

South African Institute of Race Relations NPC (IRR)
Submission to the
Department of Social Development
regarding the
Draft Non-Profit Organisations Amendment Bill of 2021
Johannesburg, 29th October 2021

Introduction

The Department of Social Development (the Department) has invited interested people and stakeholders to submit written comments on the Draft Non-Profit Organisations Amendment Bill of 2021 (the Bill) by 31st October 2021.

This submission on the Bill is made by the South African Institute of Race Relations NPC (IRR), a non-profit organisation formed in 1929 to oppose racial discrimination and promote racial goodwill. Its current objects are to promote democracy, human rights, development, and reconciliation between the peoples of South Africa.

Key changes required

As requested by the Department, the IRR has compiled a brief table of the key changes to the Bill that would be advisable or are required:

Clause	Proposal	Motivation
2 f)	(f) facilitating voluntary registration of nonprofit organisations and compulsory registration for foreign organisations operating within the borders of the Republic of South Africa.	There is no need for local and foreign non-profit organisations to be treated differently. Both should be able to register voluntarily.
12 (1) h)	(h) specify the organisational structures and mechanisms for its governance, which shall at a minimum include the office of or designation of the chairperson, secretary and treasurer with their deputies;	Most non-profits are small. Requiring deputies for these three mandatory positions means six voluntary office-bearers are required. This is more than is necessary, and will prove a significant burden on smaller non-profits especially.
12 (2) p)	(p) disclose whether a member or office bearer has been previously been found guilty of an economic crime involving dishonesty, such as embezzlement, corruption, fraud, theft or the like of any nonprofit organisations and the status of the conviction.	Any type of economic crime involving dishonesty raises questions about the suitability of a candidate to serve as an office bearer, or to become a member of, a non-profit organisation. Any such crime therefore needs to be disclosed.
12 (5)	(5) Any nonprofit organisation, including foreign nonprofit	This clause is incomplete in the Bill as published (the text cuts off

	<p>organisations, that intend to operate a business within the Republic must be registered in terms of this Act before they operate and shall be subjected to the provisions of this Act and any other laws of (sic)</p>	<p>before it concludes). Hence, no comment can be made on the missing part. The visible part of this clause is vague, however. It is not clear what is meant by “a business” or what purpose of the incomplete clause is intended to serve. It would be preferable simply to omit it.</p>
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The way forward

Most of the proposed changes to the Bill are technical amendments. Several are also necessary to correct typographical errors inadvertently included in the Non-Profit Organisations Act of 1997. However, the clauses identified in the table above have problematic elements which need to be amended or removed, for the reasons outlined by the IRR.

The IRR appreciates the opportunity the Department has provided to comment on the Bill. It would be glad to make oral presentations to the Department as well, in support of the points it has made.