HUMAN SCIENCES RESEARCH COUNCIL ACT
NO. 17 OF 2008

[View Regulation]

[ASSENTED TO 23 SEPTEMBER, 2008]
[DATE OF COMMENCEMENT: 5 DECEMBER, 2008]

(English text signed by the President)

This Act has been updated to Government Gazette 44333 dated 26 March, 2021.

as amended by

Science and Technology Laws Amendment Act, No. 7 of 2014

Science and Technology Laws Amendment Act, No. 9 of 2020
Government Gazette 43829 dated 22 October, 2020
[with effect from 1 April, 2021]

ACT

To provide for the promotion of research in the field of human sciences in order to improve understanding of social conditions and the process of social change; to provide for the continued existence of the Human Sciences Research Council; and to provide for matters connected therewith.

PREAMBLE

SINCE it is necessary to promote human science research of the highest quality in South Africa in order to improve understanding of social conditions and the processes of social change;

AND SINCE members of the South African human sciences community are obliged to engage with their colleagues elsewhere in Africa and the rest of the world through networks and joint programmes of research on pressing social issues relevant to human welfare and prosperity,

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

ARRANGEMENT OF SECTIONS

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1. Definitions.—In this Act, unless the context indicates otherwise—

"Board" means the Board referred to in section 5;

"chief executive officer" means the person appointed as chief executive officer of the Council in terms of section 10 (1);

"Council" means the Human Sciences Research Council referred to in section 2;

"Department" means the Department of Science and Technology;

"human sciences" means the investigation of human life and society through systematic, rational and verifiable methods that recognise the validity of both objective and subjective data;

"Minister" means the Minister of Science and Technology;

"prescribe" means prescribe by regulation;

"Promotion of Administrative Justice Act" means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

"Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"research" means the generation, preservation, augmentation and improvement of knowledge by means of scientific investigations and methods in the field of the human sciences;

"regulation" means a regulation made in terms of section 17;

"this Act" includes regulations.

2. Continued existence of Human Sciences Research Council.—(1) The Human Sciences Research Council established by section 2 of the Human Sciences Research Act, 1968 (Act No. 23 of 1968), continues to exist as a juristic person notwithstanding the repeal of that Act by section 18 of this Act.

(2) The Public Finance Management Act applies to the Council.

3. Objects of Council.—The objects of the Council are to—

(*a*) initiate, undertake and foster strategic basic research and applied research in human sciences, and to gather, analyse and publish data relevant to developmental challenges in the Republic, elsewhere in Africa and in the rest of the world, especially by means of projects linked to public sector oriented collaborative programmes;

(*b*) inform the effective formulation and monitoring of policy and to evaluate the implementation of policy;

(*c*) stimulate public debate through the effective dissemination of fact-based results of research;

(*d*) help build research capacity and infrastructure for the human sciences in the Republic and elsewhere in Africa;

(*e*) foster and support research collaboration, networks and institutional linkages within the human sciences research community;

(*f*) respond to the needs of vulnerable and marginalised groups in society by researching and analysing developmental problems, thereby contributing to the improvement of the quality of their lives; and

(*g*) develop and make publicly available new data sets to underpin research, policy development and public discussion of the key issues of development, and to develop new and improved methodologies for use in their development.

4. Functions of Council.—(1) The Council must—

(*a*) undertake or procure the undertaking of such investigation and research relating to its objects as the Minister may assign to it; and

(*b*) advise the Minister in respect of—

(i) research relating to its objects which should be undertaken;

(ii) the utilisation of the results of such research;

(iii) the manner in which such research may be promoted; or

(iv) development and utilisation of human resources in research; and

(v) the promotion of any other matter incidental to human sciences.

(2) In order to achieve its objects, the Council may—

(*a*) purchase or otherwise acquire, hold, hire, lease, sell, exchange or otherwise alienate movable or immovable property, with the approval of the Minister granted with the concurrence of the Minister of

Finance;

(*b*) at the request of any person or organisation and subject to such conditions and the payment of such fees as may be agreed upon, conduct or cause to be conducted any research relating to any matter in the field of the human sciences;

(*c*) in respect of any other service rendered by it in terms of this Act—

(i) charge such fees; or

(ii) make such other financial arrangements with the concurrence of the Minister of Finance,

as the Council considers necessary; and

(*d*) take such other measures as may be necessary for the effective achievement of its objects.

