Polity.org.za

REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS TO

HIGHER EDUCATION BILL

[B 75-97]

(As agreed to by the Portfolio Committee on Education (National Assembly))

[B 75A—97]

REPUBLIEK VAN SUID-AFRIKA

PORTEFEULJEKOMITEE-AMENDEMENTE OP

WETSONTWERP OP HOER ONDERWYS

[w 75—97]

(Soos goedgekeur deur die Portefeuljekomitee oor Onderwys (Nasionale Vergadering))

[W 75A—97]

ISBN 0621274356

No of copies printed 3 000

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

AMENDMENTS AGREED TO

HIGHER EDUCATION BILL

[B 75—97]

CLAUSE 1

1. On page 8, in line 24, after "12" to insert:

   or its equivalent in terms of the National Qualifications Framework as contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and includes tertiary education as contemplated in Schedule 4 of the Constitution ".

2. On page 8, in line 27, to omit "regarded as" and to substitute "deemed to be".

3. On page 8, in line 44, to omit all the words after the first "and" up to and including "meaning" in line 45 and to substitute: ,,

   includes a vice-chancellor and a rector;

4. On page 8, in line 46, to omit "person" and to substitute "institution".

5. On page 8, in line 47, to omit "institute" and to substitute "institution".

6. On page 8, in line 50, to omit "regarded as" and to substitute "deemed to be".

7. On page 8, in line 61, to omit "regarded as" and to substitute "deemed to be".

8. On page 10, in line 1, to omit "regarded as" and to substitute "deemed to be".

CLAUSE 5

1. On page 10, in lines 21 and 22, to omit "and publish an annual report on the state of higher education".

2. On page 10, in line 23, to ornit "7(l))*(b)*" and to substitute "7(2)".

3. On page 10, in line 29, after "education" to insert:

   , including an annual report on the state of higher education,

4. On page 10, in line 33, to omit "or imposed to it by or" and to substitute "on or assigned to it".

5. On page 10, from line 39, to omit paragraphs *(d)*, *(e)* and *(f)* and to substitute:

   (d) the planning of the higher education system;
   (e) a mechanism for the allocation of public funds;
   (f) student financial aid;
   (g) student support services;
   (h) governance of higher education institutions and the higher education system; and
   (i) language policy.

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

CLAUSE 6

1. On page 10, in line 55, to omit "or" and to substitute "and".

2. On page 10, in line 55, to omit "research" and to substitute "science, research and professional".

CLAUSE 7

1. On page 12, in line 8, to ornit "*(b)*" and to substitute "(2)".

2... On page 12, in line 9, to omit "and published".

3. On page 12, in line 12, to omit "or assign":

4. On page 12, in line 14, to ornit "act" and to substitute "'delegation".

5. On page 12, in line 14, to omit "(2)" and to substitute "(3)".

6. On page 12, in line 20, to omit "the CHE or". "-

7. On page 12, in line 22, to omit all the words after "The" up to and including "necessary" in line 24 and to substitute "Minister must make regulations".

CLAUSE 8

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 7:

Composition of CHE

8. (1) The CHE consists of—
(a) a chairperson;
(b) ordinary members;
(c) co-opted members; and
(d) non-voting members.
' '(2) The selection of the chairperson, ordinary members and co-opted members must be undertaken in such a manner as to ensure, insofar as is practically possible, that—
(a) the functions of the CHE in terms of this Act are performed according to the highest professional standards;
(b) the membership taken as a whole—
(i) is broadly representative of the higher education system and related interests;
(ii) has deep knowledge and understanding of higher education and research;
(iii) appreciates the role of the higher education system in reconstruction and development; and
(iv) has known and attested commitment to the interests of higher education;
(c) due attention is given to representivity of the CHE on such relevant grounds as race and disability; and

Polity.org.za

(d) the members contemplated in subsection (1)*(b)* and *(c)* consist of equal numbers of women and men.

