

CONTINUING EDUCATION AND TRAINING ACT 16 OF 2006

(Short title, previously 'Further Education and Training Colleges Act', substituted by s. 20 of Act 1 of 2013)

[ASSENTED TO 5 DECEMBER 2006]

[DATE OF COMMENCEMENT: 11 DECEMBER 2006]

(English text signed by the President)

as amended by

Higher Education and Training Laws Amendment Act 25 of 2010
Further Education and Training Colleges Amendment Act 3 of 2012
Further Education and Training Colleges Amendment Act 1 of 2013

Regulations under this Act

ACT

To provide for the regulation of continuing education and training; to provide for the establishment, governance and funding of public technical and vocational education and training colleges and public community education and training colleges; to provide for the employment of staff at those colleges; to provide for the registration of private colleges that offer continuing education and training qualifications and part-qualifications; to provide for the establishment of the South African Institute for Vocational and Continuing Education and Training; to provide for the promotion of quality in continuing education and training; to provide for transitional arrangements and the repeal or amendment of laws; and to provide for matters connected therewith.

[Long title substituted by s. 23 of Act 1 of 2013.]

Preamble

WHEREAS it is desirable to-

ESTABLISH a national co-ordinated continuing education and training system which promotes co-operative governance and provides for programme-based vocational and occupational training;

RESTRUCTURE AND TRANSFORM programmes and colleges to respond better to the human resources, economic and development needs of the Republic;

REDRESS past discrimination and ensure representivity and equal access;

ENSURE access to basic adult education, further education and training and the workplace through continuing education and training by persons who have been marginalised in the past, such as women, the disabled and the disadvantaged;

PROVIDE optimal opportunities for learning, the creation of knowledge and the development of intermediate to high level skills in keeping with international standards of academic and technical quality;

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

ADVANCE strategic priorities determined by national policy objectives at all levels of governance and management within the continuing education and training sector;

RESPECT and encourage democracy and foster a collegial culture which promotes fundamental human rights and creates an appropriate environment for teaching and learning;

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

RESPOND to the needs of the Republic, the labour market and the communities served by

the colleges; and

COMPLEMENT the National Skills Development Strategy;

AND WHEREAS it is desirable for community education and training colleges and technical and vocational education and training colleges to perform specific functions by offering basic adult education and further education contemplated in section 29 (1) of the Constitution of the Republic of South Africa, 1996, 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,

[Preamble substituted by s. 22 of Act 1 of 2013.]

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

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CHAPTER 1
DEFINITIONS, PURPOSE AND APPLICATION OF ACT (ss 1-2)

1 Definitions

In this Act, unless the context indicates otherwise-

'academic board' means the body contemplated in section 11;

'applicant' means a person who makes an application contemplated in section 29;

'auditor' means a person registered in terms of the Auditing Profession Act, 2005 (Act 26 of 2005);

'Basic Conditions of Employment Act' means the Basic Conditions of Employment Act, 1997 (Act 75 of 1997);

'college' means-

(a) a public college that is established or declared as-

(i) a technical and vocational education and training college; or

(ii) a community education and training college; or

(b) a private college that is established, declared or registered under this Act, but does not include a college under the authority of a government department other than the Department;

[Definition of 'college' amended by s. 9 (a) of Act 25 of 2010 and substituted by s. 1 (a) of Act 1 of 2013.]

'college statute' means policy, code of conduct and any other rules developed by a council in accordance with this Act;

'continuing education and training' means all learning and training programmes leading to qualifications or part-qualifications at levels 1 to 4 of the National Qualifications Framework contemplated in the National Qualifications Framework Act, 2008 (Act 67 of 2008), provided for at a college in terms of this Act;

[Definition of 'continuing education and training' inserted by s. 1 (b) of Act 1 of 2013.]

'council' means the governing structure of a public college;

'Department' means the Department of Higher Education and Training;
[Definition of 'Department' substituted by s. 9 (b) of Act 25 of 2010.]

'Director-General' means the Director-General of the Department;

'Employment Equity Act' means the Employment Equity Act, 1998 (Act 55 of 1998);

'financial year' in respect of a college means a year commencing on the first day of January and ending on the 31st day of December of the same year;

'foreign juristic person' means a person that is-

(a) registered or established as a juristic person in terms of a law of a foreign country; and

(b) recognised or registered as an external company in terms of the Companies Act, 1973 (Act 61 of 1973);

'further education and training'

[Definition of 'further education and training' deleted by s. 1 (c) of Act 1 of 2013.]

'general education'

[Definition of 'general education' deleted by s. 1 (c) of Act 1 of 2013.]

'Head of Department'

[Definition of 'Head of Department' deleted by s. 1 (a) of Act 3 of 2012.]

'higher education' means higher education as defined in the Higher Education Act, 1997 (Act 101 of 1997);

'Institute' means the South African Institute for Vocational and Continuing Education and Training established by the Minister in terms of section 43A;

[Definition of 'Institute' inserted by s. 1 (d) of Act 1 of 2013.]

'Labour Relations Act' means the Labour Relations Act, 1995 (Act 66 of 1995);

'lecturer' means any person who teaches, educates or trains other persons or who provides professional educational services at any college, and who is appointed in a post on any lecturer establishment under this Act;

'local juristic person' means a person established as a juristic person in South Africa in terms of the Companies Act, 1973 (Act 61 of 1973);

'management staff' means the principal and vice-principal of a public college;

'Member of the Executive Council'

[Definition of 'Member of the Executive Council' deleted by s. 1 (b) of Act 3 of 2012.]

'Minister' means the Minister of Higher Education and Training;

[Definition of 'Minister' substituted by s. 9 (c) of Act 25 of 2010.]

'National Qualifications Framework' means the national qualifications framework contemplated in Chapter 2 of the National Qualifications Framework Act, 2008 (Act 67 of 2008);

[Definition of 'National Qualifications Framework' substituted by s. 1 (e) of Act 1 of 2013.]

'NBFET' means the National Board for Further Education and Training, established by regulation in terms of section 11 of the National Education Policy Act, 1996 (Act 27 of 1996);

'organ of state' means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

'policy' means-

(a) policy determined by the Minister in terms of the National Education Policy Act, 1996 (Act 27 of 1996);

(b)

[Para. (b) deleted by s. 1 (c) of Act 3 of 2012.]

'prescribed' means prescribed by regulation made in terms of section 51;

'principal' means the chief executive and accounting officer of a public college, and includes a rector of a public college;

'private college' means any college that provides continuing education and training on a full-time, part-time or distance basis and which is registered or provisionally registered as a private college under Chapter 6 of this Act;

[Definition of 'private college' substituted by s. 1 (f) of Act 1 of 2013.]

'PSCBC' means the Public Service Coordinating Bargaining Council established in terms of the Labour Relations Act;

'public college' means any college that provides continuing education and training on a full-time, part-time or distance basis and which is-

(a) established or regarded as having been established as a public college under section 3 of this Act; or

(b) declared as a public college under section 4 of this Act; and

[Definition of 'public college' substituted by s. 1 (g) of Act 1 of 2013.]

'Public Service Act' means the Public Service Act, 1994 (Proclamation 103 of 1994);

'SAQA' means the South African Qualifications Authority, established by section 10 of the National Qualifications Framework Act, 2008 (Act 67 of 2008);

[Definition of 'SAQA' substituted by s. 1 (d) of Act 3 of 2012.]

'school' means a school as defined in the South African Schools Act;

'South African Schools Act' means the South African Schools Act, 1996 (Act 84 of 1996);

'staff' means persons employed at a public college;

'student' means any person registered as a student at a college;

'support staff' includes staff who render-

(a) academic support services;

(b) student support services;

(c) human resource management;

(d) financial management;

(e) administration;

(f) maintenance of the buildings and gardens;

(g) catering services; and

(h) security services;

'this Act' includes any regulation made in terms of section 51;

'to provide continuing education and training' means-

(a) to register students for all learning and training programmes leading to qualifications or part-qualifications at levels 1 to 4 of the National Qualifications Framework provided for at a college in terms of this Act; and

(b) to take responsibility for the registration of students, the provision and delivery of the curriculum and the assessment of students;

[Definition of 'to provide further education and training' substituted by s. 1 (h) of Act 1 of 2013.]

'Umalusi' means the council established by section 4 of the General and Further Education and Training Quality Assurance Act, 2001 (Act 58 of 2001);

'vice-principal' includes a vice-rector.

2 Purpose and application of Act

(1) The purpose of this Act is to-

(a) enable students to acquire-

(i) the necessary knowledge;

(ii) practical skills; and

(iii) applied vocational and occupational competence; and

(b) provide students with the necessary attributes required for-

(i) employment;

(ii) entry to a particular vocation, occupation or trade; or

(iii) entry into a higher education institution.

(2) This Act applies to all education institutions which have been established or declared

a public college or registered as a private college in terms of this Act.

CHAPTER 2 PUBLIC COLLEGES (ss 3-8)

3 Establishment of public college

(1) The Minister, after consultation with the Institute, may, by notice in the *Gazette* and from money appropriated for this purpose, establish a public-

- (a) technical and vocational education and training college; or
- (b) community education and training college.

[Sub-s. (1) substituted by s. 2 (a) of Act 3 of 2012 and by s. 2 (a) of Act 1 of 2013.]

(1A) A notice referred to in subsection (1) must set out-

- (a) the date of the establishment of the college;
- (b) whether the college is a technical and vocational education and training college or whether the college is a community education and training college;
- (c) the name of the college; and
- (d) the physical location and address of the college.

[Sub-s. (1) substituted by s. 2 (a) of Act 1 of 2013.]

(2) Every public college contemplated in subsection (1) (a) or (b) is a juristic person.

[Sub-s. (2) substituted by s. 2 (c) of Act 1 of 2013.]

(3) Despite subsection (2) but subject to subsection (4), a public college may not, without the concurrence of the Minister, dispose of or alienate in any manner any movable or immovable property acquired with the financial assistance of the State or grant to any person any real right therein or servitude thereon.

[Sub-s. (3) substituted by s. 2 (b) of Act 3 of 2012.]

(4) The Minister-

- (a) may determine that certain categories of assets below a certain value may be alienated without his or her concurrence; and
- (b) must publish the value contemplated in paragraph (a) by notice in the *Gazette*.

[Sub-s. (4) amended by s. 2 (c) of Act 3 of 2012.]

(5) The Director-General may inspect, and must compile an inventory of all the assets of a public college.

[Sub-s. (5) substituted by s. 2 (d) of Act 3 of 2012.]

(6) The assets of a public college may not be attached as a result of any legal action taken against the college.

4 Declaration of institution as public college

(1) The Minister may, by notice in the *Gazette*, declare any institution providing continuing education and training as a public college.

[Sub-s. (1) substituted by s. 3 (a) of Act 3 of 2012 and by s. 3 (a) of Act 1 of 2013.]

(2) The notice contemplated in subsection (1) must determine-

- (a) the date on which the institution becomes a public college;
- (b) the name of the public college; and
- (c) the physical location and the official address of the public college.

