



## **NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL**

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### **NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL (NEDLAC) REPORT ON THE NATIONAL EDUCATION EVALUATION AND DEVELOPMENT UNIT (NEEDU) DRAFT BILL**

#### **1. BACKGROUND**

The Development Chamber agreed to set up the Education Subcommittee with the purpose of considering the Draft National Education Evaluation and Development Unit (NEEDU) Bill.

#### **2. PROCESS AT NEDLAC**

2.1. Government tabled the draft NEEDU Bill at Nedlac on 08 February 2012. The Education Subcommittee was set up with the purpose of considering the Draft Bill.

2.2. The Task Team comprised of representatives from Business, Labour, Community and Government. (A list of representatives is attached hereto as Annexure 1).

2.3. The Subcommittee convened meetings on the following dates:

2.3.1. 23 March 2012

2.3.2. 11 April 2012

2.4. The following documents were submitted during the engagements:

Annexure 2:	The National Education Evaluation Draft Bill by Government
Annexure 3:	Matrix document with incorporated comments from all Constituencies

### 3. AREAS OF AGREEMENT

The Constituencies considered the draft Bill that was presented by Government and agreed on the following aspects:

#### 3.1. CHAPTER 1: SECTION 1 - DEFINITIONS

3.1.1. **“Board”** means the board contemplated in section 8 of this Act

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.2. **“Chief executive officer”** means the chief executive officer contemplated in section 13 of this Act;

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.3. **“Constitution”** means the Constitution of the Republic of South Africa, 1996

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.4. **“Director-General”** means the Director-General Basic Education;  
**“educator”** means an educator as defined in terms of section 1 South African Schools Act, 1996 (Act No. 84 of 1996);

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.5. **“Head of Department”** means the head of an education department; as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.6. **“NEEDU”** means the National Education Evaluation and Development Unit;

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.7. **“Minister”** means the Minister of Basic Education;

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.8. **“national department”** means the Department of Basic Education established in terms of section 7(2)(a) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.9. **“professional management”** means the professional management of a public school as contemplated in section 16 (3) of the South African Schools Act, 1996 (Act No. 84 of 1996), or its equivalent in an independent school;

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.10. **“provincial department”** means a department responsible for education in a province as defined in terms of section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.11. **“school”** means a public or independent school as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.12. **“governing body”** means a school governing body as provided for in section 16 of the South African Schools Act, 1996 (Act No. 84 of 1996), or the equivalent body in an independent school.

I. Constituencies agreed with the definition as articulated in the draft Bill

3.1.13. **“this Act”** means the National Education Evaluation and Development Unit Act, 2012, and includes regulations made under the Act.

I. Constituencies agreed with the definition as articulated in the draft Bill

3.2. **CHAPTER 1: SECTION 2 – OBJECT OF THE ACT**

3.2.1. Constituencies agreed with the contents of section 2 as articulated in the draft Bill.

3.3. **CHAPTER 1: SECTION 3 – APPLICATIONS OF THE ACT**

3.3.1. Constituencies agreed with the contents of section 3, as articulated in the draft Bill.

3.4. **CHAPTER 2: SECTION 4 - ESTABLISHMENT OF THE ACT**

3.4.1. Constituencies agreed with the contents of section 4, as articulated in the draft Bill.

3.5. **CHAPTER 2: SECTION 5- GOVERNING PRINCIPLES**

3.5.1. Constituencies agreed that clause (2) (b) will be deleted. The deleted text is underlined: The NEEDU must not report on the performance of an individual educator.

3.6. **CHAPTER 2: SECTION 6- FUNCTIONS**

3.6.1. Constituencies agreed to rephrase clause (1) (c) to read: The functions of the NEEDU are to evaluate the monitoring and evaluation of schools by the provincial and (their substructures) and national department. It was agreed that the text in brackets will be inserted in the clause.

3.6.2. Constituencies agreed to rephrase clause (f) (iii) to read: emulating (Implementing) examples of good practice. It was agreed that the text underlined will be deleted and the text in brackets will be inserted.

3.6.3. Constituencies agreed to rephrase clause (2) to read: In the performance of its functions, the NEEDU has the authority to visit a

school for the purpose of observing, (monitor and evaluate), assessing after notice has been given to the Head of Department and the school. It was agreed that the text underlined will be deleted and the text in brackets will be inserted.

- 3.6.4. Constituencies agreed that clause (5) of this section 6 the text underlined will be deleted.