(3) The Minister must, by notice in the Gazette and in two national newspapers circulating in every province of the Republic, and by any other means regarded necessary by him or her, invite nominations for the chairperson and the ordinary members of the CHE from—

(a) the public;

(b) national organisations representing students, academic employees, employees other than academic employees, university principals, technikon principals, principals of colleges of education, principals of other higher education colleges, principals of private higher education institutions, the further education sector, the distance education sector, educators, organised business and organised labour;

(c) research and science councils; and

(d) non-governmental organisations.

(4) The Minister must consider the nominations as contemplated in subsection (3), and from the persons so nominated, the Minister must appoint—

(a) the chairperson of the CHE; and

(b) no more than 13 ordinary members of the CHE.

(5) At least three of the members contemplated in subsection (4)*(b)* must be external to the higher education sector and must be appointed on account of their particular experience and expertise.

(6) The Minister must appoint six non-voting members of the CHE nominated respectively by the Director-General, the provincial heads of education, the Director-General of the Department of Arts, Culture, Science and Technology, the Director-General of the Department of Labour, the Foundation for Research Development established in terms of the Research Development Act, 1990 (Act No. 75 of 1990), the Centre for Science Development of the Human Sciences Research Council, established in terms of the Human Sciences Research Act, 1968 (Act No. 23 of 1968), and SAQA.

(7) The CHE may co-opt no more than three members.

CLAUSE 9

1. On page 14, from line 20, to omit subsections (2), (3) and (4) and to substitute:

(2) Every ordinary member of the CHE holds office for a period of four years.

(3) Any co-opted member of the CHE holds office for a period determined by the CHE.

CLAUSE 10

1. On page 14, in line 30, to omit paragraph *(b)*.

CLAUSE 11

1. On page 14, in line 39, to omit all the words after "by" up to and including "office" in line 41 and to substitute:

nomination, appointment or co-option in accordance with section 8

Polity.org.za

CLAUSE 14

1. On page 16, from line 14, to omit all the words after "functions" up to and including "CHE" in line 15.

2. On page 16, from line 16, to omit subsection (2) and to substitute:

(2) Any committee other than the executive committee may include persons who are not members of the CHE.

(3) The chairperson of a committee must be appointed by the c m .

(4) Members of the" committees contemplated in subsection (2) may be appointed for such period or periods as the CHE may determine.

CLAUSE 15

1. On page 16, in line21, after "meeting" to insert "at least twice a year or".

2. On page 16, in line 26, to omit ", with the concurrence of the Minister,".

CLAUSE 16

1. On page 16, in line 49, to omit "paragraph *(a)*" and to substitute "paragraphs *(a)* and *(b)*".

2. On page 16, in line 51, to omit "request" and to substitute "require".

3. On page 16, in line 52, to omit "reasonable" and to substitute "specified".

CLAUSE 20

1. On page 18, in line 26, to omit "regarded as" and to substitute "deemed to be".

2. On page 18, in line 32, to omit "regarded as having" "and to substitute "deemed to have".

CLAUSE 22

1. On page 20, in line 29, to omit "regarded as" and to substitute "deemed to be".

2. On page 20, in line 35, to omit "regarded as having" and to substitute "deemed to have".

CLAUSE 23

1. On page 22, from line 6, to omit paragraph *(b)* and to substitute:

(b) publish a notice giving the reasons for the proposed merger in at least one national and one regional newspaper circulating in the area in which the public higher education institutions concerned are situated;

2. On page 22, in line 18, to omit "regarded as" and to substitute "deemed to be".

CLAUSE 26

1. On page 22, after line 43, to insert the following subsection:

(1) Every public higher education institution may appoint a chancellor as its titular head.

2. On page 22, in line 54, to omit "(l)(a)" and to substitute "(2)(a)".

Polity.org.za

CLAUSE 27

1. On page 24, in line 5, after "(2)" to insert:. . .

Subject to the policy determined by the Minister,

2. On page 24, after line 7, to insert the following subsection:

(3) The council, after consultation with the students' representative council, must provide for a suitable structure to advise on the policy for student support services within the public higher education institution.