(3) The Minister may act in terms of subsection (1) only-

- (a) (i) after consulting the council of the institution, if it is a public institution;
- (ii) with the concurrence of the responsible Minister or authority of the institution, if the institution is administered, controlled or funded by an organ of State other than the Department; or
- (iii) with the concurrence of the owner and the Minister of Finance, if it is a private institution; and

[Para. (a) substituted by s. 3 (c) of Act 3 of 2012.]

(b) after having-

- (i) published a notice in one or more newspapers circulating in the area in which the institution provides continuing education and training, containing the reasons for the declaration referred to in subsection (1);
[Sub-para. (i) substituted by s. 3 (b) of Act 1 of 2013.]
- (ii) given any interested person an opportunity to make representations; and
- (iii) considered such representations.
[Sub-s. (3) amended by s. 3 (b) of Act 3 of 2012.]

5 Consequences of declaration as public college

(1) From the date determined in terms of section 4 (2) (a)-

- (a) the institution in question is regarded as being a public college established under this Act;
- (b) the assets, liabilities, rights and obligations of the institution vest in the public college; and
- (c) any agreement lawfully entered into by or on behalf of the institution must be regarded as having been concluded by the public college.

(2) (a) Immovable property vesting in the public college in terms of subsection (1) (b) must, subject to the concurrence of the Minister of Finance, be transferred into its name without payment by it of any transfer duty, stamp duty or other duty or costs due to the State, but subject to any existing right, encumbrance or trust on or over that property.

(b) Any fees charged by the Registrar of Deeds resulting from a transfer contemplated in paragraph (a) must be paid in full or in part from funds appropriated by the provincial legislature for that purpose.

(3) The officer in charge of a deeds office or other office where the immovable property contemplated in subsection (2) is registered must, on submission of the title deed and on application by the public college, make such endorsements on that title deed and such entries in the registers as may be required to register the transfer in question.

(4) The declaration of an institution as a public college in terms of section 4 (1) does not affect anything lawfully done by the institution before the declaration.

(5) All funds which, immediately before the date determined in terms of section 4 (2) (a), were vested in the institution by virtue of a trust, donation or bequest must be applied by the public college in accordance with the trust, donation or bequest, as the case may be.

(6) The Minister must in the notice contemplated in section 3 (1) establish an interim council for the public college for a period not exceeding six months to perform the functions relating to the governance of the college until a council is established in terms of section 9 (1).

[Sub-s. (6) substituted by s. 4 of Act 3 of 2012.]

(7) The Minister may extend the period referred to in subsection (6) once or for a further period not exceeding six months.

[Sub-s. (7) substituted by s. 4 of Act 3 of 2012.]

(8) The composition of the interim council must be in accordance with section 10 (4) and (7).

(9) The interim council must co-opt three members of the interim management contemplated in subsection (10) (a) and these co-opted members have no voting powers.

(10) Apart from the functions contemplated in subsection (6), the interim council must in particular-

- (a) appoint an interim body to manage the day-to-day activities of the college; and
- (b) ensure that such other structures as may be determined in terms of this Act are constituted.

(11) Any decision of the interim council which may affect the right of any structure of the public college, may only be taken after consultation with such structure.

(12) Despite sections 197 and 197A of the Labour Relations Act, contracts of employment between the institution and its employees are transferred automatically on declaration of an institution as a public college as from the date of the declaration contemplated in section 4, but any redeployment of an employee as a consequence of the declaration is subject to applicable labour legislation.

6 Merger of public colleges

(1) Subject to subsection (2), the Minister may, by notice in the *Gazette*, merge two or more public colleges into a single college.

[Sub-s. (1) substituted by s. 5 (a) of Act 3 of 2012.]

(2) Before merging two or more public colleges the Minister must-

- (a) give written notice to the colleges in question of the intention to merge them;
- (b) publish a notice giving the reasons for the proposed merger in one or two newspapers circulating in the area in which the colleges in question are situated;
- (c) give the councils of the colleges in question and any other interested persons an opportunity to make representations within at least 90 days from the date of the notice referred to in paragraph (b); and
- (d) consider such representations.

[Sub-s. (2) amended by s. 5 (b) of Act 3 of 2012.]

(3) The single college contemplated in subsection (1) is regarded as a public college established under this Act.

(4) Section 5 (1) (b), (2), (3), (4) and (5) apply with the necessary changes required by the context to a merger contemplated in subsection (1).

(5) The Minister must, after consultation with the councils of the public colleges that are to be merged, determine by notice contemplated in subsection (1)-

- (a) the date of establishment of the college;
- (b) the name of the college; and
- (c) the physical location and official address of the college.

[Sub-s. (5) amended by s. 5 (c) of Act 3 of 2012.]

(6) The councils of the colleges that are merged must have a meeting before the merger to constitute a single interim council comprising of all members of the councils concerned for a period not exceeding six months.

(7) The Minister may extend the period referred to in subsection (6) once for a further period not exceeding six months.

[Sub-s. (7) substituted by s. 5 (d) of Act 3 of 2012.]

(8) Despite sections 197 and 197A of the Labour Relations Act, the contracts of employment between the institution and its employees are transferred automatically to the merged single public college as from the date of the merger contemplated in subsection (1), but any redeployment of an employee as a consequence of the merger is subject to applicable labour legislation.

(9) If two or more public colleges are merged into a single public college as contemplated in subsection (1), all the rights and obligations between the former employers and each employee at the time of the merger continue in force as if they were rights and obligations between the new employer and each employee and anything done before the merger by or in relation to the former employers is considered to have been done by or in relation to the new employer.

(10) A merger referred to in subsection (1) does not-

- (a) interrupt the employee's continuity of employment; and
- (b) affect the liability of any person to be disciplined for, prosecuted for, convicted of or sentenced for any misconduct, crime or offence.

(11) An employee or a student is subject to the code of conduct and rules applicable to the new single public college as from the date of the merger contemplated in subsection

(1), but if any enquiry into incapacity or any proceedings in respect of a charge of misconduct had been instituted or commenced against any employee or student before the date of the merger, such enquiry or proceedings must continue in terms of the codes and rules applicable to the relevant public colleges immediately before the merger.

(12) Until the new single public college has made a code of conduct or rules, the disciplinary codes and rules of the respective old public colleges are applicable to the respective employees and students.

(13) If two or more public colleges are merged into a single public college in terms of subsection (1), the new single public college continues with all academic programmes offered by the former colleges under the rules applicable to the respective colleges immediately before the date of the merger, until such programmes and rules are amended or restructured by the new council.

7 Single council for two or more public colleges

(1) The Minister may determine that the governance of two or more colleges must vest in a single council if-

- (a) it is in the best interests of education and the colleges;
- (b) it is in the public interest; or
- (c) he or she was so requested by the councils of those colleges.

[Sub-s. (1) amended by s. 6 (a) of Act 3 of 2012.]

(2) The Minister may not act in terms of subsection (1) unless he or she has-

- (a) given written notice to the colleges in question of the intention to merge them;
- (b) given notice in the *Gazette* of his or her intention so to act;
- (c) given the councils of the colleges in question and interested parties an opportunity to make written submissions to him or her within a period of not less than 90 days; and
- (d) considered all such submissions.

[Sub-s. (2) amended by s. 6 (b) of Act 3 of 2012.]

(3) The Minister must, by notice in the *Gazette*, determine the composition of the single council in a manner that ensures that-

- (a) each public college is equitably represented; and
- (b) it complies with section 10 (6), (7) and (9).

[Sub-s. (3) amended by s. 6 (c) of Act 3 of 2012.]

(4) Any council that is the subject of a notice in terms of subsection (2) continues to exist until the first meeting of the single council constituted in terms of this section.

8 Closure of public college

(1) The Minister may, by notice in the *Gazette*, close a public college.

[Sub-s. (1) substituted by s. 7 (a) of Act 3 of 2012.]

(2) The Minister may not act in terms of subsection (1) unless he or she has-

- (a)

[Para. (a) deleted by s. 7 (c) of Act 3 of 2012.]

- (b) given written notice to the college in question of the intention to close it;
- (c) given notice in the *Gazette* of his or her intention so to act;
- (d) given the council of the college in question and interested parties an opportunity to make written representations within a period of not less than 90 days; and
- (e) considered those representations.

[Sub-s. (2) amended by s. 7 (b) of Act 3 of 2012.]

(3) If a public college is closed under subsection (1)-

- (a) all assets and liabilities of such college must, after such closure, be dealt with according to law by the Minister; and

[Para. (a) substituted by s. 7 (d) of Act 3 of 2012.]

(b) any assets remaining after payment of all liabilities vest in the Minister.
[Para. (b) substituted by s. 7 (d) of Act 3 of 2012.]

(4) Subsections (2) to (5) of section 5 and section 6 (2) apply with the necessary changes required by the context to a closure referred to in subsection (1).

CHAPTER 3

GOVERNANCE OF PUBLIC COLLEGES (ss 9-18)

9 Public college governance structures

(1) Every public college must establish a council, an academic board and a student representative council.

(2) Every public college may establish such other structures as may be determined in the college statute.

(3) The structures referred to in subsection (1) must elect a chairperson, vice-chairperson and other office-bearers from among its members in accordance with the college statute.

(4) A member of a structure contemplated in subsection (1)-

(a) holds office for a period of five years: Provided that such a member remains eligible to be a member of that structure; and

(b) may not serve for more than two consecutive terms of office.

(5) The procedures for the disqualification, removal and filling of vacancies must be determined in the college statute.

(6) The council may not establish or create any juristic person in terms of any other legislation or common law.

10 Council of public college

(1) The council of a public college must perform all the functions, including the development of a college statute, which are necessary to govern the public college, subject to this Act and any applicable national or provincial law.

(2) The council must, with the concurrence of the academic board-

(a) develop a strategic plan for the public college which must-

(i) incorporate the mission, vision, goals and planning for funding of the college;

(ii) address past imbalances and gender and disability matters;

(iii) include safety measures for a safe learning environment for students, lecturers and support staff; and

(iv) be approved by the Minister;

[Sub-para. (iv) substituted by s. 8 (a) of Act 3 of 2012.]

(b) determine the language policy of the public college, subject to the approval of the Minister; and

[Para. (b) substituted by s. 8 (b) of Act 3 of 2012.]

(c) ensure that the public college complies with accreditation requirements necessary to provide learning programmes in terms of standards and qualifications as registered on the National Qualifications Framework.

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

(4) The council of a public college consists of-

(a) the principal;

(b) five external persons appointed by the Minister;

[Para. (b) substituted by s. 8 (c) of Act 3 of 2012.]

(c) one member of the academic board elected by the academic board;

- (d) one external member representing donors;
- (e) one lecturer of the public college, elected by the lecturers of the college;
- (f) one member of the support staff of the public college, elected by the support staff; and
- (g) two students of the public college, elected by the student representative council of the public college.

(5) The chairperson, vice-chairperson or other office-bearers of the council may not be students or members of the staff of the college, but the secretary may be a member of staff.

