo agreed to facilitate a process for an NPO sector response, together with a representative Working Group, this includes convening meetings and hosting a page on their website to keep the public updated and informed.
- Communiqués 1 to 21 as well as research, reports and documents, legislation and submissions on the NPO Amendment Bill, can be seen on <https://www.inyathelo.org.za/index.php/partner-websites/npoamendmentbill>
- Elected Working Group (WG) members include:
 - Ann Bown - Independent Consultant to NPO sector
 - Boichoko Ditlhake - The Kagiso Trust
 - Colleen Douglas - Franshoek Hospice
 - Colleen Du Toit - Independent Consultant to NPO sector
 - Feryal Domingo – Acting Director of Inyathelo and Chairperson of the WG
 - Glenn Farred - Independent Consultant to NPO sector
 - Jenny Wright - Milk Matters
 - Lisa Vetton – Researcher (GBV & Urban Transformation) UJ & Wits
 - Margaret Grobbelaar - National Coalition for Social Services

2. The purpose of the NPO Amendment Bill is noted in its preamble:

“To amend the Non-Profit Organisations Act, 1997, so as to amend and insert certain definitions; to provide for the Office of the Registrar of non-profit Organisations, to provide for the registration of non-profit organisations and compulsory registration of foreign organisations, to provide for the Arbitration Tribunal for the dispute’s resolution; and to provide for matters connected.”

While the preamble speaks of providing for an **Arbitration tribunal**, it is nowhere to be seen in the Bill!

In a nutshell the Bill seeks to replace the **Directorate with an Office of the Registrar**. There is however no explanatory memorandum that explains the recommended changes. Further critical concerns include:

Foreign Organisations

The interesting change is the compulsory registration of **foreign organisations**. There is no elaboration on the registration requirements in the Bill. Questions that come to mind are:

- Why has this clause been introduced?
- Why now?
- What other laws govern foreign organisations?
- What benefits or costs will emerge with this new objective?
- How difficult will it be to register?
- How many foreign non-profits work in South Africa and
- How will their work be impacted?

NPO Governance

Amendments that are welcomed in the Bill relate to the organisational structures and mechanisms for governance. The Bill proposes that at a minimum, it should include the designation of the Chairperson, Secretary and Treasurer with their Deputies as a requirement for NPOs.

This is (or would need to be) part of governance training in developing capabilities to strengthen Boards. The inclusion of deputies, however, is excessive.

Money Laundering Risk

Another welcome addition, but which has an odd curtailment, is the addition under the Requirements section (Chapter 3, para 12) of a clause (p). The proposed clause reads:

“Disclose whether a member or office bearer has previously been found guilty of an offence relating to the embezzlement of money of any non-profit organisations and the status of the conviction.”

It is difficult to understand why the clause is restricted to embezzlement in the non-profit sector. It will be good to see this clause rewritten to incorporate any person who has been found guilty of embezzlement, theft of property, sexual harassment in the workplace, dishonesty and so forth.

These are just three examples of the implications of the amendments

3. Chronological record of events

31 MARCH 2024

NPO Policy Framework completed.

1 MARCH 2024

Draft NPO Policy Framework to be shared with the sector.

JANUARY 2024

GILAB 2023 open for public comment.

18 DECEMBER 2023

A closed technical information session with key stakeholders to officially launch amendments to Recommendation 8 and its Interpretative Note and the Best Practices Paper on CML/TF. The aim is to have general interactive discussions between a limited number of key stakeholders. The NPOWG will be represented at this meeting.

12 DECEMBER 2023

Part one of the FATF Sectoral Risk Assessment to be completed. Oversight Group will also be meeting to discuss the Residual Risk report (part 2) of the NPO TF SRA

7 DECEMBER 2023

NTT Meeting with DSD to commence work on drafting a policy with the DSD legal team. Timelines are very tight - first draft to be available for consultation with the sector by 1 March 2024.

