

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
FURTHER EDUCATION AND
TRAINING BILL**

[B 57—98]

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

[B 57A—98]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP VERDERE
ONDERWYS EN OPLEIDING**

[W 57—98]

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

[W 57A—98]

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AMENDMENTS AGREED TO

FURTHER EDUCATION AND TRAINING BILL
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CLAUSE 1

1. On page 6, after line 36, after the definition of “Director-General” to insert the following definition:

“educator” means an educator as defined in the Employment of Educators Act, 1998, and for purposes of sections 9 and 11, includes an educator employed in terms of section 14(2);
2. On page 6, in line 37, after “financial year” to insert:

in respect of a public further education and training institution
3. On page 6, in line 42, to omit “or their equivalent of grade 10 to grade 12 in the school system” and to substitute:

which levels are above general education but below higher education;
4. On page 8, in line 11, after the definition of “Head of Department” to insert the following definition:

“higher education” means higher education as defined in the Higher Education Act, 1997 (Act No. 101 of 1997);
5. On page 8, in line 42, to omit “any person” and to substitute “persons”.
6. On page 8, in line 46, to omit the definition of “teaching staff”.

CLAUSE 2

1. On page 8, in line 52, to omit “single” and to substitute “national”.

CLAUSE 4

1. On page 10, in line 13, after “may,” to insert “subject to national policy”.
2. On page 10, in line 33, to omit “used as media of instruction by the institution in question” and to substitute:

determined in terms of section 9(2)(b).
3. On page 10, from line 39, to omit subsection (4) and to substitute:

(4) No public school which offers further education and training programmes may be declared a further education and training institution in terms of subsection (1) until after a date determined by the Minister by notice in the *Gazette*, after consultation with the Council of Education Ministers and the NBFET.

CLAUSE 6

1. On page 12, in line 24, to omit paragraph (a) and to substitute:
 - (a) give written notice to the institutions in question of the intention to merge them;

CLAUSE 8

1. On page 14, in line 9, after “the institution” to insert:
 , but the secretary may be a member of staff

CLAUSE 9

1. On page 14, in line 22, after “institution must” to insert:
 perform all the functions which are necessary to
2. On page 14, from line 25, to omit subsection (2) and to substitute:
 - (2) Subject to policy, the council must, with the concurrence of the academic board—
 - (a) develop a strategic plan for the institution which must—
 - (i) incorporate the mission, vision, goals and planning for funding of the institution;
 - (ii) address past imbalances and gender and disability matters; and
 - (iii) be approved by the Member of the Executive Council;
 - (b) determine the language policy of a public further education and training institution and must publish it and make it available on request; and
 - (c) ensure that the further education and training institution is accredited to provide learning against standards and qualifications as registered on the National Qualifications Framework.
3. On page 14, in line 39, to omit “teaching” and to substitute “educator”.
4. On page 14, in line 43, to omit “teaching” and to substitute “educator”.
5. On page 14, in line 47, after “subsection (4)” to insert “(b) and”.
6. On page 16, in line 12, to omit “and in at least one newspaper circulating in the province”.

CLAUSE 11

1. On page 16, in line 45, after “institution” to insert:
 and the promotion of the participation of women and the disabled in the learning programmes
2. On page 16, in line 47, to omit “and”.
3. On page 16, after line 47, to insert:
 - (c) ensuring that the requirements of accreditation to provide learning against standards and qualifications registered on the National Qualifications Framework are met; and

4. On page 16, in line 57, to omit “teaching” and to substitute “educator”.
5. On page 18, in line 6, to omit “teaching” and to substitute “educator”.

CLAUSE 14

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 13:

“Staff at public further education and training institutions

14. (1)(a) The educator establishment of a public further education and training institution is determined by the allocation of posts by the Head of Department from the provincial educator post establishment created by the Member of the Executive Council in terms of section 5 of the Employment of Educators Act, 1998 and educators appointed in such posts are employed in terms of that Act.

(b) The non-educator establishment of a public further education and training institution is determined in terms of the Public Service Act, 1994 (Proclamation 103 of 1994).

(2) Subject to this Act, the Labour Relations Act, 1995 (Act No. 66 of 1995), and any other applicable law, a public further education and training institution may establish posts for educators and employ educators additional to the establishment referred to in subsection (1)(a).

(3) Subject to this Act, the Labour Relations Act, 1995 (Act No. 66 of 1995), and any other applicable law, a public further education and training institution may establish posts for non-educators and employ non-educator staff additional to the establishment referred to in subsection (1)(b).

(4)(a) The Council must determine the functions, conditions of service and privileges of the staff contemplated in subsections (2) and (3), subject to the applicable labour law and paragraph (b).

(b) The salary payable to an educator contemplated in subsection (2) shall not be less than the salary paid to an educator—

- (i) contemplated in subsection (1)(a); and
- (ii) who performs the same or equivalent work as such educator, unless collectively agreed to in a bargaining council established in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995).

(c) If a dispute arises about the salary of an educator as contemplated in paragraph (b) any party to the dispute may refer the dispute in writing to—

- (i) a bargaining council established in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), if the employer or employee parties to the dispute fall within the registered scope of a bargaining council; or
- (ii) the Commission for Conciliation, Mediation and Arbitration as established by section 12 of the Labour Relations Act, 1995 (Act No. 66 of 1995), if no bargaining council has jurisdiction.

(d) The party referring the dispute must satisfy the bargaining council or the Commission for Conciliation, Mediation and Arbitration that a copy of the referral has been served on the other party.