(6) The council must, in consultation with the Minister, appoint four additional external persons with financial, human resources and legal skills as members of the council.

[Sub-s. (6) substituted by s. 8 (d) of Act 3 of 2012.]

(7) The manner in which the members of the council contemplated in subsection (4) (c) to (g) are to be elected, must, where applicable, be determined by the Minister by notice in the *Gazette* and must, in so far as it is practically possible, ensure that-

(a) the functions of the council or interim council are performed according to the highest professional standards;

(b) the council or interim council is broadly representative of the continuing education and training system and related interests;

[Para. (b) substituted by s. 4 of Act 1 of 2013.]

(c) the members have a thorough knowledge and understanding of the continuing education and training sector;

[Para. (c) substituted by s. 4 of Act 1 of 2013.]

(d) the members appreciate the role of continuing education and training in reconstruction and development; and

[Para. (d) substituted by s. 4 of Act 1 of 2013.]

(e) the council is broadly representative of the community served by the public college in respect of race, gender and disability.

[Sub-s. (7) amended by s. 8 (e) of Act 3 of 2012.]

(8) At least 60 per cent of the members of a council must be external persons who are not-

(a) students or support staff of the public college;

(b) employed by the Minister;

[Para. (b) substituted by s. 8 (f) of Act 3 of 2012.]

(c) employed by the college.

(9) A member of a council or an interim council-

(a) must be a person with knowledge and experience relevant to the objects and governance of the public college in question;

(b) must participate in the deliberations of the council or interim council in the best interest of the public college in question;

(c) must, before he or she assumes office, declare any business, commercial or financial activities undertaken for financial gain that may raise a possible conflict of interest with the public college in question;

(d) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the council;

(e) (i) may not have a conflict of interest with the public college in question;

(ii) may not have a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest with the public college in question; and

(iii) must, before the meeting and in writing, inform the chairperson of that meeting of the conflict or possible conflict of interest.

[Sub-s. (9) substituted by s. 8 (g) of Act 3 of 2012.]

(9A) Any person may, in writing, inform the chairperson of a meeting, before the meeting, of a conflict or possible conflict of interest of a member of the council of the public college in question of which such person may be aware.

[Sub-s. (9A) inserted by s. 8 (h) of Act 3 of 2012.]

(9B) A member referred to in subsections (9) (e) and (9A) is obliged to recuse himself or herself from the meeting during the discussion of the matter and the voting thereon.

[Sub-s. (9B) inserted by s. 8 (h) of Act 3 of 2012.]

(9C) A committee of the council with delegated functions in terms of section 50 (1) may not take a decision on a matter considered by it if any member of the committee has a conflict of interest contemplated in this section.

[Sub-s. (9C) inserted by s. 8 (h) of Act 3 of 2012.]

(9D) A member of the council or a member of a committee of the council who contravenes subsection (9), (9A) or (9B), after the council has followed a due process, may be-

- (a) suspended from attending a meeting; or
- (b) disqualified as a member of the council or a member of a committee of the council.

[Sub-s. (9D) inserted by s. 8 (h) of Act 3 of 2012.]

(9E) The council must-

- (a) having regard to the provisions of subsections (9), (9A) and (9B) adopt a code of conduct to which all members of the council, all members of committees of the council and all persons who exercise functions of the council in terms of delegated authority must subscribe; and
- (b) determine rules and procedures for an annual declaration-
 - (i) by each member of the council, each member of council committees and each person who exercises functions of the council in terms of delegated authority;
 - (ii) of his or her financial interests and fiduciary roles, the latter to include but not be limited to offices, directorships of companies, memberships of close corporations and trusteeships held; and
 - (iii) of the financial interests and fiduciary roles of the members of his or her immediate family.

[Sub-s. (9E) inserted by s. 8 (h) of Act 3 of 2012.]

(10) The Minister must-

- (a) by notice in the *Gazette*, or by any other reasonably practicable means, invite nominations for the appointment of the members contemplated in subsection (4) (b); and
- (b) consider the nominations and appoint the members with due regard to the criteria contemplated in this section.

[Sub-s. (10) amended by s. 8 (i) of Act 3 of 2012.]

(11) For the purpose of this section, '**immediate family**', in relation to a member, means his or her parent, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that member as if they were married to each other.

[Sub-s. (11) added by s. 8 (j) of Act 3 of 2012.]

11 Academic board of public college

(1) The academic board of a public college is accountable to the council for-

- (a) the academic functions of the public college and the promotion of the participation of women and the disabled in the learning programmes;
- (b) establishing internal academic monitoring and quality promotion mechanism;
- (c) ensuring that the requirements of accreditation to provide learning against standards and qualifications registered on the National Qualifications Framework are met; and
- (d) performing such other functions as may be delegated or assigned to it by the

council.

(2) Subject to the approval of the council and to any applicable policy, the academic board must determine the learning programmes contemplated in section 43 that will be offered at the public college.

(3) The academic board of a public college consists of-

- (a) the principal;
- (b) the vice-principal or vice-principals;
- (c) lecturers;
- (d) members of the council;
- (e) members of the student representative council; and
- (f) such additional persons as may be determined by the council.

(4) The number of persons contemplated in subsection (3) (c), (d), (e) and (f) and the manner in which they are appointed or elected, as the case may be, must be determined by the council in accordance with the college statute.

(5) The majority of the members of the academic board must be lecturers.

(6) The Minister may, by notice in the *Gazette*, determine that a community education and training college specified in that *Gazette* does not require an academic board contemplated in section 9 (1) if-

- (a) the diversity of qualifications or part-qualifications do not justify the establishment of an academic board; and
- (b) the decision is taken in the best interest of the college and delivering of continuing education and training within that college.

[Sub-s. (6) added by s. 5 of Act 1 of 2013.]

(7) If the Minister publishes a notice in terms of subsection (6), the Department must perform the functions of the academic board applicable to the college.

[Sub-s. (7) added by s. 5 of Act 1 of 2013.]

12 Committees of council and academic board

(1) The council may-

- (a) establish a committee to assist it in the performance of its functions; and
- (b) appoint a person who is not a member of the council as member of the committee.

(2) The chairperson of a committee must be a member of the council.

(3) The council is not divested of the responsibility for the performance of any function delegated to a committee.

(4) The council must determine the-

- (a) composition of a committee;
- (b) functions of a committee;
- (c) procedure at meetings; and
- (d) dissolution of a committee.

(5) Subsections (1) to (4) apply with the necessary changes to the academic board.

(6) The council and the academic board may jointly establish a committee to assist them in the performance of functions that are common to the council and the academic board.

(7) Subsections (1) to (4) apply with the necessary changes to a joint committee established in terms of subsection (6).

13 Principal of public college

The principal of a public college is responsible for the management and administration of the college.

14 Student representative council

The establishment, composition, manner of election, term of office, functions and privileges of the student representative council of a public college must be determined by the council after consultation with the students of the college, subject to policy determined by the Minister.

[S. 14 substituted by s. 9 of Act 3 of 2012.]

15 Disciplinary measures

(1) Every student at a public college is subject to a code of conduct, disciplinary measures and procedures which are determined by the council, subject to provincial policy.

(2) The code of conduct, disciplinary measures and procedures may only be determined after consultation with the academic board and the student representative council of the public college in question.

(3) The policy contemplated in subsection (1) must include measures to curb racism and any form of unfair discrimination, violence and harassment, especially sexual violence and sexual harassment.

16 Prohibition of corporal punishment and initiation practices

(1) No person may administer corporal punishment to a student at a college.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which may be imposed for assault.

(3) No person may conduct or participate in initiation practices at a college.

(4) Any person who contravenes subsection (3) is guilty of misconduct and disciplinary action must be instituted against such a person.

(5) Despite subsection (4), a person may institute civil action against any person or group of persons who manipulated or forced the first-mentioned person to conduct or participate in initiation practices.

(6) For the purposes of this section, '**initiation practice**' means any act that in the process of initiation, admission into or affiliation with, or as condition for continued membership of, a college, a group, intramural or extramural activities, a sports team or an organisation-

- (a) endangers the mental or physical health or safety of a person;
- (b) undermines the intrinsic worth of human beings by treating some as inferior to others;
- (c) subjects individuals to humiliating or violent acts that undermine the constitutional guarantee to dignity in the Bill of Rights;
- (d) undermines the fundamental rights and values that underpin the Constitution;
- (e) impedes the development of a culture that entitles an individual to be treated as worthy of respect and concern; or
- (f) destroys public or private property.

(7) In considering whether conduct or participation of a person in any initiation practice falls within the definition of 'initiation practice', the relevant disciplinary authority must take into account the right of the student not to be subjected to such practice.

17 Admission policy of public college

(1) Subject to applicable policy, the council of a public college determines the admission policy of the college, after consulting the academic board and with the approval of the Minister.

[Sub-s. (1) substituted by s. 10 (a) of Act 3 of 2012.]

(2) The admission policy of a public college may not unfairly discriminate in any way and must provide appropriate measures for the redress of past inequalities.

(3) The council may, subject to applicable policy, the approval of the Director-General

and after consultation with the academic board-

- (a) determine admission requirements in respect of particular continuing education and training qualifications or part-qualifications;
[Para. (a) substituted by s. 6 of Act 1 of 2013.]
- (b) determine the number of students who may be admitted for a particular continuing education and training qualification or part-qualification and the manner of their selection;
[Para. (b) substituted by s. 6 of Act 1 of 2013.]
- (c) determine the minimum requirements for readmission to study at the public college in question; and
- (d) refuse the readmission of a student who fails to satisfy the minimum requirements for readmission.
[Sub-s. (3) amended by s. 10 (b) of Act 3 of 2012.]

(4) The council of a public college must take the necessary steps within its available resources to ensure that the college is accessible to disabled students.

18 Standard college statute

A public college that has not developed a college statute in terms of section 10 (1) must make use of the standard college statute set out in Schedule 1.

CHAPTER 4 APPOINTMENT OF MANAGEMENT STAFF, LECTURERS AND SUPPORT STAFF IN PUBLIC COLLEGES (ss 19-21)

19

[S. 19 repealed by s. 11 of Act 3 of 2012.]

20 Appointment of staff

- (1) The staff of public colleges consists of persons appointed by-
 - (a) the Minister in terms of the Public Service Act in posts established on the organisational structure of the Department and identified as posts to the respective colleges; and
 - (b) the council in posts established in addition to posts contemplated in paragraph (a).
- (2) Subject to the Public Service Act and any other applicable law, the Minister must-
 - (a) establish the posts contemplated in subsection (1) (a);
 - (b) appoint staff in the identified posts; and
 - (c) remunerate staff from the funds allocated to the respective colleges in accordance with the norms and standards contemplated in section 23.
- (3) The staff contemplated in subsection (1) (a) must-
 - (a) report to the council in respect of matters and functions allocated to them by the council in terms of this Act; and
 - (b) report to the Minister as the employer for all employment purposes.
- (4) Subject to this Act, the Labour Relations Act, the Basic Conditions of Employment Act, the Employment Equity Act and any other applicable law, the council-
 - (a) may establish posts contemplated in subsection (1) (b) for staff other than the management staff, which posts are additional to the posts contemplated in subsection (2) (a);
 - (b) may appoint staff in those posts;
 - (c) must remunerate staff from the funds received by the public college in question from other sources than the money received in terms of section 22;
 - (d) must determine the functions, conditions of service and privileges of the staff contemplated in paragraph (a); and

- (e) must pay remuneration to the staff contemplated in paragraph (a) that may not be less than the remuneration paid to a comparable appointment made in terms of the Public Service Act contemplated in subsection (1) (a).