6 DECEMBER 2023

Webinar and workshop with the International Centre for Nonprofit Law (ICNL) as a follow up to the Africa Regional meeting held in Cape Town in May 2023.

4 DECEMBER 2023

NPOWG submission to the UN Special Rapporteur on some of the challenges currently experienced by the nonprofit sector in South Africa in the promotion and

protection of human rights and fundamental freedoms while countering terrorism. Again this would be government's misapplication of FATF.

27 NOVEMBER 2023

Guidance webinar in respect of FATF Recommendation 25 - Beneficial Ownership - it appears that charity trusts may have exemption from the Trust Registry! More to unfold.

23-24 NOVEMBER 2023

Extraordinary Civil Society Summit held at the Birchwood Hotel organised by the Social Justice Assembly and #UnmuteCSO - 200 in-person attendees with a further 250 online participants. One of the outcomes of the summit was to develop a social compact that will be shared at the Presidential Social Sector summit in 2024.

17 NOVEMBER 2023

FATF publishes revised Recommendation 8 and Interpretive Note - This is a game changer. They also publish revised Best Practices Paper on the implementation of Recommendation 8 by governments. This will assist NPOs to engage with government on an equal level to mitigate unintended consequences of FATF.

14 NOVEMBER 2023

GILAB 2023 introduced to the national assembly.

2 NOVEMBER 2023

In its first meeting since the resolution of the National Assembly to establish the Ad Hoc Committee on the General Intelligence Laws Amendment Bill, the committee elected Mr Jerome Maake as its Chairperson.

1 NOVEMBER 2023

The SADC FATF Subgroup Kicks off. The groups main goal is to share experiences with other countries in SADC regarding FATF and the impact their recommendations are having on civic space in the region.

31 OCTOBER 2023

The FIC/ NPO Oversight group participated in the Nonprofit Organisation (NPO) Terrorist Financing (TF) Sectoral Risk Assessment meeting. This was a first draft report on part one - not for circulation until the content is agreed upon.

26 OCTOBER 2023

NTT meeting to consider progress and commence with a Matrix plan outlining priorities.

21 SEPTEMBER 2023

Second meeting of the NPO Policy Development team as a follow up to the first meeting. A planned 2-day in-person workshop for 27/28 September was put on hold.

7 SEPTEMBER 2023

Inauguration meeting of the NTT to nominate and elect a deputy chairperson and review the Terms of Reference and specific activities/work to be done by the NTT members such as Stakeholder Engagement, Identification of contemporary issues facing the sector.

1 SEPTEMBER 2023

The first phase of deregistration set to start.

14 AUGUST 2023

First task team meeting to discuss the NPO Policy Framework.

8 AUGUST 2023

DSD holds a follow-up meeting regarding the planning of the Presidential Social Sector Summit. The NPO Working Group is tasked with forming the task team of 8 individuals. Feedback will be provided to DSD by the 18th of August.

20 – 21 JULY 2023

DSD held a Networking structures workshop in Joburg attended by a few members of the NPO Working Group. The following topics were discussed: deregistration of non-compliant NPOs, withdrawn NPO Amendment Bill, implementation of the GLAA and the development of the NPO Policy Framework. An action plan is discussed, where networking structures will assist the NPO Directorate to promote compliance and assist with the auditing of their member organisations. The first phase of deregistration is to start on the 1st of September. Setting up a task team to discuss the NPO Policy framework is also discussed.

18 JULY 2023

The DSD convened a meeting to address the upcoming Presidential Social Sector summit. This comes as a response to a letter drafted by CSOs to the Presidency, expressing concerns about the legitimacy of the framework agreement finalized by the President and NEDLAC during last year's summit. As a result of the meeting, it has been determined that a task team will be established to aid in the preparation of the next summit, scheduled for September this year. The goal is to enhance inclusivity and encourage wider sector engagement in the drafting of the framework agreement.

17 JULY 2023

Telephonic surveys for the NPO Risk Assessment commence. A team of 10 interviewers have been appointed to conduct the survey with the sample of registered NPOs.