3. On page 24, in line 20, to omit "(3)(b)" and to substitute "(4)(b)".

CLAUSE 28

1. On page 24, after line 45, to add the following subsection: ""

.(4) The majority of members of a" senate must be' academic employees of the public higher education institution concerned. .

CLAUSE 29

1. On page 24, in line 52, after "function" to insert "delegated or".

CLAUSE 31

1. On page 26, in line 8, to ornit paragraph *(a)* and to substitute:

(a) advise the council on issues affecting the institution, including—

(i) the implementation of this Act and the national policy on higher education;

(ii) race and gender equity policies;

(iii) the selection of candidates for senior management positions;

(iv) codes of conduct, mediation and dispute resolution procedures; and

(v) the fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate environment for teaching, research and learning; and

CLAUSE 32

1. On page 26, from line 32, to omit paragraph *(a)* and to substitute:

(a) the composition of the senate may not be amended or repealed except after consultation with such senate;

2. On page 26, from line 38, to omit paragraph *(c)* and to substitute:

> *(c)* the composition of the students' representative council may not be amended or repealed except after consultation with such students' representative council; and

CLAUSE 34

1. On page 28, from line 6, to omit the proviso.

2. On page 28, after line 7, to insert the following subsection:

> (2) Notwithstanding subsection (1) the academic employees of the public higher education institution must be appointed by the council after consultation with the senate..

CLAUSE 35

1. On page 28, in line 12, to omit "terms" and to substitute "term".

CLAUSE 37

1. On page 28, in line 24, after "institution" to insert:

> must provide appropriate measures for the redress of past inequalities and

2. On page 28, in line31, to omit "prescribe" and to substitute "determine".

CLAUSE 38

1. On page 28, in line" 39, after "regional" to insert "or national".

CLAUSE 39

1. On page 28, in line 48, after "education" to insert:

> , which must include appropriate measures for the redress of past inequalities,

CLAUSE 40

1. On page 30, in lines 12 and 13, to omit "for purposes of public higher education".

CLAUSE 41

1. On page 30, from line 25, to ornit all the words after "must" up to and including the second "and" in line 26.

2. On page 30, in line 32, to omit "(c)" and to substitute:

(2) The council of a public higher education institution must, in respect of the preceding year and by a date or dates and in the manner determined by the Minister,

3. On page 30, from line 37, to omit paragraphs *(d)* and *(e)* and to substitute:

(3) The council of a public higher education institution must provide the Minister with—

(a) the information that must be provided in terms of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992); and

(b) such additional information as the Minister may reasonably require.

CLAUSE 42

1. On page 30, in line 48, to omit all the words after "may" up to and including the second "the" in line 49 and to substitute:

withhold payment of any commensurate portion of any

2. On page 30, in line 52, after the first "the" to insert "council of the".

CLAUSE 43

1. On page 32, after line 10, to add the following subsection:

(2) A member of the panel contemplated in subsection (1) is appointed for a period of not more than two years, and may be reappointed.

CLAUSE 44

1. On page 32, in line 19, to omit "institute" and to substitute "institution".

CLAUSE 45

1. On page 32, from line 24, to omit paragraph *(a)*.

2. On page 32, after line 32, to add the following paragraph:

(e) the appointment is in the interests of higher education in an open and democratic society.

CLAUSE 50

1. On page 34, in line 14, to omit "or impose".

CLAUSE 51

1. On page 34, in line 18, to omit "without being" and to substitute "unless that person is".

Polity.org.za

CLAUSE 53

1. On page 34, from line 25, to omit subsection (1) and to substitute:

(1) The registrar must register an applicant as a private higher education institution if the registrar has reason to believe that the applicant—

(a) is financially capable of satisfying its obligations to prospective students;

(b) with regard to all of its higher education programmes—

(i) will maintain acceptable standards that are not inferior to standards at a comparable public higher education institution;

(ii) will comply with the requirements of the appropriate quality assurance body accredited by SAQA in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995); and

(iii) complies with any other reasonable requirement determined by the registrar.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 64:

Name change of public higher education institution

65. (1) A council of a public higher education institution other than a council of a university established or incorporated by a private Act of Parliament may, with the approval of the Minister and by notice in the *Gazette*, change the name of such higher education institution.