(5) When presenting the annual financial reports contemplated in section 25 the council must provide sufficient details of any posts envisaged in terms of subsection (4) (a), including the estimated cost relating to the employment of staff in those posts and the manner in which it is proposed that the cost will be met.

(6) The staff contemplated in subsections (2) and (4) must be employed in compliance with the basic values and principles referred to in section 195 of the Constitution of the Republic of South Africa, 1996, 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 representation.

(7) A member of staff must in writing-

- (a) before he or she is appointed, declare any business that may raise a conflict or a possible conflict of interest with the further education and training college concerned; and
- (b) notify the further education and training college concerned of any conflict or possible conflict of interest before such further education and training college procures any goods or services from such member of staff or an organisation within which such member holds an interest.

(8) A member of staff may not conduct business directly or indirectly with the further education and training college at which he or she is employed that entails or may entail a conflict of interest with the further education and training college unless the council of such further education and training college is of the opinion that-

- (a) such goods, products or services are unique;
- (b) the supplier is a sole provider; and
- (c) it is in the best interest of the institution.

(9) A member of staff of a further education and training college may not, on behalf of that further education and training college, contract with himself or herself or any entity in which he or she has a direct or indirect financial or personal interest.

(10) Contracting referred in subsection (9) relates to conduct that is aimed at receiving any direct or indirect personal gain that does not form part of the employment relationship contemplated in subsection (1).

[S. 20 substituted by s. 12 of Act 3 of 2012 insofar as it applies to management staff.]

[Date of commencement of s. 20 as substituted by s. 12 of Act 3 of 2012 insofar as it relates to staff other than management staff: 1 April 2015.]

21 Dispute resolution between college, lecturers and support staff

(1) If a dispute arises about the payment or employment conditions of a lecturer or a member of the support staff, any party to the dispute may refer the dispute in writing to-

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

[NB: Sub-s. (1) has been amended by s. 13 of the Further Education and Training Colleges Amendment Act 3 of 2012, a provision which will come into operation on 1 April 2015. See PENDLEX.]

(2) 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.

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

(4) 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 for adjudication to the Labour Court established in terms of section 151 of the Labour Relations Act.

CHAPTER 5 FUNDING OF PUBLIC COLLEGES (ss 22-26)

22 Responsibility of State

(1) The Minister must from money appropriated for this purpose by Parliament fund public colleges on a fair, equitable and transparent basis.

(2) The Minister may, subject to the norms and standards determined in terms of section 23, impose-

- (a) any condition in respect of an allocation of funding contemplated in subsection (1); and
- (b) different conditions in respect of different public colleges, different continuing education and training qualifications or part-qualifications or different allocations, if there is a reasonable basis for such differentiation.

[Para. (b) substituted by s. 7 of Act 1 of 2013.]

(3) Subject to the requirements in the minimum norms and standards determined in terms of section 23, the Minister must determine further appropriate measures for the redress of past inequalities.

(4) The Minister must, on an annual basis, provide sufficient information to public colleges regarding the funding referred to in subsection (1) to enable the colleges to prepare their budgets for the next financial year.

[S. 22 substituted by s. 14 of Act 3 of 2012.]

23 Norms and standards for funding of public colleges

Subject to the Constitution and this Act, the Minister must, after consultation with the Minister of Finance, determine minimum norms and standards for the funding of public colleges.

[S. 23 substituted by s. 15 of Act 3 of 2012.]

24 Funds of public colleges

(1) The funds of a public college consist of-

- (a) funds allocated by the State;
 - (b) any donations or contributions received by the public college;
 - (c) money raised by the public college;
 - (d) money raised by means of loans, subject to the approval of the Minister;
- [Para. (d) substituted by s. 16 (a) of Act 3 of 2012.]
- (e) income derived from investments;
 - (f) money received from services rendered;
 - (g) money payable by students for continuing education and training qualifications or part-qualifications provided by the public college;
- [Para. (g) substituted by s. 8 of Act 1 of 2013.]
- (h) money received from students or employees of the public college for accommodation or other services provided by the public college; and
 - (i) funds from any other source.

(2) A public college may not raise money by means of a loan or overdraft without the approval of the Minister.

[Sub-s. (2) substituted by s. 16 (b) of Act 3 of 2012.]

(3) If a person lends money or grants an overdraft to a public college without the

approval of the Minister, the State and the college are not bound by the contract of lending money or an overdraft agreement.

[Sub-s. (3) substituted by s. 16 (c) of Act 3 of 2012.]

25 Financial records and statements of public colleges

- (1) The council of a public college must, in the manner determined by the Minister-
- (a) keep records of all its proceedings;
 - (b) keep complete accounting records of all assets, liabilities, income and expenses and any other financial transactions of the public college as a whole, of its substructures and of other bodies operating under its auspices; and
 - (c) implement internal audit and risk management systems which are not inferior to the standards contained in the Public Finance Management Act, 1999 (Act 1 of 1999).

[Sub-s. (1) amended by s. 17 (a) of Act 3 of 2012.]

(2) The council of a public college must appoint an auditor to audit the records and financial statements referred to in this section.

(3) The council of a public college must, in respect of the preceding financial year, and by a date or dates and in the manner determined by the Minister, provide the Minister with-

- (a) a report on the overall management and governance of the college;
- (b) a report on the overall performance of students on the programmes offered by the college;
- (c) a duly audited statement of income and expenditure; and
- (d) a balance sheet and cash flow statement.

[Sub-s. (3) amended by s. 17 (b) of Act 3 of 2012.]

(4) The council of a public college must provide the Minister with such additional information as the Minister may require.

[Sub-s. (4) substituted by s. 17 (c) of Act 3 of 2012.]

26 Failure of council to comply with Act or certain conditions

(1) If the management staff or council of a public college fails to comply with any provision of this Act under which an allocation from money appropriated by Parliament is paid to the college, or with any condition subject to which any allocation is paid to the public college, the Minister may call upon the management staff or council to comply with the provision or condition within a specified period.

(2) If the management staff or council thereafter fails to comply with the provision or condition timeously, the Minister may withhold payment of any portion of any allocation appropriated by Parliament in respect of the public college concerned.

(3) Before taking action under subsection (2), the Minister must-

- (a) give notice to the management staff or council of the public college concerned of the intention so to act;
- (b) give such management staff or council a reasonable opportunity to make representations; and
- (c) consider such representations.

(4) If the Minister acts under subsection (2), a report regarding the action must be tabled in Parliament by the Minister as soon as reasonably practical after the action.

[S. 26 substituted by s. 18 of Act 3 of 2012.]

CHAPTER 6 PRIVATE COLLEGES (ss 27-41)

27 Designation of registrar

(1) The Director-General is the registrar of private colleges.

(2) The registrar may delegate any of his or her functions in terms of this Act to any employee in the Department.

28 Registration of private college

No person other than a public college or an organ of state may provide continuing education and training unless that person is-

- (a) incorporated or recognised as a company in terms of the Companies Act, 2008 (Act 71 of 2008); and

[Para. (a) substituted by s. 19 of Act 3 of 2012.]

- (b) registered or provisionally registered as a private college in terms of this Act.

[S. 28 amended by s. 9 of Act 1 of 2013.]

29 Application for registration

An application for registration as a private college must be made to the registrar in the manner determined by the registrar and must be accompanied by the prescribed fee.

30 Requirements for registration

(1) The registrar must register an applicant as a private college if the registrar has reason to believe that the applicant-

- (a) is financially capable of satisfying its obligations to prospective students; and
- (b) with regard to all its continuing education and training qualifications or part-qualifications-
 - (i) will maintain acceptable standards that are not inferior to standards at comparable public colleges;
 - (ii) will comply with the requirements of Umalusi; and
 - (iii) complies with any other reasonable requirement prescribed by the Minister.

[Para. (b) amended by s. 10 of Act 1 of 2013.]

(2) The registrar may require further information, particulars and documents in support of any application for registration.

31 Determination of application for registration

(1) The registrar-

- (a) must consider any application for registration as a private college and any further information, particulars or documents provided by the applicant;
- (b) may, when considering the application, differentiate between a foreign juristic person and a local juristic person with regard to matters such as its scope and range of operations, its size and its collegial configuration; and
- (c) may register the applicant as a private college if the requirements for registration contemplated in section 30 are fulfilled.

(2) (a) If the registrar decides to grant the application, the registrar must-

- (i) enter the applicant's name in the appropriate register of private colleges;
- (ii) issue a certificate of registration, stating the terms of such registration;
- (iii) furnish the certificate to the applicant; and
- (iv) as soon as practicable after the decision, publish the name of the applicant so registered and the title of the qualification offered by the applicant, in the *Gazette*.

(b)

[Para. (b) deleted by s. 20 of Act 3 of 2012.]

(c) If the registrar decides not to grant the application, the registrar must advise the applicant in writing of the decision and furnish the applicant with written reasons for the decision.

(3) Despite subsection (1), the registrar may provisionally register an applicant other than a foreign juristic person who does not fulfil the requirements for registration contemplated in section 30 if the registrar believes that the applicant will be able to fulfil the relevant requirements within a reasonable period.

(4) If the registrar provisionally registers an applicant under subsection (3), the registrar must-

- (a) determine the period within which the applicant must satisfy the requirements for registration;
- (b) enter the applicant's name in the appropriate register of private colleges;
- (c) issue a certificate of provisional registration, stating the terms and the duration of such registration;
- (d) provide the certificate of provisional registration to the applicant; and
- (e) as soon as practicable after the decision, publish the name of the applicant so provisionally registered and the title of the qualifications offered by the applicant in the *Gazette*.

(5) The registrar may, on good cause shown, extend the period referred to in subsection (4) (a).

(6) If, on the expiry of the period referred to in subsection (4) (a) or any extension thereof, the applicant-

- (a) satisfies the requirements for registration specified by the registrar, the registrar must register the applicant in accordance with subsection (2) (a); or
- (b) fails to satisfy the requirements for registration specified by the registrar, the applicant's provisional registration lapses.

32 Certificate of registration

(1) A private college must conspicuously display-

- (a) its certificate of registration or provisional registration or a certified copy thereof on its premises; and
- (b) its registration number and an indication that it is registered or provisionally registered on all its official documents.

(2) If the registrar has cancelled the registration or provisional registration of a private college in terms of section 39, the private college must return the original certificate of registration or provisional registration to the registrar within 14 days of such cancellation.