(3) The Council may, in order to achieve its objects and with the approval of the Minister granted with the concurrence of the Minister of Finance—

(*a*) for the purposes of developing, utilising, marketing or selling any invention, technological expertise, service or product, establish a company under the Companies Act, 1973 (Act No. 61 of 1973), or in association with any person establish such a company or acquire an interest in or control over such a company; and

(*b*) act as trustee of any trust if the purpose of that trust is the promotion and development of the human sciences.

4A. Performance of functions outside Republic.—(1) The Council may, subject to legislation and other formal agreements regarding international cooperation and in order to achieve its objectives, perform any function in any territory outside the Republic.

(2) This Act must, as far as it can be applied with the necessary changes, apply in connection with the performance by the Council of its functions under subsection (1) as if the territory in which it so performs its functions were part of the Republic.

[S. 4A inserted by s. 20 of Act No. 9 of 2020 with effect from 1 April, 2021.]

5. Board of Council.—(1) The Council is governed and controlled by a Board in accordance with this Act.

(2) The Board consists of—

(*a*) a chairperson designated by the Minister;

(*b*) not less than six and not more than nine other members; and

(*c*) the chief executive officer, who is a member of the Board by virtue of his or her office.

(3) The Minister appoints members of the Board after—

(*a*) publishing a notice in the Government *Gazette* and three national newspapers, with due regard to the Use of Official Languages Act, 2012 (Act No. 12 of 2012), calling upon members of the public to nominate persons contemplated in subsections (2) (a) and (b);

[Para. (a) substituted by s. 15 (a) of Act No. 7 of 2014.]

(*b*) appointing an independent panel to compile a shortlist of not more than twenty (20) persons from the nominees referred to in paragraph (a); and

[Para. (b) substituted by s. 15 (b) of Act No. 7 of 2014.]

(*c*) the chairperson of the panel has submitted a short-list of candidates together with their curriculum vitae to the Minister.

[Para. (c) substituted by s. 15 (c) of Act No. 7 of 2014.]

(*d*) . . . . . .

[Para. (d) deleted by s. 15 (d) of Act No. 7 of 2014.]

(3A) If the Minister receives no nominations or an insufficient number of nominations within the period specified in the notice referred to in subsection (3) (a), the Minister may, after consultation with the panel referred to in subsection (3) (b), either readvertise or in any other transparent manner, appoint the required number of qualified persons.

[Sub-s. (3A) inserted by s. 15 (e) of Act No. 7 of 2014.]

(4) The members of the Board contemplated in subsection (2) (a) and (b) are appointed in their personal capacities and must be persons who—

(*a*) have distinguished themselves in the field of the human sciences or who possess special qualifications, experience or skills in relation to some aspect of the functions of the Council; and

(*b*) are citizens or permanent residents of the Republic, with the exception of the distinguished representative of the social science research community in the rest of Africa contemplated in

subsection (5) (b); and

[Para. (b) substituted by s. 15 (f) of Act No. 7 of 2014.]

(*c*) are fit and proper to hold office.

[Para. (c) added by s. 15 (g) of Act No. 7 of 2014.]

(5) (*a*) The composition of the Board must be broadly representative of—

(i) the demographics of the Republic; and

(ii) the various sectors in the field of the human sciences.

(*b*) At least one of the members appointed to the Board must have financial expertise and at least one other member appointed to the Board must be a distinguished representative of the social science research community in the rest of Africa.

(6) A member of the Board ceases to hold office if—

(*a*) the member resigns by written notice to the Minister;

(*b*) the member is an unrehabilitated insolvent;

[Para. (b) substituted by s. 21 (a) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(*c*) a competent court finds that the member is of unsound mind;

(*d*) the member is convicted of—

(i) a crime and sentenced to a term of imprisonment without the option of a fine; or

(ii) fraud, corruption or any other crime involving dishonesty, within a period of 10 years preceding the date of nomination in terms of subsection (3) (a);

[Para. (d) substituted by s. 15 (h) of Act No. 7 of 2014. Sub-para. (ii) substituted by s. 21 (b) of Act No. 9 of 2020 with effect from1 April, 2021.]