22-24 MAY 2023

NPOWG attends the Africa NPO Regional Consultation on the Best Practices in countering money laundering and Terrorist Financing while preserving Civic Space

held in Cape Town. The consultation was convened by ICNL and the European Union Global AML/CFT Facility, in partnership with Global Expert Hub on AML/CFT member, Defenders Protection Initiative, West Africa Civil Society Institute and experts from Africa, and with the support of the Global NPO coalition on FATF.

MAY 2023

General Intelligence Laws Amendment Bill (GILAB 2023) is approved by cabinet. Not yet tabled in Parliament but once tabled, the National Assembly will create an ad hoc committee to consider the Bill and issue a call for public comments. GILAB will allow the Minister to conduct security competence test on categories of applicants and employees of organs of the State including persons who seek to establish and operate Non-Governmental Organizations, Churches or Religious Institutions, who will then issue or decline to issue a security clearance certificate. While acknowledging the need for reform in South Africa's state intelligence structures, GILAB raises concerns about freedom of association, mass surveillance capabilities, inadequate oversight, and accountability of intelligence services, and is criticized for its poor drafting, including typos and errors. The lack of effective oversight in the past contributed to state capture, making it crucial for civil society organizations to engage with the GILAB's implications.

17-24 MARCH 2023

The NPO Working Group prepares submissions with comments on the General Laws Amendment Act (GLAA) of the draft Regulations to the NPO Act 1997 to the DSD/ NPO Directorate.

16 MARCH 2023

A debriefing from the FATF Secretariat on the outcomes of the Plenary session in February.

Revisions to Beneficial Ownership R24 and R25 for the collection of information to ensure adequate, accurate and up-to-date information on the BO of legal persons is available and can be accessed by competent authorities in a timely manner. The revisions to R24 also requires countries to follow a risk-based approach and consider the risks of legal persons created in-country but also by foreign-created legal persons.

The NPO Project (unintended consequences of FATF) is discussed. Training of Recommendation 8 will be a priority. R8 is likely to be on the agenda at the Private Sector Consultative Forum in Vienna 8-9 May 2023. Country cases are shared in regard to overreach and overregulation by governments.

14 MARCH 2023

First meeting of the Sectorial Risk Assessment technical group is held with induction training by Greenacres. Inyathelo, is part of the technical group along with the FIC, SSA, SARS, NPO-Directorate and Alliance of NPOs.

10 MARCH 2023

NPO Directorate invites all stakeholders to participate in an online meeting in respect of the three phases of de-registration and cancellation of NPOs that are non-compliant with the NPO Act and behind with submission of annual reports.

24 FEBRUARY 2023

We tune-in to the FATF Plenary Media conference (Paris) on the outcomes from the 4-day meeting.

23 FEBRUARY 2023

The Financial Intelligence Centre (FIC) together with the Department of Social Development hosts a webinar session discussing the money laundering and terrorist financing risks facing NPOs, NPO de-registration and the NPO General Law Amendment Act (GLAA). FIC explains a voluntary process to register your NPO if it falls within the description of an 'at-risk' organisation eg cross-border transactions and or services.

10 FEBRUARY 2023

Online meeting with The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association (UNSR), Clement N. Voule. UNSR raised concerns about the persistent proliferation of laws, regulations and practices to constrain, rather than enable, access to funding by civil society organisations (CSOs), including human rights groups. The UNSR especially warned about the overregulation of the civil society sector under the guise of counter-terrorism or anti-money-laundering measures (FATF), which severely impacts CSOs' access to foreign funding in many countries in the world.

These are the **unintended consequences** of FATF and South Africa is urged to be vigilant and to help government and the banking sector to not over-reach financial restrictions. Challenges going forward in respect of fundraising include crowdfunding, cryptocurrency, buying and selling of antiquities and art and other suspicious over-the-border transactions. The UNSR is consulting widely in order to develop Guidelines.

