



23 July 2024

**MINISTER OF SMALL BUSINESS DEVELOPMENT, MS STELLA NDABENI-ABRAHAMS, WELCOMES THE SIGNING OF THE NATIONAL SMALL ENTERPRISE AMENDMENT ACT BY THE PRESIDENT**

Minister of Small Business Development, Ms Stella Ndabeni-Abrahams, welcomes the signing of the National Small Enterprise Amendment Act by President Cyril Ramaphosa. The act, as amended, is a major game-changer in the small business ecosystem and we believe that the tide is turning irreversibly in favour of small businesses and cooperatives.

The National Small Enterprise Amendment Act, which amends the National Small Enterprise Act of 1996, establishes the Small Enterprise Development Finance Agency (SEDFA) through the incorporation of the Small Enterprise Finance Agency (Sefa), the Cooperatives Bank Development Agency (CBDA) and the Small Enterprise Development Agency (Seda) into SEDFA. The Act establishes the Office of the Enterprise Ombuds Service, redefines, and simplifies the term “small enterprises” while it also empowers the Minister to declare certain trading practices in relation to Micro, Small and Medium Enterprises (MSMEs) as unfair trading practices.

This streamlines the support services that government provides to MSMEs to broaden their participation in the economy in line with government’s commitment towards placing MSMEs at the centre of the reconstruction and recovery of the economy. The new agency (SEDFA) will drive economic transformation and inclusive growth in the economy through ensuring the provision of customised financial and non-financial support for MSMEs and Cooperatives to enable them to play a strategic role in the value chains of various sectors of the economy.

The Act also provides for the establishment of the Office of the Small Enterprise Ombud Services which will serve as an impartial mediator in the disputes, especially for small enterprises, thereby avoiding costly litigation processes. The lack of effective and affordable access to a justice mechanism for small enterprises has been a matter of grave concern to all

in the small enterprise eco-system. Business-to-business disputes and the late and non-payment of legitimate invoices remain a significant reality in the lives of small enterprises and cooperatives, with very real implications for their growth and sustainability.

MSMEs will now avoid the litigation route, which is wearisome and costly, and use the alternative dispute resolution mechanism of the Ombud. The determinations by the Ombud will be mandatory and binding. The provision will still be made within the act for review specifically on the grounds of illegality, procedural unfairness; or irrationality, thus still protecting the constitutional rights of all persons involved.

### **Unfair Trading Practices**

The Act also enables the Minister to declare certain trading practices in relation to small enterprises as unfair trading practices, on recommendation of the Ombud. It sets the parameters and procedures in terms of which the Minister, by notice in the Gazette, may declare certain practices in relation to small enterprises to be prohibited unfair trading practices.

The unfair trading practices relate to exclusionary compliance requirements for small enterprises, retrospective changes to contracts, ambiguous contracts, sudden and unjustified termination of a commercial relationship or termination without reasonable notice to MSMEs and Cooperatives.

### **Conclusion**

We are confident that the National Small Enterprise Act, as amended, will turn the tide in favour of small enterprises, by leveling the playing fields and enabling the provision of more integrated and effective financial and non-financial support to MSMEs and co-operatives.

**END**

ISSUED BY THE MINISTRY OF SMALL BUSINESS DEVELOPMENT

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