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

7 December 2010

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.



Act No. 26 of 2010

HIGHER EDUCATION LAWS AMENDMENT ACT, 2010

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments. Words underlined with a solid line indicate insertions in

existing enactments.

(English text signed by the President.) (Assented to 3 December 2010.)

ACT

To amend—

- the Higher Education Act, 1997, so as to amend certain definitions; to ensure that all higher education programmes offered in South Africa by a foreign juristic person are registered on the National Qualifications Framework; and to ensure that higher education institutions may offer a degree, diploma or certificate only if it is registered on the National Qualifications Framework;
- the Skills Development Act, 1998, so as to amend certain definitions; to provide for the appointment of the chief executive officer of the QCTO and for the transfer to and appointment of staff to the QCTO; and to further regulate the composition of the QCTO;
- the National Student Financial Aid Scheme Act, 1999, so as to amend certain definitions; and
- the National Qualifications Framework Act, 2008, so as to amend a definition and delete another; to amend the application of the Act in order to require that all qualifications offered in the Republic are registered on the National Qualifications Framework; and to remove references in the said Act to the Minister of Labour;

and to provide for matters connected therewith.

 \mathbf{B}^{E} IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 101 of 1997, as amended by section 1 of Act 55 of 1999, section 1 of Act 54 of 2000, section 1 of Act 63 of 2002 and section 1 of Act 38 of 2008

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- 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 10 Education and Training;";
 - (b) the substitution for the definition of "Director-General" of the following definition:

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" 'Director-General' means the Director-General of the Department of Higher Education and Training;"; and

the substitution for the definition of "Minister" of the following definition: (c)"'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 5 2000

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 10 organ of state may provide higher education unless that person is-

- (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 15 conditionally registered [as contemplated in] in accordance with paragraph (a).

(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 20education on the National Qualifications Framework contemplated in section 7(b) read with section 13(1)(h) of the National Qualifications Framework Act.".

Insertion of section 65D in Act 101 of 1997

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

"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 30 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.

(2) Notwithstanding subsection (1), a public higher education institution intending to offer any education programme or trade and occupational 35 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-40

(a) the approval of the Minister; and

(b) compliance with any condition set by the Minister.".

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-

(a) the substitution for the definition of "Department" of the following 45 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