31 DECEMBER 2022

These amendments to the five acts, outlined in the General Laws amendment bill commences. The General Laws Amendment Act and POCDATARA Amendment Act address 15 of the 20 deficiencies relating to the adequacy of laws and legal frameworks related to the 40 FATF Recommendations that were identified in the mutual evaluation report.

12 DECEMBER 2022

Meeting with the Financial Intelligence Centre, SARS and NPO Directorate to discuss next steps towards a registry of Sectoral Risk Assessment (SRA) for the NPO Sector, identify representatives to form a Technical Group, propose a suitable Technical Consultancy to analyse existing data and oversee development of 'at-risk' non profit organisation registry.

2 DECEMBER 2022

We participated in a FATF GAFI RPU virtual Public consultation on draft Guidance on R.24 and Proposed amendments to R.25. These are changes to the definition of Beneficial Ownership (BO) for approval by the Plenary in February 2023.

We make contact with the Global NPO Coalition on FATF (based in the Netherlands) and form a friendship/alliance.

23 NOVEMBER TO 9 DECEMBER 2022 (National Council of Provinces)

The GLAB is now sent to the National Council of Provinces (NCOP) for adoption by the **Select Committee on Finance (SeCOF)**. Our second submission is made to this committee based on the SCOF. The NPO-WG is challenged by the Chair of this committee to be more representative of civil society, he, however, welcomes the quality of work.

We make our presentation and receive positive feedback from MPs. The Chair invites the NPO-WG to prepare a Summary of our concerns regarding the NPO Directorate and motivation for it to be an independent body. The Chair invites the NPO Directorate to respond to our claims - they make a presentation and share some of their challenges aligned to our concerns.

The NCOP SeCOF Adopts the GLAB with amendments and requests a follow-up on progress within the NPO-Directorate in due course. Treasury confirms that they will ensure that sufficient funding is available to the NPO-Directorate to assist with strengthening capacity and efficiency.

The Chair thanks the NPO-WG for bringing forth the voice of civil society as it is much needed in parliament and vital to our democracy.

22 NOVEMBER 2022

NPO Working Group submits final comments to the General Laws Amendment Bill (GLAB), the SCOF portfolio committee amends and Adopts the GLAB. The SCOF mentions that it is unable to make recommendations re the independence of the NPO Directorate and suggests we continue through the correct channels.

19 OCTOBER TO 11 NOVEMBER 2022 (National Assembly)

NPO working Group submitted comments on the General Laws Amendment Bill to the **Standing Committee on Finance (SCOF)** in the National Assembly such as Compulsory Registration of all non-profit organisations in the country and potential negative consequences of Beneficial Ownership (BO) of volunteer leadership.

We attend three sessions and are extensively questioned by Members of Parliament on our presentation entitled The Octopus Bill (see above).

We further demonstrate the inappropriateness of the Department of Social Development (or any Ministry) to accommodate, control and have financial oversight of the NPO Directorate. In its current form the NPO Directorate was not fit-for-purpose to implement all the necessary changes required by the Financial Action Task Force (FATF) to monitor compliance and that it should become an Independent Entity fully capacitated.

19 OCTOBER 2022

The Parliamentary Monitoring Group posted a revised Explanatory Memorandum on the NPO Amendment Bill, 2018. This differs slightly to the Explanatory Memorandum released on 25 October 2021 two weeks after the NPO Amendment Bill called for comments. <https://static.pmg.org.za/221019npoamendmentbill-draft-.pdf>.

The NPO-WG works on three separate but related processes.

1) The NPO Amendment Bill (partial FAFT)	2) The General Laws Bill (FAFT)	3) Identification of NPO Sub-set TF Risk Assessment (FAFT)
Submissions under review. NPO Directorate has formed a NT to consult. No mention yet of when this will be sent to parliamentary social development standing committee for consideration. After GL enacted is when	Submissions reviewed and Bill in redraft mode with the Finance Standing committee. Treasury, SARS, NPO Directorate, CIPC, Property Trust and Finance Intelligence Centre.	Countries are required to understand and identify NPO's at risk of terrorist financing. Process will take 7-9 months in consultation with CSOs. This will demonstrate SAs

this Bill might receive some urgency.	Likely to go through parliament by early November. Greylisting remains a serious threat in February 2023.	determination to avoid greylisting.