In order to perform its functions, the NEEDU must –

- (a) develop an appropriate theoretical foundation for its work in regard to the improvement of school education;
- (b) determine an appropriate methodology or combination of methodologies for carrying out its duties;
- (c) consider the historical, social and material contexts in which school education is offered, so as to recommend ways in which the detrimental effects of these contexts can be overcome;
- (d) conduct or commission such research as is necessary for fulfilling its obligations in terms of this Act; and
- (e) liaise with bodies having similar functions in the provinces and in other countries.

### 3.7. **CHAPTER 2: SECTION 7- REPORTS**

- 3.7.1. Constituencies agreed with the contents of section 7, as articulated in the draft Bill.

### 3.8. **CHAPTER 3: SECTION 8 – GOVERNANCE AND COMPOSITION**

- 3.8.1. Constituencies agreed with the contents of section 8, as articulated in the draft Bill, however disagreed with clause (6) (a). Constituencies' positions are outlined in the areas of disagreement under item 4 of this report.

- 3.8.2. Constituencies agreed to rephrase clause (9) to read: The Director General of the national department must nominate a representative of the department to (serve as a board member) attend meetings of the board for liaison purposes, but such representative is not a member of the board. It was agreed that the text underlined will be deleted and the text in brackets will be inserted.

3.9. **CHAPTER 3: SECTION 9 – VACATION OF OFFICE AND FILLING OF VACANCIES**

3.9.1. Constituencies agreed with the contents of section 9, as articulated in the draft Bill.

3.10. **CHAPTER 3: SECTION 10- COMMITTEES**

3.10.1. Constituencies agreed to rephrase clause (2) to read: A committee may co-opt a person who is not a member (of the board), but the board must consider the criteria contemplated in section (8) (2) – (5) when it appoints such a person to a committee. It was agreed that the text in brackets will be inserted.

3.11. **CHAPTER 3: SECTION 11– MEETINGS**

3.11.1. Constituencies agreed with the contents of section 11, as articulated in the draft Bill.

3.12. **CHAPTER 3: SECTION 12- ALLOWANCES AND REMUNERATION**

3.12.1. Constituencies agreed with the contents of section 12, as articulated in the draft Bill.

3.13. **CHAPTER 3: SECTION 13- APPOINTMENT OF CHIEF EXECUTIVE OFFICE AND STAFF**

3.13.1. Constituencies agreed that clauses (4) and (5) will be deleted, however Constituencies agreed with the rest of the contents as contained in section 12. It was agreed that the text underlined will be deleted.

(4) The board must appoint such number of employees as it considers necessary for the performance of the NEEDU's functions.

(5) The board may delegate the appointment referred to in subsection (4) to the chief executive officer, subject to such conditions as are consistent with the relevant provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

3.14. **CHAPTER 3: SECTION 14- FUNCTIONS OF THE CHIEF EXECUTIVE OFFICE AND STAFF**

3.14.1. Constituencies agreed with the contents of section 14, as articulated in the draft Bill.

3.15. **CHAPTER 3: SECTION 15- FUNDS**

3.15.1. Constituencies agreed with the contents of section 15, as articulated in the draft Bill.

3.16. **CHAPTER 3: SECTION 16- ALIENATION AND ENCUMBRANCE OF PROPERTY**

3.16.1. Constituencies agreed with the contents of section 16, as articulated in the draft Bill.

3.17. **CHAPTER 3: SECTION 17- FINANCIAL STATEMENTS, AUDIT AND ANNUAL REPORT**

3.17.1. Constituencies agreed with the contents of section 17, as articulated in the draft Bill.

3.18. **CHAPTER 4: SECTION 18- REGULATIONS**

3.18.1. Constituencies agreed with the contents of section 18, as articulated in the draft Bill.

3.19. **CHAPTER 4: SECTION 19- SHORT TITLE AND COMMENCEMENT**

3.19.1. Constituencies agreed with the contents of section 19, as articulated in the draft Bill.

**4. AREAS OF DISAGREEMENT**

4.1. **CHAPTER 3: SECTION 8 – GOVERNANCE AND COMPOSITION**

4.1.1. In clause (6) (a) Government position was that a member of the board holds office for a period not exceeding five years. Government

mentioned that the position was derived from the international and local practice.

- 4.1.2. Labour, Community and Business stated that the draft NEEDU Bill should not deviate from the King III report, given that it stipulates that board members should hold office for three years.

## **5. RESERVATIONS**

There were no reservations.

## **6. LEGAL DRAFTING**

Constituencies agreed that there was no need for legal drafting required at NEDLAC.