(e) The bargaining council or the Commission for Conciliation, Mediation and Arbitration must attempt to resolve the dispute through conciliation.

(f) If the bargaining council or the Commission for Conciliation, Mediation and Arbitration is satisfied that the dispute remains unresolved, a party may refer the dispute to the Labour Court as established in terms of section 151 of the Labour Relations Act, 1995 (Act No. 66 of 1995) for adjudication.

(5) When presenting the annual budget contemplated in section 18(4) the Council must provide sufficient details of any posts envisaged in terms of subsections (2) and (3), including the estimated cost relating to the employment of staff in such posts and the manner in which it is proposed that such cost will be met.

(6) The staff contemplated in subsections (2) and (3) must be employed in compliance with the basic values and principles referred to in section 195 of the Constitution, and factors to be taken into account when making appointments include but are not limited to—

- (a) the ability of the candidates;
- (b) the principle of equity;
- (c) the need to redress past injustices; and
- (d) the need for representivity.”

CLAUSE 15

1. On page 18, in line 39, after “council” to insert:

after consultation with the students and educators of that institution,
subject to provincial policy

CLAUSE 16

1. On page 18, in line 42, to omit “such” and to insert “a code of conduct,”.
2. On page 18, in line 42, after “council” to insert “subject to provincial policy”.
3. On page 18, in line 43, before “disciplinary” to insert “code of conduct,”.
4. On page 18, after line 44, to insert:

(2) The policy contemplated in subsection (1) must in particular deal with measures to curb racism, sexual violence and sexual harassment.

CLAUSE 17

1. On page 18, in line 46, to omit subsection (1) and to substitute:

(1) Subject to policy the council of a public further education and training institution determines the admission policy of the institution after consulting the academic board of the institution.

2. On page 20, in line 4, after “may,” to insert “subject to provincial policy and”.

CLAUSE 18

1. On page 20, in line 20, before “and transparent” to insert “, equitable”.
2. On page 20, in line 21, after “is” to insert “governed and”.
3. On page 20, in line 21, to omit “Chapter 4 of”.
4. On page 20, in line 29, after “consultation with the” to insert “appropriate”.
5. On page 20, in line 30, to omit “on further education and training”.

CLAUSE 19

1. On page 20, in line 37, to omit “**institutions**”.
2. On page 20, in line 38, after “the Minister must” to insert:
 , in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996),
3. On page 20, in line 39, to omit “institutions”.

CLAUSE 20

1. On page 20, in line 47, after “loans” to insert:
 subject to the approval of the Member of the Executive Council.

CLAUSE 27

1. On page 24, after line 39, to insert:
 (b) The registrar must notify the relevant Head of Department of the registration of a private further education and training institution in that province.

CLAUSE 30

1. On page 26, in line 33, to omit “the” and to substitute “its”.

CLAUSE 37

1. On page 28 in line 41, to omit “interested person” and to substitute “person having an interest”.

CLAUSE 38

1. On page 30, in line 5, after “and” to insert “by”.

CLAUSE 41

1. On page 30, after line 37, to insert:

(3) The Head of Department, Director-General, any further education and training institution and any education institution which offers further education and training programmes must provide such information about the institution or quality of further education and training as is reasonably required by the NBFET.

CLAUSE 44

1. On page 32, in line 16, after “institution” to insert “, organ of state”.

CLAUSE 48

1. On page 34, in line 16, to omit “1996” and to substitute “1986”.
2. On page 34, in line 17, to omit “1996” and to substitute “1986”.

CLAUSE 50

1. On page 34, in line 34, to omit “and”.
2. On page 34, in line 34, after “Fund” to insert “and Committee of Technical College Principals”.
3. On page 34, after line 43, to insert:

(3) The Committee of Technical College Principals established in terms of section 36 of the Technical Colleges Act, 1981 (Act No. 104 of 1981), continues to exist and to perform its functions as if that section had not been repealed, until a date determined by the Minister by notice in the *Gazette*.

CLAUSE 52

1. On page 36, in line 2, to omit “is” and to insert:

and sections 1B and 36 of the Technical Colleges Act, 1981 (Act No. 104 of 1981), are

LONG TITLE

1. On page 2, in the fifth line, to omit “a law” and to substitute “laws”.

PREAMBLE

1. On page 2, in the second paragraph, to omit “single” and to substitute “national”.
2. On page 2, in the third paragraph, after “human” to omit “resource” and to substitute “resources”.
3. On page 2, after the fourth paragraph, to insert the following new paragraph:

ENSURE access to further education and training and the workplace by persons who have been marginalised in the past, such as women, the disabled and the disadvantaged;
4. On page 2, after the sixth paragraph, to insert the following new paragraph:

ADVANCE strategic priorities determined by national policy objectives at all levels of governance and management within the further education and training sector;
5. On page 2, in the seventh paragraph, to omit “academic freedom and freedom of speech and expression” and to substitute:

and foster an institutional culture which promotes fundamental human rights and creates an appropriate environment for teaching and learning
6. On page 2, in the ninth paragraph, after “RESPOND to the needs of the Republic” to insert “, the labour market”.
7. On page 2, after the ninth paragraph, to insert the following new paragraph:

COMPLEMENT the Skills Development Strategy in co-operation with the Department of Labour;
8. On page 2, to omit the tenth paragraph and to substitute:

AND WHEREAS IT IS DESIRABLE for further education and training institutions to perform specific functions within the context of public accountability and the national need for intermediate to high level skills and knowledge and to provide access to work and higher education;