33 Inspection of register and auditor's report

(1) Any person may inspect the register of private colleges and the auditor's report contemplated in section 34 (2) (b).

(2) The registrar must furnish a certified copy of, or extract from, any of the documents referred to in subsection (1) to any person who has paid the prescribed fee.

34 Records and audits

(1) Every private college must, in accordance with generally accepted accounting practice, principles and procedures-

- (a) keep books and records of income, expenditure, assets and liabilities; and
- (b) prepare financial statements within three months after the end of its financial year, including at least-
 - (i) a statement of income and expenditure for the previous year;
 - (ii) a balance sheet as at the end of the previous year; and
 - (iii) such other information as the registrar may require.

(2) Every private college must, within the period determined by the registrar-

- (a) ensure that an annual audit of its books, records of account and financial statements is carried out by an auditor, who must conduct the audit in accordance with generally accepted auditing standards;
- (b) furnish the registrar with a certified copy of the auditor's report in respect of the financial statements referred to in subsection (1); and
- (c) furnish the registrar with any additional information, particulars or documents in the manner determined by the registrar.

35 Amendment of registration and provisional registration

A private college may apply to the registrar to amend its registration or provisional registration-

- (a) in the manner determined by the registrar; and
- (b) by paying the prescribed fee.

36 Requirements for amendment of registration or provisional registration and determination of application

(1) The registrar may not amend the registration or provisional registration of a private college unless he or she is satisfied that such amendment is in the interests of continuing education and training and is compatible with this Act.

[Sub-s. (1) substituted by s. 11 of Act 1 of 2013.]

(2) The registrar may require further information, particulars or documents in support of any application for such amendment.

(3) (a) If the registrar decides to grant the application, he or she must-

- (i) amend the certificate of registration or provisional registration accordingly;
- (ii) furnish a copy of the amended certificate to the applicant; and
- (iii) as soon as reasonably practicable after the decision, publish the name of the applicant whose certificate has been amended in the *Gazette*.

(b) If the registrar decides not to grant the application, he or she must advise the applicant in writing of the decision and furnish the applicant with written reasons for the decision.

37 Conditions for registration

(1) The registrar may impose any condition on a private college in respect of-

- (a) its registration;
- (b) its provisional registration; or
- (c) any amendment of its registration or provisional registration.

(2) The registrar may impose different conditions under subsection (1) in respect of different private colleges, if there is a reasonable basis for such differentiation.

38 Amendment or cancellation of conditions

Subject to section 40, the registrar may, on reasonable grounds, amend or cancel any condition imposed under section 37 or impose new conditions under that section.

39 Cancellation of registration

(1) Subject to section 40, the registrar may, on reasonable grounds, cancel any registration or provisional registration in terms of this Act.

(2) If the accreditation of any continuing education and training qualification or part-qualification offered by a private college is withdrawn, the registrar must review the registration of such college.

[Sub-s. (2) substituted by s. 12 of Act 1 of 2013.]

40 Steps before amendment or cancellation

The registrar may not act under section 38 or 39 unless he or she-

- (a) has informed the private college of the intention so to act and the reasons therefor;
- (b) has granted the private college and other interested persons an opportunity to make written representations in relation to such action, within 30 working days of the notice of the Registrar; and
- (c) has considered such representations.

41 Appeal to Minister

(1) Any interested party may appeal to the Minister against any decision of the registrar in terms of this Chapter, and the Minister may confirm or set aside, in whole or in part, or vary, the decision of the registrar.

(2) A decision of the Minister contemplated in subsection (1) may include an order setting aside any condition attached to a registration if the Minister is not satisfied that the condition is reasonable and justifiable.

(3) An appeal referred to in subsection (1) must be lodged with the Minister within 60 days of the date of the decision of the registrar.

(4) The Minister may, on good cause shown, extend the period within which an appeal may be noted against the decision of the registrar.

CHAPTER 6A (ss 41A-41M)

[Chapter 6A inserted by s. 10 of Act 25 of 2010.]

41A Objectives of Chapter

The objectives of this Chapter are to provide for-

- (a) the determination of national education policy by the Minister in accordance with certain principles;
- (b) the consultations to be undertaken prior to the determination of policy, and the establishment of certain bodies for the purposes of consultation;
- (c) the publication and implementation of national education policy; and
- (d) the monitoring and evaluation of education and training within the scope of qualifications offered by a further education and training college.

[S. 41A inserted by s. 10 of Act 25 of 2010.]

41B Determination of national education policy for colleges

(1) The Minister shall determine national education policy in accordance with the provisions of the Constitution and this Act.

(2) and (3)

[Sub-ss. (2) and (3) deleted by s. 21 of Act 3 of 2012.]

(4) Subject to the provisions of subsections (1) to (3), the Minister shall determine national policy for the planning, provision, financing, co-ordination, management, governance, programmes, monitoring, evaluation and well-being of the further education and training system and, without derogating from the generality of this section, may determine national policy for-

- (a) further education and training management information systems, including the provision of data in accordance with the international obligations of the government;
- (b) the organisation, management and governance of the national further education and training system;
- (c) facilities, finance and development plans for further education and training, including advice to the Financial and Fiscal Commission;
- (d) innovation, research and development in further education and training;
- (e) the organisation, management, governance, funding, establishment and registration of colleges;
- (f) curriculum frameworks, core syllabuses and further education and training programmes, learning standards, examinations and the certification of qualifications, subject to the provisions of any law establishing a national qualifications framework or a certifying or accrediting body;
- (g) co-operation between the Department and-
 - (i) other state departments;
 - (ii) provincial education departments;
 - (iii) local government; and

- (iv) non-government organisations,
with a view to advancing the national education policy contemplated in this section and the Reconstruction and Development Programme;
- (h) international relations in the field of further education and training;
- (i) executive functions required to implement national education policy determined in terms of this Chapter, including the implementation of measures to address past discriminatory practices.

[S. 41B inserted by s. 10 of Act 25 of 2010.]

41C Directive principles of national education policy

The policy contemplated in section 41B shall be directed toward-

- (a) the advancement and protection of the fundamental rights of every person guaranteed in terms of Chapter 2 of the Constitution and in terms of international conventions approved by Parliament, in particular the right-
 - (i) of every person to be protected against unfair discrimination within or by the Department or colleges on any ground whatsoever;
 - (ii) of every person to receive further education and to have training and equal access to public colleges;
 - (iii) of a parent or guardian in respect of the further education and training of his or her child or ward;
 - (iv) of every child in respect of his or her further education and training;
 - (v) of every student to be instructed in the language of his or her choice where this is reasonably practicable;
 - (vi) of every person to the freedoms of conscience, religion, thought, belief, opinion, expression and association at colleges;
 - (vii) of every person to establish, where practicable, colleges based on a common language, culture or religion, as long as there is no discrimination on the ground of race; and
 - (viii) of every person to use the language and participate in the cultural life of his or her choice at colleges;
- (b) enabling the further education and training system to contribute to the full personal development of each student, and to the moral, social, cultural, political and economic development of the nation at large, including the advancement of democracy, human rights and the peaceful resolution of disputes;
- (c) achieving equitable education opportunities and the redress of past inequality in further education and training provision, including the promotion of gender equality and the advancement of the status of women;
- (d) endeavouring to ensure that no person, as a result of physical disability, is denied the opportunity to receive further education and training to the maximum of his or her ability;
- (e) providing opportunities for and encouraging lifelong learning;
- (f) achieving an integrated approach to adult education and training within a national qualifications framework;
- (g) cultivating skills, disciplines and capacities necessary for reconstruction and development;
- (h) recognising the aptitudes, abilities, interests, prior knowledge and experience of students;
- (i) encouraging independent and critical thought;
- (j) promoting a culture of respect for teaching and learning at colleges;
- (k) promoting enquiry, research and the advancement of knowledge;
- (l) enhancing the quality of further education and training and educational innovation-
 - (i) through systematic research and development on further education and

- training;
- (ii) through monitoring and evaluating the further education and training provision and performance; and
- (iii) through the training of educators and further education and training managers;
- (m) ensuring broad public participation in the development of further education and training policy and the representation of stakeholders in the governance of all aspects of the further education and training system;
- (n) achieving the cost-effective use of further education and training resources and sustainable implementation of further education and training services;
- (o) achieving close co-operation between the national and provincial governments on matters relating to further education and training, including the development of capacity in the Department, and the effective management of the national further education and training system.

[S. 41C inserted by s. 10 of Act 25 of 2010.]

41D Consultation on national education policy

(1) Policy contemplated in section 41B shall be determined by the Minister.

[Sub-s. (1) substituted by s. 22 of Act 3 of 2012.]

(2) The policy contemplated in section 41B shall be determined by the Minister with the concurrence of the Minister of Finance in so far as it involves expenditure from the State Revenue Fund.

(3) Nothing in this section shall limit the discretion of the Minister to consult whomsoever he or she wishes for advice on the determination of national education policy.

[S. 41D inserted by s. 10 of Act 25 of 2010.]

41E

[S. 41E inserted by s. 10 of Act 25 of 2010 and repealed by s. 23 of Act 3 of 2012.]

41F Publication of national education policy

The Minister shall within 21 days after determining policy in terms of section 41B-

- (a) give notice of such determination in the *Gazette* and indicate in such notice where the policy instrument issued with regard thereto may be obtained;
- (b) table the policy instrument contemplated in paragraph (a) in Parliament within 21 days after the notice has appeared in the *Gazette*, if Parliament is then in session, or, if Parliament is in recess, within 21 days after the commencement of the first ensuing session of Parliament.

[S. 41F inserted by s. 10 of Act 25 of 2010.]

41G Monitoring and evaluation of further education and training

(1) The Minister shall direct that the standards of further education and training provision, delivery and performance throughout the Republic be monitored and evaluated by the Department annually or at other specified intervals, with the object of assessing progress in complying with the provisions of the Constitution and with national further education and training policy, particularly as determined in terms of section 41B.

(2) Each directive issued in terms of subsection (1) shall comply with the provisions of any law establishing a national qualifications framework.

[Sub-s. (2) substituted by s. 24 (a) of Act 3 of 2012.]

(3) The Department shall undertake the monitoring and evaluation contemplated in subsection (1) by analysis of data gathered by means of further education and training management information systems, or by other suitable means.

[Sub-s. (3) substituted by s. 24 (a) of Act 3 of 2012.]

(4) The Department shall fulfil its responsibilities in terms of subsections (1) to (3) in a reasonable manner, with a view to enhancing professional capacities in monitoring and evaluation throughout the national education system, and assisting the competent authorities by all practical means within the limits of available public resources to raise the

standards of further education and training provision and performance.

(5) The Department shall prepare and publish a report on the results of each investigation undertaken in terms of subsection (3).

[Sub-s. (5) substituted by s. 24 (b) of Act 3 of 2012.]

(6)

[Sub-s. (6) deleted by s. 24 (c) of Act 3 of 2012.]