18 OCTOBER 2022

A response session re submissions was hosted by National Treasury and the Financial Intelligence Centre on arguments made to the Standing Committee on Finance. The matter of mandatory registration of NPOs would undergo careful consideration to drafting refinements in that not all NPOs would be required to register and that they would need to define the scope of NPOs that would be required to register most likely at risk to anti-money laundering combating terrorism financing. (Re workshop 17 October 2022). This switch to a focused and risk-based approach to NPO registration offers some relief.

17 OCTOBER 2022

A workshop, the Terrorist Financing (TF) Risk Assessment, was hosted by the FIC and Green Acres Consulting, the latter working on behalf of EU Global/FAFT, to introduce and build a Sub-Set of NPOs most 'at risk' of terrorist finance abuse. This will be a 7-9 month programme working with a Focus Group of NPOs in South Africa. A country-wide survey would be implemented. This is a separate process to the General Laws Bill and the NPO Amendment Bill but will be vital in promoting transparency and demonstrating to the FAFT that South Africa is making progress in meeting all FAFT Recommendations.

14 OCTOBER 2022

Virtual meeting with Treasury, FIC, SARS, NPO Directorate and other groups from civil society to further discuss means to ensure that the registration systems (NPO/D, CIPC & Master's Office) are effective in meeting the FAFT expectations.

- We gained a sense that the dreaded 'compulsory' registration and stringent technical compliance by all NPOs, including registered and unregistered, meaning Knitting Clubs etc, would be reconsidered. The General Laws Bill will be an omnibus bill of the NPO Act 1997. It would be necessary for the NPO Sector to assist with the definition and identification of a subset of NPOs and

those identified as 'at risk entities'. There is concern that NPOs are currently being exploited for nefarious purposes.

10/11 OCTOBER 2022

- Public Hearing:
 - The NPO-WG prepared a Submission to Treasury on the General Laws Bill, thereafter, followed an invitation to present our case on behalf of the NPO sector to the Standing Committee on Finance in parliament on 11 October 2022. Our submission was endorsed by 45 organisations. A total of 43 commenters were received with 30 coming from the non-profit sector!
- The majority of Commentators supported the Bill.
- 'The Octopus' virtual presentation and submission was met with empathy and understanding by the members of parliament. After pressure from a number of co-presenters, eight in total. The period for public comment was extended to 25 October 2022 for further submissions to be received from civil society, religious groups, the media and the private sector (JSE).
- After the interaction by the committee and responses by National Treasury a general thread of complaint was the short period of time to comment on the Bill, 'compulsory' registration of all non-profits and definition of a Beneficiary Owner.
- The NPO-WG became part of a treasury subcommittee to support the re-drafting of this Bill.

2 SEPTEMBER 2022 - Enter The Octopus

The General Laws Bill (Anti-Money Laundering and Combating Terrorism Financing) Amendment Bill 2022 was issued on 2 September 2022 by Treasury. This bill is intended to address deficiencies in the Financial Action Task Force (FATF) Mutual Evaluation Report of South Africa. Failure to meet the deadline could result in the country being grey listed.

This will have a huge impact on the nonprofit sector not only around fundraising internationally but with five pieces of legislation to be amended including the Nonprofit Organisations Act, 1997; the Trust Property Control Act, 1988, the Companies Act, 2008 and The Financial Intelligence Centre Act, 2001 and the FICA Regulations Act. Hence, why we referred to it as The Octopus!

- **Note:** Financial Action Task Force comment: *“Having been placed under a one-year observation period after findings of the FATF mutual evaluation report for South Africa the FATF will closely monitor the progress of the measures to be addressed (Recommendation 8 applies to the NPO Act). If satisfactory progress has not been*

achieved by October 2022, the FATF can place South Africa on its grey list in its February 2023 Plenary session.”