## **7. CONCLUSION**

- 7.1. This report concludes the consideration of the draft NEEDU Bill in NEDLAC. The next step is to submit it to the Minister of Basic Education and the Minister of Labour in terms of Section 8 of the Nedlac Act, No. 35 of 1994.
- 7.2. It is acknowledged that the NEDLAC parties may continue to advocate their views in the public consultation and Parliamentary processes.

**EDUCATION SUBCOMMITTEE MEMBERS**

<b>Government:</b>	<b>Labour:</b>	<b>Business:</b>	<b>Community</b>
Chris Leukes	Sibusiso Gumede	Lesidi Rakgokong	Mamsie Fakude
Yousuf Gabru	Fezeka Loliwe	Kobus Botha	Nokuthula Mbesa
Kim draper	Mamaponya Makgoba	Kganki Matabane	Violet Sibiya
Charles Ledwaba	Neil Newman		Ivy Cele
Moribishane Ramafoko	Morne Janson		
Mark Potterton			

**FINAL VERSION 10:27 ON 05 04 2012**

Revised draft 20 March 2012

Edited 27, 28 09 2011

REPUBLIC OF SOUTH AFRICA

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**NATIONAL EDUCATION EVALUATION AND  
DEVELOPMENT UNIT ACT**

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(As introduced ...)

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(MINISTER of BASIC EDUCATION)

**BILL**

**To provide for the establishment, governing principles and functions of the National Education Evaluation and Development Unit (NEEDU); the governance of the NEEDU; general provisions; and matters connected therewith.**

**PREAMBLE**

**WHEREAS** the Constitution requires the State to respect, protect, promote and fulfil the fundamental right of everyone to a basic education;

**AND WHEREAS** the State is committed to the achievement of quality education and to redressing the inequalities of the past in, amongst others, the education system;

**AND WHEREAS** the school system is meant to open the doors of learning and culture to all;

**AND WHEREAS** the South African public is entitled to reliable information on whether the school system is serving learners' educational needs;

**AND WHEREAS** an external agency is needed to conduct independent evaluations and to report on the state of school leadership, management, teaching and learning, and on the

support provided to schools and educators by the national department and the provincial departments;

**AND WHEREAS** such evaluations and reports are necessary for accurately determining, and finding solutions for, the continuing impact of the historical and social contexts of school education in the country, since those contexts are still the cause of deeply unequal teaching and learning;

**AND WHEREAS** the Minister and the public need independent expert advice on developmental interventions to repair dysfunction in schools where it exists and to accelerate the achievement of a school system that equips all learners to become productive citizens of 21<sup>st</sup>-century South Africa;

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows:-

## **ARRANGEMENT OF SECTIONS**

### **CHAPTER 1**

#### **DEFINITIONS, OBJECT AND APPLICATION**

1. Definitions
2. Object
3. Application

### **CHAPTER 2**

#### **ESTABLISHMENT, GOVERNING PRINCIPLES, FUNCTIONS, AND CONSIDERATION OF REPORTS**

4. Establishment
5. Governing principles
6. Functions
7. Consideration of reports

### **CHAPTER 3**

#### **NEEDU BOARD**

8. Governance and composition
9. Vacation of office and filling of vacancies
10. Committees
11. Meetings
12. Allowances and remuneration
13. Appointment of chief executive officer and staff
14. Functions of chief executive officer

15. Funds
16. Alienation and encumbrance of property
17. Financial statements, audit and annual report

## CHAPTER 4 GENERAL PROVISIONS

18. Regulations
19. Short title and commencement

## CHAPTER 1 DEFINITIONS, OBJECT AND APPLICATION

### Definitions

1. In this Act, unless the context indicates otherwise –
  - “**board**” means the board contemplated in section 8 of this Act;
  - “**chief executive officer**” means the chief executive officer contemplated in section 13 of this Act;
  - “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
  - “**Director-General**” means the Director-General: Basic Education;
  - “**educator**” means an educator as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);
  - “**Head of Department**” means the head of an education department as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);
  - “**NEEDU**” means the National Education Evaluation and Development Unit;
  - “**Minister**” means the Minister of Basic Education;
  - “**national department**” means the Department of Basic Education established in terms of section 7(2)(a) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
  - “**professional management**” means the professional management of a public school as contemplated in section 16 of the South African Schools Act, 1996 (Act No. 84 of 1996), or its equivalent in an independent school;
  - “**provincial department**” means a department responsible for education in a province as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);
  - “**school**” means a public or independent school as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);
  - “**governing body**” means a school governing body as contemplated in section 16 of the South African Schools Act, 1996 (Act No. 84 of 1996), or the equivalent body in an independent school;
  - “**this Act**” means the National Education Evaluation and Development Unit Act, 2012, and includes regulations made under the Act.