(7) A plan in compliance with the Public Finance Management Act, 1999 (Act 1 of 1999), shall be prepared by the Minister, and the Minister shall table the plan in Parliament, if Parliament is then in session, or, if Parliament is in recess, within 21 days after the commencement of the first ensuing session of Parliament.

[Sub-s. (7) substituted by s. 24 (d) of Act 3 of 2012.]

[S. 41G inserted by s. 10 of Act 25 of 2010.]

41H to 41K inclusive

[Ss. 41H to 41K inclusive inserted by s. 10 of Act 25 of 2010 and repealed by s. 25 of Act 3 of 2012.]

41L Consultative bodies

(1) The Minister may by regulation establish a body to be known as the National Education and Training Council and other bodies to advise him or her on any matter contemplated in section 41B or any matter identified by the Minister.

(2) The composition, qualifications for membership, duties, powers and functions of a body established in terms of subsection (1), and the term of office of its members, shall be as prescribed by regulation.

[S. 41L inserted by s. 10 of Act 25 of 2010.]

41M Transitional arrangements regarding policy

Any policy determined in terms of the National Education Policy Act, 1996 (Act 27 of 1996), up to 31 December 2010 and applicable to Further Education and Training Colleges remains in force and effect until amended or repealed by the Minister in terms of this Act.

[S. 41M inserted by s. 10 of Act 25 of 2010.]

CHAPTER 7 PROMOTION OF QUALITY (ss 42-43)

42 Promotion of quality in continuing education and training

[Heading substituted by s. 13 (a) of Act 1 of 2013.]

(1) Subject to the norms and standards set by the Minister in terms of section 41B, the Director-General must-

(a) promote quality in continuing education and training; and

[Para. (a) substituted by s. 13 (b) of Act 1 of 2013.]

(b) assess and report on the quality of education and training provided at colleges.

[Sub-s. (1) amended by s. 11 of Act 25 of 2010.]

(2)

[Sub-s. (2) deleted by s. 26 of Act 3 of 2012.]

43 Continuing education and training qualifications or part-qualifications

[Heading substituted by s. 14 (a) of Act 1 of 2013.]

(1) The Minister may prescribe minimum norms and standards for continuing education and training qualifications or part-qualifications that are offered at colleges.

[Sub-s. (1) substituted by s. 12 (a) of Act 25 of 2010 and by s. 14 (b) of Act 1 of 2013.]

(2) Quality assurance must be conducted by Umalusi in terms of the General and Further Education and Training Quality Assurance Act, 2001 (Act 58 of 2001).

(3) A public college may only provide higher education programmes under the authority of a higher education institution.

(4) A public college intending to offer the higher education programmes contemplated in

subsection (3)-

- (a) must apply to the Minister for permission to offer such programmes after the commencement of this Act; and
- (b) may offer such programmes only after the permission contemplated in paragraph (a) is published by the Minister in the *Gazette*.

(5) A college may apply to the Quality Council for Trades and Occupations established in terms of section 26G of the Skills Development Act, 1998 (Act 97 of 1998), for accreditation as a Skills Development Provider in order to offer qualifications registered on the sub-framework for Trades and Occupations contemplated in section 7 (c) of the National Qualifications Framework Act, 2008 (Act 67 of 2008).

[Sub-s. (5) added by s. 12 (b) of Act 25 of 2010.]

[NB: A Chapter 7A (ss. 43A to 43K inclusive) has been inserted by s. 15 of the Further Education and Training Colleges Amendment Act 1 of 2013, a provision which will be put into operation by proclamation. See PENDLEX.]

CHAPTER 8 GENERAL (ss 44-52)

44 Strategic plan and annual report

(1) A public college must prepare a strategic plan contemplated in the norms and standards for each financial year, which must be approved by the council and submitted to the Minister at least 30 days before the commencement of the financial year.

(2) A public college must prepare and submit to the Minister an annual report in respect of-

- (a) its performance; and
- (b) its use of available resources.

(3) The Minister must publish the reports in a manner determined by the Minister.

[S. 44 substituted by s. 27 of Act 3 of 2012.]

45 Duty of colleges to provide information

(1) A college must make information available for inspection by any person in so far as such information is required for the exercise and protection of the rights of such person.

(2) Every college must provide such information about the college as is required by the Director-General.

[Sub-s. (2) substituted by s. 28 of Act 25 of 2010.]

(3)

[Sub-s. (3) deleted by s. 16 of Act 1 of 2013.¹]

¹ Prior to its deletion sub-s. (3) was to be substituted by s. 28 of the Further Education and Training Colleges Amendment Act 3 of 2012, a provision which was to come into operation to the extent that it substitutes sub-s. (3) on 1 April 2015. See PENDLEX.

46 Investigation at public college, and appointment of administrator

(1) The Minister may appoint a person to conduct an investigation at a public college if the council of the college requests the appointment of such a person or if-

- (a) circumstances arise at the college that-
 - (i) involve financial or other maladministration of a serious nature; or
 - (ii) seriously undermine the effective functioning of the college; and
- (b) the council of the college has failed to resolve such circumstances; and
- (c) the appointment is in the interests of continuing education and training in an open and democratic society.

[Para. (c) substituted by s. 17 of Act 1 of 2013.]

[Sub-s. (1) amended by s. 29 (a) of Act 3 of 2012.]

(2) The person appointed in terms of subsection (1) must, in terms of the terms of reference specified by the Minister-

- (a) within 30 days of his or her appointment, conduct an investigation at the public college in question; and
- (b) within 60 days after his or her appointment-
 - (i) report in writing to the Minister the findings of his or her investigation; and
[Sub-para. (i) substituted by s. 29 (c) of Act 3 of 2012.]
 - (ii) suggest appropriate measures to resolve the matter.
[Sub-s. (2) amended by s. 29 (b) of Act 3 of 2012.]

(3) The Minister must as soon as practicable furnish a copy of the report referred to in subsection (2) to the council concerned.

[Sub-s. (3) substituted by s. 29 (d) of Act 3 of 2012.]

(4) If an audit of the financial records of a public college, or an investigation by the person as contemplated in subsection (1), reveals financial or other maladministration of a serious nature at a public college or the serious undermining of the effective functioning of a public college, the Minister may, after consultation with the council of the public college concerned, if practicable, and despite any other provision of this Act, appoint a person as administrator to take over the authority of the council or the management of the college and such person may perform all the functions relating to governance or management on behalf of the college for a period determined by the Minister, which period may not exceed two years.

[Sub-s. (4) substituted by s. 29 (d) of Act 3 of 2012.]

(5) The Minister may extend the period referred to in subsection (4) once for a further period not exceeding six months.

[Sub-s. (5) substituted by s. 29 (d) of Act 3 of 2012.]

(6) If an administrator is appointed in terms of subsection (4), the council is deemed to have resigned and the administrator must-

- (a) take over the authority of the council;
- (b) perform the council's functions relating to governance; and
- (c) ensure that a new council is constituted.

47 Name change of public college

(1) The council of a public college may, after consultation with interested parties and with the approval of the Minister, change the name of the public college.

(2) The Minister must, by notice in the *Gazette*, publish the change of name of such college.

[S. 47 substituted by s. 30 of Act 3 of 2012.]

48 Offences

(1) Any person other than a college or organ of state who, without the authority of a college-

- (a) offers or pretends to offer any continuing education and training qualification or part-qualification;

[Para. (a) substituted by s. 18 (a) of Act 1 of 2013.]

- (b) confers a continuing education and training qualification or part-qualification that purports to have been granted by a college or in collaboration with a college; or

[Para. (b) substituted by s. 18 (a) of Act 1 of 2013.]

- (c) purports to perform an act on behalf of a college,

is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud.

(2) Any person who pretends that a continuing education and training qualification or part-qualification has been awarded to him or her by a college whereas in fact no such qualification or part-qualification has been so awarded is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud.

[Sub-s. (2) substituted by s. 18 (b) of Act 1 of 2013.]

(3) Any person who contravenes section 28 is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

(4) Any private college that contravenes or fails to comply with section 32 is guilty of an offence and is liable on conviction to a fine not exceeding R250 000.

(5) Any person who claims that he or she is offering a continuing education and training qualification or part-qualification that is registered with the National Qualifications Framework whereas such qualification or part-qualification is not so registered is guilty of an offence and is liable on conviction to any sentence that may be imposed for fraud.

[Sub-s. (5) substituted by s. 18 (c) of Act 1 of 2013.]

49 Limitation of liability

(1) Neither the State, the NBFET nor any person appointed in terms of this Act is liable for any loss or damage suffered by any person as a result of any act performed or omitted in good faith in the course of performing any function for which that person was appointed in terms of this Act.

(2) The State is not liable for any act or omission by a public college relating to its contractual responsibility as the employer in respect of staff employed in terms of section 20 (3).

(3) (a) The State is liable for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public college for which such public college would have been liable but for the provisions of this section.

(b) The State Liability Act, 1957 (Act 20 of 1957), applies to any claim under paragraph (a).

(c) Any claim for damage or loss contemplated in paragraph (a) must be instituted against the Minister

[Para. (c) substituted by s. 31 of Act 3 of 2012.]

(d) Despite paragraph (a), the State is not liable for any damage or loss caused as a result of any act or omission in connection with any enterprise or business operated under the authority of a public college for the purposes of supplementing the resources of the college, including the offering of practical educational activities relating to that enterprise or business.

(e) Any legal proceedings against a public college for any damage or loss contemplated in paragraph (d), or in respect of any act or omission relating to its contractual responsibility as employer, may only be instituted after written notice of the intention to institute proceedings against the college has been given to the Head of Department for his or her information.

50 Delegation of functions

(1) The Minister may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act, except the power to make regulations, to-

(a) any employee of the Department; or

(b) any public college.

[Para. (b) substituted by s. 32 (a) of Act 3 of 2012.]

(2) The Member of the Executive Council may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act, to-

(a) any employee in a provincial department responsible for education and training; or

(b) any organ of state.

[NB: Sub-s. (2) has been deleted by s. 32 (b) of the Further Education and Training Colleges Amendment Act 3 of 2012, a provision which will come into operation on 1 April 2015.]

(3) The Director-General may, on such conditions as he or she may determine, delegate the performance of any of his or her functions under this Act to any employee in the Department.

(4) The council of a public college may, on such conditions as it may determine, delegate the performance of any of its functions under this Act to any other internal structure, lecturer or support staff of such college.

51 Regulations

The Minister may make regulations consistent with this Act on-

- (a) any matter which may or must be prescribed;
- (b) safety measures at public and private colleges;
- (c) a national process and procedures for the assessment of student achievement at public and private colleges;
- (d) a national process for the assessment, monitoring and evaluation of the quality of education in public and private colleges;
- (e) initiation practices at public and private colleges; and
- (f) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

52 Application of Act when in conflict with other laws

This Act prevails over any other law dealing with continuing education and training other than the Constitution of the Republic of South Africa, 1996.

[S. 52 substituted by s. 19 of Act 1 of 2013.]