- This legislation is an urgent matter before parliament, in order to meet October 2022 deadline for a report back meeting with the FATF committee. South Africa will need to demonstrate progress in implementing the measures called for in Recommendation 8 including oversight and regulatory mechanism. .
- All of this will have an impact on the NPO Act 1997 and the NPO Amendment Bill once enacted by parliament. The General Laws Bill will and could resolve some of our concerns nestled within the NPO Amendment Bill.

11 AUGUST 2022

- A letter, dated **11 August 2022**, was emailed to the Office of the President, and addressed to President Ramaphosa. Basically, this letter mentioned the lateness of the invitation but appreciation for being invited. It referred to previous correspondence dated **28 April 2022** drawing attention to the following topics:
 - The challenges related to the organisation of the Social Sector Summit (delays)
 - The limited capacity of the Department of Social Development (DSD)
 - The NPO Amendment Bill 2021 and the impact of the Covid-19 pandemic on the sector.

The letter expressed that only views of NEDLAC Executive Director and their Constituency (represented by the Alliance of NPOs [previously SANGOCO + others] were presented).

This should be reviewed and aligned to current developments in South African civil society and the WG would be happy to provide ideas on improved representation at NEDLAC.

The letter further requested views on the capacity problems of the DSD and inadequacies of the current NPO Amendment Bill due to go Parliament.

- Although it was not mentioned in the above letter some of the WG members have queried the legality of the President signing a Social Compact document on the last day of the Summit as there is concern that this document was prepared prior to the Summit commencing and based possibly based on resolutions tabled during Provincial Dialogues where only a few NPOs/CSOs were invited (we understand were mainly recipients of DSD grants), NEDLAC, NDA, DSD and the National Lottery Commission were in attendance.
- **The WG is very concerned after receiving feedback from a delegate (a facilitator of one of the Commissions).**

11 AUGUST 2022

- A similar letter went to the Executive Director of NEDLAC, by WG member Lisa Seftel also on **11 August 2022** stating a willingness to contribute to the review of Social Sector Summit Framework Agreement and steps for the drafting of the Social Sector Compact.
- NEDLAC offered a date for a meeting in Pretoria the following week.

Unfortunately, this was postponed due to a family priority and the resignation of the NPO WG Chairperson and CEO of Inyathelo, Nazeema Mohammed on 19 August 2022.

4-5 AUGUST 2022

- **Presidential Social Sector Summit hosted in Johannesburg**

29 JULY 2022

- The NPO WG (Via Inyathelo) received an invitation to a Presidential Social Sector Summit in August (short notice). The summit was held 4-5 August 2022.

MAY-JUNE 2022

- The WG commenced a **petition through the Amadla.Mobi platform for the withdrawal of the Bill** during May/June 2022 to date raised +570 signatures. Dear South Africa, a platform to influence policy before implementation in parliament, also called for comments securing around 250 replies! This is a disappointing response from civil society! But we admit that more could have been done to promote the campaign.

MAY 2022

- An extension of the public participation submission deadline was Gazetted in May 2022 with a new date for comments and submissions as 10 June 2022. We have received no further feedback from the NPO Directorate or DSD on the number of submissions received or if the Bill will be withdrawn. A member of the WG did, however, receive a note stating that the Directorate will only respond once they have looked at all the submissions and met with their legal team.
- One of our members offered to assist the NPO Directorate, who had stated they lacked capacity to capture all the submissions, this offer was taken up and the task carried out... but !!!
- Another member sought a legal opinion on the clause in the NPO Amendment Bill that requires **Compulsory registration of foreign organisations**. The opinion memo (MMA) stated it was unconstitutional and inconsistent with International

Human Rights Law and that the clause was FATF driven. This was submitted to the NPO Directorate and to date no response.