## **Object**

2. The object of this Act is to provide for the establishment of a statutory body to be known as the National Education Evaluation and Development Unit.

## **Application**

3. This Act applies to –
  - (a) public and independent schools contemplated in the South African Schools Act, 1996 (Act No. 84 of 1996);
  - (b) provincial departments and their substructures; and
  - (c) the national department.

## **CHAPTER 2 ESTABLISHMENT, GOVERNING PRINCIPLES, FUNCTIONS, AND CONSIDERATION OF REPORTS**

### **Establishment**

4. The NEEDU is hereby established as a juristic person.

### **Governing principles**

5. (1) No person or organ of State may interfere with the functioning of the NEEDU in terms of this Act.
  - (2) The NEEDU must –
    - (a) be impartial and must exercise its powers and perform its functions in the public interest;
    - (b) not report on the performance of an individual educator;
    - (c) consider the influence of historical and social factors on the conditions under which school leadership, teaching and learning are practised, and must recommend ways in which the limitations caused by these factors and conditions can be eliminated;
    - (d) recognise the disproportionate and unequal nature of the system of education in terms of infrastructure, resources and capacity, and must identify methods and strategies for achieving equality and equity.
  - (3) The NEEDU is accountable to the Minister for the performance of its functions in terms of this Act.

### **Functions**

6. (1) The functions of the NEEDU are to –

- (a) identify, on a system-wide basis –
    - (i) the factors that inhibit school improvement; and
    - (ii) the factors that advance school improvement, including evidence of good practice;
  - (b) analyse and identify approaches and strategies necessary for achieving equality in the provision of quality education, with due regard to the human and financial resources and other relevant institutional and governance structures that will be needed to achieve such equality;
  - (c) evaluate the manner in which the national department and the provincial departments monitor and evaluate schools;
  - (d) evaluate the support provided to schools, school governing bodies, professional managements and educators by the national department and the provincial departments;
  - (e) evaluate the state of South African schools – in particular, the quality of school leadership, teaching and learning;
  - (f) make proposals in regard to –
    - (i) remedying shortcomings in educational practice;
    - (ii) eliminating barriers to quality education;
    - (iii) ways in which the education system as a whole can emulate examples of good practice;
    - (iv) developing the knowledge and professional capacity of educators; and
    - (v) improving the support provided to school governing bodies, professional managements and educators by the national department and the provincial departments;
  - (g) publish reports on the state of the education system;
  - (h) undertake any task consistent with this Act at the request of the Minister; and
  - (i) do anything consistent with this Act which is necessary or expedient for the performance of its functions.
- (2) In the performance of its functions, the NEEDU has the authority to visit a school, after notice has been given to the Head of Department and the school, for the purpose of observing or assessing –
- (a) classroom teaching;
  - (b) learner knowledge;
  - (c) professional management;
  - (d) the capacity, efficiency and effectiveness of a school governing body;
  - (e) the efficiency and effectiveness of support provided to schools, educators, professional managements and school governing bodies by the national department or a provincial department; or
  - (f) anything related to its functions that is consistent with this Act.
- (3) The NEEDU also has the authority to visit an office of a provincial department or of the national department, after reasonable notice has been given, for the purpose of assessing the efficiency and effectiveness of support provided to schools and educators.
- (4) The NEEDU's reports contemplated in subsection (1)(g) must contain at least the following:

- (a) empirical findings;
  - (b) recommended actions for the improvement of school education; and
  - (c) accountability measures for ensuring that the responsible parties deal with identified problems.
- (5) In order to perform its functions, the NEEDU must –
- (f) develop an appropriate theoretical foundation for its work in regard to the improvement of school education;
  - (g) determine an appropriate methodology or combination of methodologies for carrying out its duties;
  - (h) consider the historical, social and material contexts in which school education is offered, so as to recommend ways in which the detrimental effects of these contexts can be overcome;
  - ;
  - (i) conduct or commission such research as is necessary for fulfilling its obligations in terms of this Act; and
  - (j) liaise with bodies having similar functions in the provinces and in other countries.
- (6) To ensure that its work is of the highest possible standard and above reproach, the NEEDU must employ strategies including, but not limited to –
- (a) basing its findings and proposals on the best available empirical evidence and, where required, statistical data or analysis; and
  - (b) conducting its work in an open and transparent manner."