CHAPTER 9 TRANSITIONAL AND OTHER ARRANGEMENTS (ss 53-59)

53 Existing public further education and training institutions, structures and bodies

(1) The public further education and training institutions listed in Schedule 2 continue to exist and are deemed to be public colleges for the purposes of this Act.

(2) Members of the council, academic board and student representative council of the institutions referred to in subsection (1) continue to hold office until they are replaced in terms of this Act.

54 Staff

(1) The principal, vice-principal, lecturers and support staff employed by the State continue to be so employed until appointed in terms of this Act.

(2) Section 197 of the Labour Relations Act applies to the appointment or transfer as contemplated in subclause (1).

(3) The Education Labour Relations Council and the PSCBC continue to be the bargaining council to determine salaries and conditions of employment until the parties agree to establish a new structure relevant to public colleges.

55 Application for registration by private colleges

Application for registration by private colleges made in terms of the Further Education and Training Act, 1998 (Act 98 of 1998), before the commencement of this Act must be deemed to be applications made in terms of this Act.

56 National Board for Further Education and Training (NBFET)

The NBFET continues to exist until replaced by an advisory body in terms of section 11 of the National Education Policy Act, 1996 (Act 27 of 1996).

57 Disciplinary measures

The existing code of conduct, disciplinary measures and procedures of colleges referred to in section 53 (1) must continue to operate until new measures are determined in terms of this Act.

58 Repeal or amendment of laws

(1) The Further Education and Training Act, 1998 (Act 98 of 1998), is hereby repealed.

(2) Any regulations made or anything done under any provision of any law repealed by this Act must be regarded as having been made or done under the corresponding provision of this Act.

(3) The Employment of Educators Act, 1998 (Act 76 of 1998), is hereby amended to the extent set out in Schedule 3.

59 Short title

This Act is called the Continuing Education and Training Act, 2006.

[S. 59 substituted by s. 20 of Act 1 of 2013.]

Schedule 1

(Section 18)

[Schedule 1 amended by s. 21 of Act 1 of 2013.]

STANDARD COLLEGE STATUTE

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DEFINITIONS AND APPLICATION

1 Definitions

In this Statute, unless the context indicates otherwise, any word or expression to which a meaning has been ascribed in section 1 of the Act bears the meaning so ascribed, and-

In this Statute, unless the context indicates otherwise-

'academic board' means the body contemplated in section 11 of the Act;

'auditor' means any person registered in terms of the Auditing Professions Act, 2005 (Act 26 of 2005);

'college' means the college referred to in section 3;

'council' means the governing structure of the college;

'Department' means the Department of Higher Education and Training;
[Definition of 'Department' substituted by s. 33 (a) of Act 3 of 2012.]

'Director-General' means the Director-General of the Department;

'external person' means a person referred to in section 10 (8) of the Act;

'financial year' in respect of the college means a year commencing on the first day of January and ending on the 31st day of December of the same year;

'foreign juristic person' means a person-

(i) registered or established as a juristic person in terms of a law of a foreign country; and

(ii) recognised or registered as an external company in terms of the Companies Act, 1973 (Act 61 of 1973);

'further education and training'

[Definition of 'further education and training' deleted by s. 21 (b) of Act 1 of 2013.]

'further education and training college'

[Definition of 'further education and training college' deleted by s. 21 (b) of Act 1 of 2013.]

'general education' means the compulsory school attendance phase referred to in section 3 of the South African Schools Act;

'Head of Department'

[Definition of 'Head of Department' deleted by s. 33 (b) of Act 3 of 2012.]

'higher education' means higher education as defined in the Higher Education Act, 1997 (Act 101 of 1997);

'institutional statute' means policy, a code of ethics and any rules developed by the council consistent with the Act;

'Labour Relations Act' means the Labour Relations Act, 1995 (Act 66 of 1995);

'lecturer'

[Definition of 'lecturer' deleted by s. 33 (c) of Act 3 of 2012.]

'local juristic person' means a person established as a juristic person in South Africa in terms of the Companies Act, 1973 (Act 61 of 1973);

'management' means the principal and vice-principal of the college;

'MEC'

[Definition of 'MEC' deleted by s. 33 (d) of Act 3 of 2012.]

'Minister' means the Minister of Higher Education and Training;

[Definition of 'Minister' substituted by s. 33 (e) of Act 3 of 2012.]

'National Qualifications Framework' means the National Qualifications Framework contemplated in the National Qualifications Framework Act, 2008 (Act 67 of 2008);

[Definition of 'National Qualifications Framework' substituted by s. 33 (f) of Act 3 of 2012.]

'NBFET'

[Definition of 'NBFET' deleted by s. 33 (g) of Act 3 of 2012 and by s. 21 (c) of Act 1 of 2013.]

'organ of state' means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

'policy' means policy determined by the Minister in terms of this Act;

[Definition of 'policy' substituted by s. 33 (h) of Act 3 of 2012.]

'prescribed' means prescribed by regulation;

'principal' means the chief executive and accounting officer of the college, and includes a rector;

'programmes' means a list of education programmes approved and promulgated by the Minister in the *Gazette*;

'public college'

[Definition of 'public college' deleted by s. 21 (d) of Act 1 of 2013.]

'Public Service Act' means the Public Service Act, 1994 (Proclamation 103 of 1994);

'rules' means rules made by the council in terms of section 5 (2) (a);

'SAQA' means the South African Qualifications Authority established by section 10 of the National Qualifications Framework Act, 2008 (Act 67 of 2008);

[Definition of 'SAQA' substituted by s. 33 (i) of Act 3 of 2012.]

'school'

[Definition of 'school' deleted by s. 33 (j) of Act 3 of 2012.]

'South African Schools Act'

[Definition of 'South African Schools Act' deleted by s. 33 (k) of Act 3 of 2012.]

'staff' means persons employed at a public college;

'statute' means the standard college statute, which includes policy, code of conduct and any other rules developed by the council which are consistent with the Act;

'student' means any person registered as a student at the college;

'SRC' means the student representative council of the college;

'the Act' means the Continuing Education and Training Act, 2006;

[Definition of 'the Act' substituted by s. 21 (e) of Act 1 of 2013.]

'to provide further education and training'

[Definition of 'to provide further education and training' deleted by s. 21 (f) of Act 1 of 2013.]

'vice-principal' includes a vice-rector.

[Para. 1 amended by s. 21 (a) of Act 1 of 2013.]

2 Application

This statute applies to the college until a statute is developed in terms of section 10 of the Act.

INSTITUTION

3 Name, seat and powers

(1) The name of the college is _____

(2) The seat of the college is at _____

(3) Every public college is a juristic person with legal capacity to perform its functions in terms of this Statute and the Act.

4 Constitution of college

(1) The college consists of-

- (a) the council;
- (b) the academic board;
- (c) the staff;

[Item (c) substituted by s. 33 (l) of Act 3 of 2012.]

(d) the SRC;

(e)

[Item (e) deleted by s. 33 (m) of Act 3 of 2012.]

(f) the students of the college; and

(g) such other offices, bodies or structures as may be established by the council.

(2) No vacancy in any of the offices contemplated in subsection (1) nor any deficiency in the numbers or defect in the composition of the bodies or structures contemplated in subsection (1) impairs or affects the existence of the college as a juristic person or any function conferred by the Act or this Statute upon the college.

COUNCIL

5 Functions of council

(1) Subject to the Act and this statute the council governs the college.

(2) Without derogating from the generality of subsection (1), the council-

- (a) makes rules for the college;
- (b) establishes the council committees and determines the composition and functions of each committee;
- (c) establishes, in consultation with the academic board, joint committees of the council and the academic board to perform functions which are common to the council and the academic board;
- (d) subject to applicable policy and the approval of the Director-General, determines the student admission policy of the college, after consultation with the academic board;

[Item (d) substituted by s. 33 (n) of Act 3 of 2012.]

(e) determines and provides student support services after consultation with the SRC;

(f) subject to the approval of the Director-General, determines the language policy of the college, after consultation with the academic board;

[Item (f) substituted by s. 33 (o) of Act 3 of 2012.]

(g) determines tuition fees, accommodation fees and any other fees payable by students as well as accommodation fees payable by employees;

(h) approves the annual budget of the college; and

(i) may conclude a loan or overdraft agreement, with the approval of the Minister.

[Item (i) substituted by s. 33 (p) of Act 3 of 2012.]

(3) Without derogating from the generality of subsection (1), the council-

(a) determines conditions of service, code of conduct and privileges and functions of its employees and may, in the manner set out in the code of conduct, suspend or dismiss employees of the college; and

(b) may order an employee of the college who has been suspended to refrain from being on any premises under the control of the college and to refrain from participating in any of the activities of the college, or issue such other conditions as it may consider necessary.

6 Composition of council

(1) The council, as contemplated in section 10 (4) of the Act, consists of-

- (a) the principal;
- (b) five external persons appointed by the Minister;
[Item (b) substituted by s. 33 (q) of Act 3 of 2012.]
- (c) one member of the academic board elected by the academic board;
- (d) one lecturer elected by the lecturers at the college;
- (e) two students of the college elected by the SRC;
- (f) one member of the support staff elected by the support staff of the college;
- (g) one external member representing donors; and
- (h) four members contemplated in section 10 (6) of the Act with a broad spectrum of competencies in the fields of education, business, finance, law, marketing, information technology and human resource management appointed by the council in consultation with the Minister.

[Item (h) substituted by s. 33 (r) of Act 3 of 2012.]

(2) At least 60 per cent of the members of the council must be external persons who are not employed by the Minister or council, or are not students of the college.

[Sub-para. (2) substituted by s. 33 (s) of Act 3 of 2012.]

(3) The council members contemplated in section 10 (8) and (9) of the Act must have knowledge and experience relevant to the objects and governance of the college.

7 Termination of membership and filling of vacancies

(1) A member of the council's term of office terminates if-

- (a) he or she tenders a written resignation;
- (b) the Minister or entity who appointed or elected the member to the council terminates the membership in writing;
[Item (b) substituted by s. 33 (t) of Act 3 of 2012.]
- (c) he or she is absent from three consecutive meetings without leave of the council;
- (d) he or she is declared insolvent;
- (e) he or she is removed from an office of trust by a court of law or is convicted of an offence for which the sentence is imprisonment without the option of a fine; or
- (f) he or she is incapacitated to perform his or her functions.

(2) The council has the power to suspend and take disciplinary action against a member.

(3) If 75 per cent or more of the members of the council resign, the council is deemed to have resigned.

(4) If the council resigns as contemplated in subsection (3) a new council must be constituted in terms of this statute and the Act.

(5) Whenever any vacancy occurs, section 10 of the Act must apply with the necessary changes thereto.

(6) Any member appointed in terms of subsection (5) must serve only the remainder of the term of office.

8 Election and term of office of chairperson, vice-chairperson and secretary of council

(1) The chairperson and vice-chairperson of the council must not be elected from members contemplated in section 6 (1) (a), (c), (d), (e) and (f) of the statute.

(2) The chairperson, vice-chairperson and secretary of the council are elected for a period not exceeding three years.

(3) The chairperson, vice-chairperson and secretary are eligible for re-election.