(*e*) the member is absent from three consecutive meetings of the Board without the leave of the Board;

(*f*) the member is elected as a member of the National Assembly, a provincial legislature or the council of a municipality, or is appointed as a permanent delegate to the National Council of Provinces by a provincial legislature in accordance with the Constitution and the National Council of Provinces (Permanent Delegates Vacancies) Act, 1997 (Act No. 17 of 1997);

(*g*) the member ceases to be a citizen or a permanent resident of the Republic, except for the distinguished representative of the social science research community in the rest of Africa contemplated in subsection (5) (b); or

[Para. (g) substituted by s. 15 (i) of Act No. 7 of 2014.]

(*h*) the member as a result of improper conduct is removed from a position of trust.

[Para. (h) substituted by s. 21 (c) of Act No. 9 of 2020 with effect from1 April, 2021.]

(7) (*a*) The Minister may, after consultation with the Board, remove a member of the Board from office due to misconduct, incapacity, incompetence or on any other reasonable grounds.

[Para. (a) substituted by s. 15 (j) of Act No. 7 of 2014.]

(*b*) . . . . . .

[Para. (b) deleted by s. 15 (k) of Act No. 7 of 2014.]

(8) . . . . . .

[Sub-s. (8) deleted by s. 15 (l) of Act No. 7 of 2014.]

(9) If a member of the Board ceases to hold office or is removed from office in terms of subsection (7), the Minister may after consideration of a shortlist of candidates referred to in subsection (3) (b) or in any other transparent manner, appoint a person who meets the requirements set out in section 4 in that member's place for the remaining part of the term of office.

[Sub-s. (9) substituted by s. 15 (m) of Act No. 7 of 2014.]

(10) A member of the Board holds office for a period not exceeding four years and may be reappointed subject to subsections (6), (7) and (11).

(11) No member may serve for more than two consecutive terms.

[Sub-s. (11) substituted by s. 15 (n) of Act No. 7 of 2014.]

(12) Despite subsection (11), the Minister may, after consultation with the Board, extend the period of office of any or all of the members of the Board for a period of not more than six months or until a new Board has been appointed, whichever comes first.

[Sub-s. (12) added by s. 15 (o) of Act No. 7 of 2014.]

(13) The Minister must, within 30 days of the appointment or reappointment of a member of the Board, submit a report to the National Assembly relating to such appointment or reappointment.

[Sub-s. (13) added by s. 15 (o) of Act No. 7 of 2014.]

6. Remuneration.—Any member of the Board and of any committee of the Board who is not in the full-time employ of the State or who is not in the employ of the Council must be paid such allowances as the National Treasury may determine.

[S. 6 substituted by s. 22 of Act No. 9 of 2020 with effect from 1 April, 2021.]

7. Meetings of Board.—(1) The Board must meet at least four times a year at such times and places as the Board may determine.

(2) The Board may determine the procedure for its meetings.

(3) The chairperson—

(*a*) may convene a special meeting of the Board;

(*b*) must convene a special meeting within 14 days of the receipt of a written request signed by at least one third of the members of the Board to convene such a meeting.

(4) The chairperson or, in the chairperson's absence, a member of the Board elected by the members present, must preside at a meeting of the Board.

(5) The quorum for a meeting of the Board is the majority of its members.

(6) A decision of the Board must be taken by resolution of the majority of the members present at any meeting of the Board, and in the event of an equality of votes on any matter the person presiding at the meeting has a casting vote in addition to his or her deliberative vote.

(7) A member of the Board may not vote or in any manner be present during or participate in the proceedings at any meeting of the Board if, in relation to any matter before the Board, he or she may have any interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased and proper manner.