### **Consideration of reports**

7. (1) The Minister must –
- (a)(i) consider the reports and recommendations made by the NEEDU in terms of this Act; and
  - (ii) engage the NEEDU in regard to the content of such reports and recommendations; and
  - (b) table each NEEDU report at the following meeting of the Council of Education Ministers for consideration and action.
- (2) The Minister may, if it is considered necessary, apply the provisions of section 8 of the National Education Policy Act, 1996 (Act No. 27 of 1996), to a NEEDU report.

## **CHAPTER 3 NEEDU BOARD**

### **Governance and composition**

8. (1) The NEEDU is governed by a board comprising –

- (a) not less than seven and not more than nine persons appointed by the Minister on the basis of their suitability as contemplated in subsections (2) to (7); and
  - (b) the chief executive officer, who is an *ex officio* member of the board.
- (2) The Minister must, by notice in the *Government Gazette*, invite nominations for the appointment of members from –
- (a) persons involved in school education;
  - (b) organisations involved in school education; and
  - (c) members of the public.
- (3) The Minister must, from the nominations contemplated in subsection (2), appoint members in such a manner as to ensure, as far as is practicable, that the functions of the NEEDU are performed according to the highest professional standards.
- (4) The members appointed, taken as a whole, must –
- (a) be broadly representative of the school education sector and related interests;
  - (b) have thorough knowledge and understanding of school education;
  - (c) appreciate the role of school education in the reconstruction and development of the South African economy and society;
  - (d) have known and attested commitment to the interests of school education;
  - (e) have knowledge and understanding of school education evaluation and development matters; and
  - (f) be competent to undertake the governance and oversee the financial affairs of the NEEDU.
- (5) Particular attention must be given to the representivity of the board in terms of such factors as race, gender and disability.
- (6) A member –
- (a) holds office for a period not exceeding five years; and
  - (b) may be reappointed on the expiry of his or her term of office: Provided that no member may serve more than two consecutive terms of office.
- (7) The Minister must appoint one of the members as chairperson.
- (8) The members must elect a deputy chairperson from among their number.
- (9) The Director-General of the national department must nominate a representative of the department to attend meetings of the board for liaison purposes, but such representative is not a member of the board.

### **Vacation of office and filling of vacancies**

- 9.** (1) A member must vacate his or her office if he or she –
- (a) resigns by giving written notice to the chairperson or, in the case of the chairperson, to the Minister;
  - (b) has, without the permission of the chairperson, been absent from three consecutive meetings of the board;
  - (c) is declared insolvent, is removed from an office of trust by a court of law or is convicted of an offence for which the sentence is imprisonment without the option of a fine; or

- (d) is declared unable to manage his or her personal affairs by a court of law.
- (2) The Minister may, at any time before the expiry of the member's term of office, remove a member of the board –
  - (a) on the grounds of misconduct, incapacity or incompetence; or
  - (b) for any other reasonable, sound and compelling reason.
- (3) A vacancy on the board must be filled by appointment in accordance with section 8(2) – (6).
- (4) The Minister may dissolve the entire board –
  - (a) if the board fails to perform in terms of this Act;
  - (b) if there is a total breakdown in the relationship between the board and the Minister; or
  - (c) on other reasonable and justifiable grounds.
- (5) If the board is dissolved as contemplated in subsection (4), the Minister must ensure that a new board is appointed in accordance with section 8 within 60 days.

## **Committees**

- 10.** (1) The board may establish one or more committees, which must perform such functions as the board may determine.
- (2) The board must –
  - (a) appoint members of a committee; and
  - (b) consider the criteria contemplated in subsections (3) to (5) of section 8 when it appoints members of such a committee.
- (3) A committee may co-opt a person who is not a member, but the board must consider the criteria contemplated in subsections (3) to (5) of section 8 when it appoints such a person to a committee.
- (4) The board must appoint one of its members as chairperson of the committee.
- (5) A member of a committee is appointed for such period as the board may determine: Provided that the term of office of a committee member shall not exceed the term of office of the board that appointed him or her.

## **Meetings**

- 11.** (1) The board must meet at least four times a year, at such times and places as the chairperson may determine by written notice to the members.
- (2) The chairperson must convene a meeting of the board –
  - (a) within 14 days of receipt of a written request signed by at least one third of the members of the board; or
  - (b) if so requested by the Minister.
- (3) If both the chairperson and the deputy chairperson are absent from any meeting of the board, the members present must elect one of their number to preside at that meeting.
- (4) The board must make rules relating to the procedure at meetings of the board and its committees, including the quorum for such meetings and any other matter necessary or expedient for the performance of the functions of the board and its committees.