28 APRIL 2022

- The NPO WG emailed a letter addressed to the Honourable Minister Zulu on **28 April 2022** outlining considerations regarding the Bill and other related matters as follows:
 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:
 - The drafting of the Bill is substandard and has many errors.
 - Many clauses are open to interpretation and are ambiguous.
 - Some clauses are unconstitutional and would result in litigation.
 - 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 can 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 consider 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, the NPO WG proposed 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. Timeframes 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.

To date no response has been received from the Minister of DSD

20 APRIL 2022

- Another letter was drafted by the NPO WG to the Chief Director NPO Directorate dated 20 April 2022 requesting an extension date be Gazetted and outlined the following concerns.
 1. **A poorly drafted Bill:** The Bill is poorly drafted, open to interpretation and lacks clear alignment between DSD's stated intentions and the actual amendments.
 2. **The NPO Directorate name change, to a Registrar:** There is a lack of clarity about whether that Registrar will be independent and move out of the DSD; concerns about capacity and resources remain.
 3. **Accountability of the NPO sector:** There is a lack of knowledge about, and implementation of, good governance at many NPOs. A new structure for boards has been proposed, which includes deputies. The sector agrees that governance is an issue, and there is a need for self-regulation, but not in the way it has been formulated in the Bill.
 4. **Cleaning up the NPO database:** At present many NPOs are registered with identical names. There is also a campaign to deregister those NPOs which do not meet legislative requirements. However, there are concerns that the DSD lacks the capacity to address the database issues, and the form this will take in terms of the Bill proposals.
 5. **Registration of international/Foreign NPOs:** The DSD has shared that this provision has been included in the Bill because of information received from a government investigative team that some NPOs could be caught up in money laundering and finance for terrorist activities (reference to the FATF Evaluation Report) While there is agreement on the need to counter corruption and terrorism, there are concerns the sector will be over-regulated with draconian controls.

DATE (still to be arranged)

- The NPO Directorate would now set a date for a follow-up meeting with CSOs for developing a White Paper, **a policy framework on the NPO Act** and proposed legislative changes - the last available policy framework is dated March 2014. This has not been discussed further.

10 FEBRUARY 2022

A second 'workshop' hosted by the DSD/Directorate on 10 February 2022 to discuss possible dates for a workshop on the NPO Amendment Bill - 20 people from the sector and 7 people from the DSD NPO Directorate attended (many technical issues were experienced).

27 JANUARY 2022

- Further communications from the NPO Directorate on 27 January 2022 stated they had reviewed the legal opinion and were now advised, by the Chief of Staff, that a **Cabinet decision was not required**, and the matter of an extension was an operational matter!

10 NOVEMBER 2021

- After the NPO WG request for an extension the first online meeting was held on 10 November 2021 hosted by DSD NPO Directorate (a hybrid meeting). This was attended by approximately 39 people. Representatives from the DSD and NPO Directorate included:
 - Mr. Peter Netshipale, Deputy Director General (DDG), Integrated Development
 - Ms. Mpho Mngxitama, Director of NPO Registration and Compliance
 - Mr. Luyanda Ngonyama, Deputy Director, Registration and Compliance
 - Ms. Mpho Mngxitama facilitated the discussion.
- The tone of the meeting was constructive and the outcome was favourable as they agreed that the deadline for comments was unreasonable they would send **a request to Cabinet** (this was odd) for an extension.
- The DDG emphasised that we are all working together to get this right. He added that since the NPO Summit in 2012, when policy was developed, there had been areas needing to be repealed and changes made, basically this was a request **for 'cosmetic changes'** of around 15% of the amendments. However, these changes were not put into effect due to some instability of parliamentary portfolio committees and delayed cabinet meetings during 2016/17. Many of the proposed changes were not merely cosmetic but had significant implications for the NPO sector.