(8) A decision taken by the Board or an act performed under the authority of the Board is not invalid if—

(*a*) there is a vacancy on the Board; or

(*b*) a person who is not a member of the Board was present at the meeting when the decision was taken or the act was authorised,

if the decision was taken or the act was authorised by the requisite majority of members of the Board who were present at the time and entitled to sit as members.

[Sub-s. (8) added by s. 23 of Act No. 9 of 2020 with effect from 1 April, 2021.]

8. Committees of Board.—(1) The Board may establish one or more committees to perform such functions of the Board as the Board may determine.

(2) The Board may appoint as members of such committees—

(*a*) any member of the Board;

(*b*) any employee of the Council; or

(*c*) any other person with suitable skills or experience.

(2A) The Board must designate a member of the committee as the chairperson thereof.

[Sub-s. (2A) inserted by s. 24 of Act No. 9 of 2020 with effect from 1 April, 2021.]

(2B) A member of the Board may not serve on more than two committees at a time.

[Sub-s. (2B) inserted by s. 24 of Act No. 9 of 2020 with effect from 1 April, 2021.]

(3) The Board may at any time dissolve or reconstitute a committee.

(4) The Board is not absolved from the performance of any function assigned to any committee under this section.

9. Governance committee.—(1) The Board may establish a governance committee to assist it to perform its functions and to advise it in connection with any matter relating to the proper governance of the Council.

(2) The committee establishes policies and guidelines on Board practices.

(3) The governance committee is appointed by the Board and consists of—

(*a*) a chairperson, who must be a member of the Board other than the chairperson referred to in section 5 (2) (a); and

(*b*) at least two other members who may be members of the Board.

(4) No employee of the Council may be appointed as a member of the governance committee.

9A. Dissolution of Board.—(1) The Minister may dissolve the Board if—

(*a*) the Board is unable to perform its duties in terms of this Act or on the grounds of mismanagement;

(*b*) there is a total breakdown in the relationship between the Board and the Minister; or

(*c*) there is a breakdown in the relationship amongst the members of the Board, which renders the continued effective functioning of the Board impossible.

(2) In exercising his or her powers in terms of this section, the Minister must comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(3) Within 21 days of the dissolution of the Board, the Minister must appoint an interim Board, consisting of a minimum of three persons, to assume the responsibilities of the Board, until a new Board is constituted in accordance with the procedure referred to in section 5 (3).

(4) A new Board must be constituted within 180 days of the dissolution of the previous Board.

(5) Any person who was a member of the Board that was dissolved in terms of this section may be reappointed to a new Board.

(6) The Minister must, within 30 days of the dissolution of the Board, submit a report to the National Assembly, setting out the reasons for the dissolution of the Board.

[S. 9A inserted by s. 16 of Act No. 7 of 2014.]

10. Chief executive officer of Council.—(1) The Board must, in consultation with the Minister, appoint a suitable skilled and qualified person as the chief executive officer.

[Sub-s. (1) substituted by s. 17 (a) of Act No. 7 of 2014 and by s. 25 (a) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(1A) The appointment of the chief executive officer must be made after following a transparent and competitive selection process.

[Sub-s. (1A) inserted by s. 17 (b) of Act No. 7 of 2014.]

(2) The chief executive officer is responsible for the administration and the general management and control of the day-to-day functioning of the Council, subject to the directions and instructions issued by the Board.

(3) The chief executive officer must report to the Board on the required matters.

(4) The chief executive officer holds office for a term not exceeding five years and is eligible for reappointment, on such conditions relating to payment of remuneration and allowances as the Board, subject to section 11 (2), may determine, in consultation with the Minister.

[Sub-s. (4) substituted by s. 17 (c) of Act No. 7 of 2014.]

(5) The chief executive officer must enter into a performance agreement with the Board within three months of taking up his or her post.

(6) Whenever for any reason the chief executive officer—

(*a*) is absent for a period of more than two months;

(*b*) is unable to carry out his or her duties; or

(*c*) ceases to hold office,

the Board may, after consultation with the Minister, appoint any senior person in the service of the Council who meets the requirements contemplated in subsection (1) (a) to act as chief executive officer.

