



Centre for Applied
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Comments

to the

The Department of Social Development

on the

Draft Non-Profit Organisation Amendment Bill, 2021

29 April 2022

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Introduction

1. The Centre for Applied Legal Studies (“CALS”) would like to thank the Department of Social Development for the opportunity to make comments on the Draft Non-Profit Organisation Amendment Bill, 2021.
2. CALS is a civil society organisation based at the School of Law at the University of the Witwatersrand. CALS is also a law clinic, registered with the Legal Practice Council of South Africa. As such, CALS connects the worlds of both academia and social justice.
3. CALS wants to see a society in which historical and social justice are achieved through strengthened state institutions which are held accountable by marginalised actors themselves. CALS operates across a range of areas, including Civil and Political Justice; Business and Human Rights; Gender Justice; Home, Land and Rural Democracy; and Environmental Justice.
4. Our Civil and Political Justice programme advances civil and political rights, such as the right to protest, the right to freedom of expression, the rights of the arrested and detained, and the right to access to information. In addition to this rights-based work, the programme aims to protect and promote the systems and institutions of South Africa’s constitutional democracy. This includes working to strengthen Chapter Nine institutions, supporting the transformation of the judiciary, and engaging with Parliament.
5. As a non-profit organisation and a recipient of international donor funds, CALS believes that it can add value by making comments to the Bill.

6. Kindly take notice of the comments below:

Clause commented on	Proposal	Motivation
Clause 1 – Amendment of section 1 of the Non-Profit Organisation Act, 1957	Although referred to in the Bill, there is no definition of a Foreign Non-Profit Organisation. The proposal is that this definition is explicitly provided in the definitions section.	The objectives of the Bill in the preamble is to provide for the compulsory registration of foreign organisations. It is therefore important that these are defined so as to provide clarity and eliminate confusion on what constitutes a foreign organisation. This will also assist in compliance with the provisions of the Act.
Clause 4 & 5 - Office of the Registrar – amendment of section 12 & 13 of the Non-Profit Organisation Act, 1957	The functions and duties of the office of the registrar should be explicitly provided, either in more detail on the definitions section or in the body. As part of its functions, it should also provide assistance to NPOs and aspirant NPOs on the registration process in order to ensure proper compliance.	The Bill aims to introduce and make provision for the office of the registrar yet it's unclear what the duties and functions of this office are. This is important because this office seems to hold important functions which include holding important information of NPOs in the country. It is therefore important that all its functions are explicitly provided to ensure transparency and for members to be able to hold it accountable.
Clause 4 (5) – amendment of section 12 of the Non-Profit Organisation Act, 1957	Subsection 5 as inserted should be re-phrased so as to clearly outline the objectives of the sub-section. Currently, it requires the foreign organisation to be registered in terms of the Act before it operates and that it shall be subject to provisions of the Act and any other law. It's unclear which laws and whether this entails a screening process. If so, then perhaps a separate clause should be included to state that foreign organisations would be subjected to a screening process and also	The wording could have been drafted better so that it is clearer for the reader. Furthermore, the objectives are unclear. This is important in order to provide clarity and better understanding for proper compliance. There is clarity needed over whether operating means organisations working here or also international donors.

	set out the relevant criteria. The subsection also reads incomplete; the proposal is that the last sentence of the subsection is completed.	
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