3 NOVEMBER 2021

- The Chairperson of the NPO Working Group, Nazeema Mohammad, received a call on 3 November 2021 from Mr Luyanda Ngonyama & Ms Mpho Mngxitama, representatives of the NPO Directorate.
- They outlined the following with her:
 1. The Working Group's submission was one of several submissions requesting an extension to the call for comments on the NPO Amendment Bill. The issues raised by the sector are legitimate and require further attention.
 2. The Department of Social Development had not provided adequate information on the proposed amendments. The Bill was envisaged as being part one of a two-part process aimed at amending the Nonprofit Act.
 3. The Bill that required comment by 31 October 2021 was largely administrative in nature and was drafted to improve the efficiency of the system.
 4. It sought to change less than 15% of the NPO Act.

5. The second Bill, that will follow, will be more substantive in terms of amendments and will be accompanied by a policy document.
6. The Department of Social Development plans a thorough consultation process on the second Bill.
7. Extensions on the dates for comments on Bills are not granted by the Department. Approval of extensions is granted by Cabinet. DSD is therefore not able to grant an extension. The Department of Social Development is required to work with Cabinet's timeframes for amendments to the Act.
8. The Department will host a discussion on the Bill and the amendments proposed to it on 10 November 2021 from 10:00-12:00.

31 OCTOBER 2021

- The letter was submitted on 31 October 2021, requesting an extension to the deadline for comments on the NPO Amendment Bill to the Acting Director-General, Mr. Mchunu.

30 OCTOBER 2021

- Due date for open comments

25 OCTOBER 2021

- The draft *Explanatory Memorandum was released on 25 October 2021 (4 days prior to end date for submissions). Note: neither the draft memorandum nor the Amendment Bill were published on the website of the DSD/NPO Directorate at this time.
- DSD's explanation available here (published 26/10/2021): <https://www.dsd.gov.za/index.php/documents?task=download.send&id=317&catid=13&m=0>

21 OCTOBER 2021

- Several, and including the above, major concerns were raised during the open webinar (21 October 2021) by the 190 participants representing 170 non-profit organisations.
- The NPO Working Group were tasked to submit a letter of request to the DSD NPO Directorate for an extension of the submission date.

5 OCTOBER 2021

- DSD call for public comment on the Non-Profit Amendment Bill, 2018

4. What will the NPO WG do next?

- **Keep monitoring and campaigning for action on the NPO Amendment Bill:**
 - To date we have not received communication from the President, the Minister, or the Directorate.
 - Next step will be to petition the parliamentary Portfolio Committee on Social Development.
 - Call for the NPO Directorate/Registrar to be an independent body away from the DSD or any other Ministry.

Keep talking to treasury, FIC, SARS, Standing Committee on Finance re the General Laws Bill.

- **Keep raising awareness:**
 - Through the media and social media
 - The Working Group will extend its reach **to increase a coalition of NPOs and civil society in general**, such as social justice, environmental, educational, gender, sports etc. to ensure latest news, opinions, analysis, and advice concerning NPO legislation, General Laws Bill and the Social Compact thorough disseminating information via webinars, social media, print media, broadcasting et el.
- **Keep Asking Questions:** About the Presidential Social Sector Summit 4-5 August 2022 & the substance of the Social Compact document.

5. News and media coverage

- Controlling the purse strings- Daily Maverick 20 October 2021
- The NPO Amendment Bill is a mess, awash with consistencies and clumsy provision. Nicole Copley writing for AmaBhungane/Scorpio (Daily Maverick) 5 May 2022
- Petition Calls for total Recall of NPO Amendment Bill - Maverick Citizen 2 June 2022
- Voice of the Cape interview with Ann Bown - 7 June 2022
- Have Your Say Petition run by Awethu.Amandla.mobi - June 2022
- Call to withdraw NPO Bill - The Argus 30 June 2022
- Period for public comments on greylisting bill extended after NPO sector raises red flags – Daily Maverick
- Greylisting bill's registration requirements for nonprofits to be refined – Daily Maverick

- Period for public comments on greylisting bill extended after NPO sector raises red flags – Daily Maverick

End

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