[Sub-s. (6) substituted by s. 17 (d) of Act No. 7 of 2014 and amended by s. 25 (b) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(7) If the chief executive officer is absent for a period of less than two months the Board may appoint a person to act as chief executive officer during that period.

[Sub-s. (7) substituted by s. 25 (c) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(8) An acting chief executive officer may exercise all the powers and may perform all the duties of the chief executive officer.

(9) . . . . . .

[Sub-s. (9) deleted by s. 25 (d) of Act No. 9 of 2020 with effect from 1 April, 2021.]

11. Employees of Council.—(1) Subject to subsections (2) and (3), the chief executive officer—

(*a*) must, on such conditions as the Board may determine, appoint such number of employees or receive on secondment such number of persons as are necessary to enable the Council to perform its functions;

[Para. (a) substituted by s. 26 (a) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(*b*) is responsible for the administrative control of those persons; and

(*c*) must ensure compliance with applicable labour legislation.

(2) The Board must approve—

(*a*) general terms and conditions of employment of the employees contemplated in subsection (1); and

(*b*) structures for remuneration, allowances, subsidies and other benefits for employees contemplated in subsection (1) in accordance with a system as may be determined by the National Treasury.

[Para. (b) substituted by s. 26 (b) of Act No. 9 of 2020 with effect from 1 April, 2021.]

12. Transfer or secondment of certain persons to or from employ of Council.—(1) A person who is in the full-time employ of the State or of an institution receiving financial aid from the State may, with his or her consent and subject to the laws governing the public service and the approval of the chief executive officer, be transferred or seconded to the employ of the Council.

(2) A person who is in the employ of the Council may, with his or her consent and subject to the laws governing the public service and the approval of the chief executive officer, be transferred or seconded to the employ of the State or an institution receiving financial aid from the State.

(3) A person who is in the employ of another institution may, with his or her consent and the approval of the chief executive officer of that institution be transferred or seconded to the employ of the Council.

(4) A person who is in the employ of the Council may, with his or her consent and with the approval of the chief executive officer, be transferred or seconded to the employ of another institution within or outside the Republic.

[Sub-s. (4) substituted by s. 27 of Act No. 9 of 2020 with effect from 1 April, 2021.]

(5) The rights, privileges and benefits of an employee contemplated in subsection (1) or (2) by virtue of his or her conditions of service as an employee of the Council, the State or an institution receiving financial aid from the State may not be adversely affected by a transfer or secondment.

13. Transfer of certain assets to Council.—Any immovable property belonging to the State may, on such conditions as the Minister with the concurrence of the Minister of Finance may determine, be transferred to the Council in order to enable the Council to perform its functions.

14. Intellectual property rights.—(1) The rights in respect of any invention or design or any works eligible for copyright protection by an employee of the Council in the course and scope of the employee's employment vests in the Council.

(2) The Council may in its discretion, but subject to such conditions as the Minister may determine, assign or dispose of any of its rights contemplated in subsection (1).

(3) The Council must, with regard to research conducted by employees of the Council—

(*a*) subject to properly informed consent, ensure that in work conducted in respect of indigenous knowledge, written information transfer and material transfer agreements are established before the undertaking of research; and

(*b*) protect, with the consent of the parties, any work, invention, discovery or improvement derived from indigenous knowledge, originally held by any person or community, in such a manner that the person or community can participate in the benefits arising from such protection.

(4) If the rights in respect of an invention or design properly registered in the Republic in terms of subsection (1) are vested in the Council or assigned by the Council in terms of subsection (2), the Council must award to the person responsible for the invention, financial participation by him or her in the proceeds derived from such invention or design at a prescribed percentage.

(5) The Council must ensure that the person contemplated in subsection (4) receives the payment contemplated in subsection (4) timeously.

(6) The Council must, with regard to research conducted by employees of the Council in the area under the jurisdiction of a traditional leader, notify the National House of Traditional Leaders, in writing, of its intention to conduct such research.