- (5) The proceedings at a meeting of the board or of one of its committees are not invalid by reason only of the fact that a vacancy exists on the board or committee, as the case may be, at the time of such meeting.
- (6) The board and its committees must keep minutes of their proceedings and decisions, which, when confirmed, must be open to scrutiny by an interested person.

### **Allowances and remuneration**

- 12.** A board member and a committee member not in the full-time service of the State may, in respect of services rendered by him or her in connection with the affairs of the board or committee, as the case may be, be paid by the NEEDU –
- (a) such allowances; and
  - (b) in the case of the chairperson of the board, such additional remuneration, as the Minister, after consultation with the Minister of Finance, may determine.

### **Appointment of chief executive officer and staff**

- 13.** (1) The board must appoint a chief executive officer for the NEEDU.
- (2) The term of office of the chief executive officer shall be a period not exceeding five years.
- (3) No person may hold office as the chief executive officer for more than two terms.
- (4) The board must appoint such number of employees as it considers necessary for the performance of the NEEDU's functions.
- (5) The board may delegate the appointment referred to in subsection (4) to the chief executive officer, subject to such conditions as are consistent with the relevant provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).
- (6) The NEEDU is the employer of the chief executive officer and other staff.
- (7) The board must, subject to the approval of the Minister, granted with the concurrence of the Minister of Finance, determine the remuneration, allowances, subsidies and other conditions of service of the chief executive officer and staff.

### **Functions of chief executive officer**

- 14.** The chief executive officer –
- (a) is responsible to the board for executing the functions of the NEEDU in terms of this Act;
  - (b) must assign responsibilities to, and must supervise, the employees of the NEEDU;
  - (c) is the accounting officer charged with accounting for monies received, payments made and property purchased by the board; and
  - (d) must ensure that minutes are kept of the proceedings and decisions of the NEEDU.

### **Funds**

- 15.** (1) The funds of the NEEDU consist of –
- (a) money appropriated by Parliament;
  - (b) donations and contributions received by the NEEDU; and
  - (c) interest received on investments.
- (2) The NEEDU –
- (a) must keep a record of all funds received and spent and of all assets, liabilities and financial transactions;
  - (b) must, subject to Chapter 6 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), and at such time and in such manner as the Minister may determine, in each financial year submit to the Minister a budget for the ensuing financial year for his or her approval;
  - (c) may in any financial year submit adjusted budgets to the Minister for his or her approval;
  - (d) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (b) and (c).
- (3) If the Minister does not approve the budget of the NEEDU, the Minister must require the NEEDU to submit a revised budget to him or her within a specified period.
- (4) Subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), the funds contemplated in subsection (1) must be used in accordance with the approved budget.
- (5) Subject to subsection (4) and the Public Finance Management Act, 1999 (Act No. 1 of 1999), the NEEDU may invest surplus funds.

### **Alienation and encumbrance of property**

**16.** The NEEDU may not without the prior approval of the Minister, granted with the concurrence of the Minister of Finance, sell, exchange or otherwise alienate the immovable property of the NEEDU.

### **Financial statements, audit and annual report**

- 17.** (1) The statements of account and balance sheet of the NEEDU must, at the end of each financial year, be audited by a person who is –
- (a) registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005); and
  - (b) appointed by the NEEDU with the approval of the Auditor-General.
- (2) The NEEDU must, not later than five months after the end of each financial year, submit to the Minister an –
- (a) annual report, in such form as the Minister may determine, on the performance of its functions during that financial year; and
  - (b) audited balance sheet and a statement of income and expenditure.
- (3) The Minister must table the annual report and the balance sheet and statement of income and expenditure in Parliament –
- (a) within one month after receipt thereof, if Parliament is then sitting; or

(b) within one month after the commencement of the next ordinary sitting, if Parliament is not then sitting.

## **CHAPTER 4**

### **GENERAL PROVISIONS**

#### **Regulations**

- 18.** The Minister may make regulations regarding –
- (a) the allowances and remuneration of members of the board or of a committee contemplated in section 10; and
  - (b) any matter that it is necessary to prescribe for the proper implementation or administration of this Act.

#### **Short title and commencement**

- 19.** This Act is called the National Education Evaluation and Development Unit Act, 2012, and comes into operation on the date of publication in the *Government Gazette*.