(2) A name of a university established or incorporated by a private Act of Parliament may only be changed by amendment of such private Act.

CLAUSE 65

1. On page 40, in line 22, to omit "on conviction is liable" and to substitute "is liable on conviction".

2. On page 40, in line 26, to omit "upon" and to substitute "on".

CLAUSE 71

1. On page 42, in line 20, to omit "regarded as having," and to substitute "deemed to have".

2. On page 42, in line 22, to omit "regarded as" and to substitute "deemed to be".

3. On page 42, in line 25, to ornit "regarded as" and to substitute "deemed to be".

4. On page 42, in line 34, to omit "by a date determined by the Minister by notice in the *Gazette*" and to substitute:

within 18 months after the commencement of this Act

CLAUSE 73

Clause rejected.

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

NEW CLAUSE

1. That the following be a new Clause to follow Clause *72:*

Abolition of statutory status of Committee of University Principals, Matriculation Board and Committee of Technikon Principals

73. (1) **T'he Committee** of University Principals, the Matriculation Board and the Committee of Technikon Principals continue to exist and to perform their functions until the date or dates contemplated in subsection (2), as if the Universities Act, 1955 (Act No. 61 of 1955), and the Technikons Act, 1993 (Act No. 125 of 1993), had not been repealed.

(2) Subject to subsection (3), the Committee of University Principals, the Matriculation Board and the Committee of Technikon Principals cease to exist as statutory bodies on a date or dates determined by the Minister by notice in the Gazette.

(3) The Minister may only make a determination in terms of subsection (2)—

(a) after consulting SAQA and the body concerned; and

(b) after the Minister has considered the recommendations made by SAQA and the body concerned, as contemplated in section 15(2) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

(4) Notwithstanding subsection (3)*(b)* the Minister may make a determination in terms of subsection (2) if SAQA and the body concerned have not made recommendations as contemplated in subsection (3)*(b)* within a reasonable period after a written request by the Minister to do so.

(5) The Committee of University Principals and the Committee of Technikon Principals must determine the manner in which their assets and liabilities are dealt with upon their dissolution as statutory bodies.

[6) The joint statutes and joint regulations and rules made in terms of the Universities Act, 1955 (Act No. 61 of 1955), and the Technikons Act, 1993 (Act No. 125 of 1993), continue to exist until the date or dates contemplated in subsection (2).

CLAUSE 74

1. On page 44, in line 25, to omit "65(3)" and to substitute "66(3)".

CLAUSE 76

1. On page 44, from line 37, to omit subsection (2).

LONG TITLE

1. On page **2,** in the fifth line, to omit "and foreign".

PREAMBLE

Preamble rejected.

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

NEW PREAMBLE

1. That the following be a new Preamble:

PREAMBLE

WHEREAS IT IS DESIRABLE TO—

ESTABLISH a single co-ordinated higher education system which promotes co-operative governance and provides for programme-based higher education;

RESTRUCTURE AND TRANSFORM programmed and institutions to respond better to the human resource, economic and development needs of the Republic;

REDRESS past discrimination and ensure representivity and equal access;

PROVIDE optimal opportunities for learning and the creation of knowledge;

PROMOTE the values which underlie an open and democratic society based on human dignity, equality and freedom;

RESPECT freedom of religion, belief and opinion;

RESPECT and encourage democracy, academic freedom, freedom of speech and expression, creativity, scholarship and research;

PURSUE excellence, promote the full realisation of the potential of every student and employee, tolerance of ideas and appreciation of diversity;

RESPOND to the needs of the Republic and of the communities served by the institutions;

CONTRIBUTE to the advancement of all forms of knowledge and scholarship, in keeping with international standards of academic quality;

AND WHEREAS IT IS DESIRABLE for higher education institutions to enjoy freedom and autonomy in their relationship with the State within the context of public accountability and the national need for advanced skills and scientific knowledge;

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