15. Funds of Council.—(1) The funds of the Council consist of—

(*a*) money appropriated by Parliament for that purpose;

(*b*) fees, royalties or other revenue obtained in terms of this Act;

(*c*) donations or contributions received by the Council; and

(*d*) revenue accruing to the Council from any other source.

(2) The Council must utilise its funds to defray the expenses incurred by the Council in the performance of its

functions under this Act.

(3) Moneys received by way of donation or contribution must be utilised in accordance with any conditions imposed by the donor or contributor concerned.

(4) . . . . . .

[Sub-s. (4) deleted by s. 28 of Act No. 9 of 2020 with effect from 1 April, 2021.]

16. Delegations.—(1) The Board may, subject to such conditions as it may determine, delegate to the chairperson, any member or committee of the Board or the chief executive officer any function entrusted to the Board under this Act.

(2) The chief executive officer may, subject to such conditions as he or she may determine, delegate to an employee of the Council any function entrusted to the chief executive officer under this Act or delegated to the chief executive officer in terms of subsection (1).

(3) A delegation in terms of subsection (1) or (2) must be in writing and does not preclude the performance of the function in question by the Board or the chief executive officer, as the case may be.

[Sub-s. (3) substituted by s. 29 of Act No. 9 of 2020 with effect from 1 April, 2021.]

16A. Liquidation of Council.—The council may not be wound up except by or under the authority of an Act of Parliament.

[S. 16A inserted by s. 30 of Act No. 9 of 2020 with effect from 1 April, 2021.]

17. Regulations.—(1) The Minister may, after consultation with the Board, make regulations regarding—

(*a*) any matter that may or must be prescribed in terms of this Act; and

[Para. (a) amended by s. 18 (b) of Act No. 7 of 2014.]

(*b*) . . . . . .

[Para. (b) deleted by s. 18 (c) of Act No. 7 of 2014.]

(*c*) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

[Sub-s. (1), previously s. 17, renumbered by s. 18 (a) of Act No. 7 of 2014 and amended by s. 31 (a) of Act No. 9 of 2020 with effect from 1 April, 2021.]

(2) . . . . . .

[Sub-s. (2) added by s. 18 (d) of Act No. 7 of 2014 and deleted by s. 31 (b) of Act No. 9 of 2020 with effect from 1 April, 2021.]

18. Repeal of laws.—The Human Sciences Research Act, 1968 (Act No. 23 of 1968), the Human Sciences Research Amendment Act, 1975 (Act No. 31 of 1975), the Human Sciences Research Amendment Act, 1980 (Act No. 25 of 1980), the Human Sciences Research Amendment Act, 1985 (Act No. 65 of 1985), and the Human Sciences Research Amendment Act, 1990 (Act No. 99 of 1990), are hereby repealed.

19. *Amends* section 1 *of the Associated Institutions Pension Fund Act,* No. 41 of 1963*, by substituting* paragraph (a) *of the definition of* "associated institution"*.*

20. Transitional provisions and savings.—(1) At the commencement of this Act anything done in terms of the Human Sciences Research Act, 1968 (Act No. 23 of 1968), prior to such commencement and which may be done in terms of this Act, must be regarded as having been done in terms of this Act.

(2) If at the commencement of this Act any matter has not been disposed of by the Council established by section 2 of the Human Sciences Research Act, 1968 (Act No. 23 of 1968), or any committee of such Council, the Board established in terms of this Act may continue with the disposal of the matter in accordance with the provisions of this Act, and anything done in connection with that matter must be regarded as having been done by the Board established in terms of this Act.

(3) Any regulation made under section 14 of the Human Sciences Research Act, 1968 (Act No. 23 of 1968), and in force at the repeal of that Act by section 18 of this Act remains in force after the commencement of this Act in so far as it deals with any matter in respect of which the Minister may make regulations under this Act, until it is replaced by a regulation made in terms of this Act.

21. Short title and commencement.—This Act is called the Human Sciences Research Council Act, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette.*

COMMENCEMENT OF THIS ACT

Date of commencement	*The whole Act/ Sections*	*Proclamation No.*	*Government Gazette*	*Date of Government Gazette*
5 December, 2008	The whole Act.	56	31730	15 December, 2008