

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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## THE PRESIDENCY

No. 1178

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It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 26 of 2010: Higher Education Laws Amendment Act, 2010.**



**AIDS HELPLINE: 0800-123-22 Prevention is the cure**

Words underlined with a solid line indicate insertions in existing enactments.

1. Section 1 of the Higher Education Act, 1997, is hereby amended by—
- (a) the substitution for the definition of “**Department of Education**” of the following definition:
- “**‘Department of Education’** means the [Government department responsible for education at national level] Department of Higher Education and Training;”;
- (b) the substitution for the definition of “**Director-General**” of the following definition:

“ ‘**Director-General**’ means the Director-General of the Department of Higher Education and Training;” and

- (c) the substitution for the definition of “**Minister**” of the following definition:  
 “ ‘**Minister**’ means the Minister of Higher Education and Training;”.

**Substitution of section 51 of Act 101 of 1997, as substituted by section 6 of Act 54 of 2000** 5

2. The following section is hereby substituted for section 51 of the Higher Education Act, 1997:

**“Registration of private higher education institutions**

- 51.** (1) No person other than a public higher education institution or an organ of state may provide higher education unless that person is— 10
- (a) in the prescribed manner, registered or conditionally registered as a private higher education institution in terms of this Act; and
  - (b) registered or recognised as a juristic person in terms of the Companies Act, 1973 (Act No. 61 of 1973), before such person is registered or conditionally registered [**as contemplated in**] in accordance with paragraph (a). 15
- (2) If the person contemplated in subsection (1) is a foreign juristic person, that person must ensure that any qualification or part-qualification offered within the Republic is registered on the sub-framework for higher education on the National Qualifications Framework contemplated in section 7(b) read with section 13(1)(h) of the National Qualifications Framework Act.”. 20

**Insertion of section 65D in Act 101 of 1997**

3. The following section is hereby inserted in the Higher Education Act, 1997, after section 65C: 25

**“Qualifications registered on National Qualifications Framework**

- 65D.** (1) No person may offer, award or confer a degree, or a higher education diploma or a higher education certificate, provided for on the HEQF unless such degree, diploma or certificate is registered on the sub-framework for higher education on the National Qualifications Framework contemplated in section 7(b) read with section 13(1)(h) of the National Qualifications Framework Act. 30
- (2) Notwithstanding subsection (1), a public higher education institution intending to offer any education programme or trade and occupational learning programme that leads to a qualification or part-qualification on the sub-framework for trade and occupation contemplated in section 7(c) of the National Qualifications Framework Act may offer the qualification or part-qualification subject to— 35
- (a) the approval of the Minister; and
  - (b) compliance with any condition set by the Minister.” 40

**Amendment of section 1 of Act 97 of 1998, as amended by section 23 of Act 9 of 1999, section 1 of Act 31 of 2003 and section 1 of Act 37 of 2008**

4. Section 1 of the Skills Development Act, 1998, is hereby amended by— 45
- (a) the substitution for the definition of “**Department**” of the following definition:
- “ ‘**Department**’ means the Department of [**Labour**] Higher Education and Training, except in—
- (a) sections 2(1)(g) and (h), 2(2)(a)(v), (vi) and (xii), 5(4) (only with respect to Productivity South Africa established by section 26K), 50