(4) Nominations for the office of the chairperson, vice-chairperson and secretary of the council must be in writing and directed to the electoral officer.

(5) If more than one candidate is nominated, voting is by secret ballot.

(6) Each member of the council has only one vote during a ballot and no proxy is allowed.

(7) Whenever a vacancy occurs in the office of the chairperson, vice-chairperson or secretary, subsections (4) to (6) apply with the necessary changes to the filling of such vacancy.

(8) A person who fills a vacancy in terms of subsection (7) holds office until the end of the term of his or her predecessor.

9 Meetings of council

(1) The council has at least four ordinary meetings during each academic year.

(2) Notice of any motion for consideration at the next ordinary meeting must be in writing and must be lodged with the secretary at least 21 days before the date determined by the council for such meeting, provided that any matter of an urgent nature may, without prior notice, by consent of the chairperson and a majority of the members present, be considered at such meeting.

(3) At least 14 days prior to the date of an ordinary meeting, the secretary gives due notice to each member of all the matters to be dealt with at such meeting and states the time and place of such meeting.

(4) A special meeting may be called at any time by the chairperson.

(5) A special meeting must be called by the chairperson at the request in writing of at least five members, if the objective of such meeting is clearly stated in the request, provided that at least seven days' notice of a special meeting is given.

(6) No business other than that for which the special meeting was called may be transacted at such meeting.

(7) An emergency meeting may be called by the chairperson or, in his or her absence, by the principal at any time.

(8) Notice of an emergency meeting may be given in any manner convenient under the circumstances.

(9) The objective of an emergency meeting must be stated to members and no business other than that stated may be transacted at such meeting.

10 Council meeting procedures

(1) The council members must participate in the deliberations of the council in the best interest of the college.

(2) Except where otherwise provided in this statute, all acts or matters authorised or required to be done or decided by the council or its committees and all questions that may come before it are done or decided by the majority of the members present at any meeting, provided that the number present at any meeting is at least half plus one of the total number of members of the council or its committees holding office on the date of such meeting.

(3) In the absence of the chairperson and the vice-chairperson of the council, the members present must elect one of their members to preside at such meeting.

(4) The first act of an ordinary meeting, after being constituted, is to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meeting and of any special meeting subsequently held, provided that the meeting may consider the minutes as read if a copy thereof was previously sent to every member of the council, provided further that objections to the minutes of a meeting are raised and decided before confirmation of the minutes.

(5) A member of the council may not, without the consent of the meeting, speak more than once to a motion or to any amendment and the mover of any motion or any amendment has the right of reply.

(6) Every motion or amendment must be seconded and, if so directed by the chairperson, must be in writing.

(7) A motion or an amendment seconded as contemplated in subsection (6) may not be withdrawn except with the consent of the meeting.

(8) The chairperson has a deliberative vote on any matter and, in the event of an equality of votes, also a casting vote.

(9) If so decided by the meeting, the number of members voting for or against any motion must be recorded in the minutes or, if so requested by any member, the chairperson must direct that such votes be recorded.

(10) When a majority of the members of the council reach agreement on a matter referred to them by the chairperson by letter or electronic means, without a meeting having been convened, and convey such resolution by letter or electronic means, such resolution is equivalent to a resolution of the council and must be recorded in the minutes of the next succeeding ordinary meeting.

(11) The views of a member of the council who is unable to attend a meeting may be submitted to the meeting in writing but may not count as a vote of such member.

(12) The ruling of the chairperson on a point of order or procedure is binding unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting whose decision is final.

11 Conflict of interest of council members

(1) A member of the council may not have a conflict of interest with the college.

(2) A member of the council who has a direct or indirect financial, personal or other interest in any matter which is to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest must, before or during such meeting, declare the interest.

(3) Any person may, in writing, inform the chairperson of a meeting, before a meeting, of a conflict or possible conflict of interest of a member of the council of which such person may be aware.

(4) The council member referred to in subsections (2) and (3) is obliged to recuse himself or herself from the meeting during the discussion of the matter and the voting thereon.

12 Committees of council

(1) The council appoints-

- (a) an executive committee;
- (b) an audit committee;
- (c) a finance committee;
- (d) a conditions of employment committee;
- (e) a planning and resource committee; and
- (f) such other committees as may be required.

(2) The composition and functions of the committees are determined by the council.

(3) At least 50 per cent of the members of a committee must be external persons who are members of the council.

(4) The chairperson of a committee must be a member of the council.

13 Minutes of council and committee meetings

(1) The secretary of the council keeps the minutes of each meeting of the council and includes such minutes in the agenda of the next council meeting when the agenda is sent out in terms of section 9 (3).

(2) The minutes of all committee meetings must be included in the agenda of the next ordinary meeting of the council following the respective committee meetings.

(3) The members of the council must be provided with copies of the minutes referred to in subsection (2).

14 Drafting, amending or rescinding statute

No motion to draft, amend or rescind a statute or a rule is of force and effect unless adopted by at least 75 per cent of all members of the council present at the meeting, provided that a quorum is present at such meeting.

ACADEMIC BOARD

15 Functions of academic board

(1) Subject to the Act, the academic board of the college-

(a) is accountable to the council for-

- (i) all the teaching, learning, research and academic functions of the college;
- (ii) the academic functions of the college and the promotion of the participation of women and the disabled in its learning programmes;
- (iii) establishing internal academic monitoring and quality promotion mechanisms;
- (iv) ensuring that the requirements of accreditation to provide learning against standards and qualifications registered in the National Qualifications Framework are met; and
- (v) performing such other functions as may be delegated or assigned to it by the council;

(b) must-

- (i) advise the council on a code of conduct and rules concerning students;
- (ii) determine, in accordance with any relevant deed or gift and after consultation with the principal, the conditions applicable to any scholarships and other academic prizes;
- (iii) determine the persons to whom scholarships and academic prizes are awarded;
- (iv) determine the functions of its committees as well as the procedure of meetings of these committees; and
- (v) take note of any action taken by a committee in exercising its delegated powers or functions when such committee reports its actions to the next meeting of the academic board; and

(c) may-

- (i) establish committees to perform any of its functions, and may for this purpose deem a single person to be a committee;
- (ii) make standing orders on procedures and delegation of powers; and
- (iii) delegate its functions to a committee.

(2) Without derogating from the generality of subsection (1) the organisation and supervision of instruction and examinations, and of lectures and classes, vest in the academic board.

(3) The academic board submits to the council-

- (a) such reports upon its work as may be required by the council;
- (b) recommendations on matters referred to it by the council; and
- (c) recommendations on any other matter affecting the college that the academic board considers useful.

16 Termination of membership of academic board

(1) Members of the academic board must participate in the deliberations of the academic board in the best interest of the college.

(2) Failure to act in the best interest of the college or behaviour that brings the college into disrepute may result in the removal of a member from the academic board by the council following due process.

17 Composition of academic board

(1) The academic board of the college must consist of-

- (a) the principal;
- (b) the vice-principal or vice-principals;
- (c) lecturers at the college;
- (d) members of the council;
- (e) members of the SRC; and
- (f) such additional persons as may be determined by the council.

(2) The majority of members of the academic board must be lecturers.

(3) The manner of election and appointment of members must be determined by the council.

(4) The number of persons contemplated in subsection (1) (c) to (f) must be determined by the council.

18 Term of office of members of academic board

(1) Members appointed in terms of section 17 (1) (a), (b) and (c) may hold office for as long as they are employed by the college in that capacity.

(2) The term of office for student members automatically lapses when a student ceases to be a registered student or a member of the SRC.

19 Chairperson, vice-chairperson and secretary of academic board

(1) The principal is the chairperson of the academic board and shall preside at meetings of the academic board.

(2) The vice-principal is the vice-chairperson of the academic board and shall preside at meetings of the academic board in the absence of the chairperson.

(3) The secretary of the academic board is elected by the academic board and he or she must perform functions as the board may decide.

(4) The chairperson presides at the meetings of the subcommittees of the academic board if the academic board considers it appropriate for him or her to do so.

(5) The chairperson and vice-chairperson shall perform such other functions as the academic board may determine.

(6) If both the chairperson and the vice-chairperson are absent, the academic board must elect from among its members a chairperson for the meeting concerned.

20 Meeting procedure of academic board

The procedure applicable to council meetings is applicable with the necessary changes to meetings of the academic board.

21 Committees of the academic board

(1) The academic board appoints-

- (a) an executive committee; and
- (b) such other committees as may be required.

(2) The composition and functions of the committees are determined by the academic board.

22 Joint committees of council and academic board

The council, in consultation with the academic board, appoints such joint committees of the council and the academic board as may be necessary for the performance of particular tasks.

STUDENT REPRESENTATIVE COUNCIL

23 Functions of SRC

(1) The students of the college are represented by the SRC in all matters that may

affect them.

(2) The matters contemplated in subsection (1) include-

- (a) liaison with management, the general public, other colleges, student representative councils of other colleges, national or international student organisations, unions and news media;
- (b) being the umbrella organisation for all student committees, clubs, councils and societies, granting or withdrawing recognition of such student committees, clubs, councils and societies as it considers appropriate;
- (c) coordination and supervision of the use of students' facilities and all matters pertaining thereto, in conjunction with management;
- (d) convening and conducting of all authorised meetings of the student body and being the managing body in all general referenda and petitions organised by the students within the rules;
- (e) the election of office-bearers and establishing committees as the SRC considers necessary;
- (f) the organisation and promotion of extramural activities among students;
- (g) keeping account of all moneys allocated to the SRC by the council and any other moneys which may accrue to the SRC in its capacity as representative of the students;
- (h) allocating or disbursing such funds for use by students, and making grants to approved student clubs, committees, societies and councils;
- (i) the responsibility for preserving order at student functions and ensuring good conduct at other approved meetings of students;
- (j) coordination of student involvement in all community projects initiated by the SRC;
- (k) responsibility for all student publications;
- (l) final decision making in all matters falling within the jurisdiction of the SRC; and
- (m) such additional functions and privileges as may be specifically conferred upon the SRC in writing by the council.

24 Composition of SRC

(1) Only registered students are eligible to serve on the SRC.

(2) The SRC must be representative of the student body.

(3) The election of SRC members must be democratic and transparent.

(4) The SRCs of colleges that are to be merged must have a meeting before the merger to constitute a single interim SRC comprising all members of the SRC concerned for a period not exceeding six months.

25 Office-bearers of SRC

(1) The SRC elects from among its members a president to act as chairperson and a deputy president to act as deputy chairperson.

(2) The functions of other office-bearers and the election of such office-bearers are determined by the SRC.

26 Term of office of SRC members

(1) The term of office of the members of the SRC must be one academic year.

(2) A member of the SRC may serve more than one term of office.

27 Meetings of SRC

The number of meetings, the quorum at a meeting and the meeting procedures are determined by the constitution of the SRC as approved by the council, provided that four ordinary meetings are held during an academic year.

28 SRC committees

(1) The SRC must establish a disciplinary committee responsible for the discipline of any

members of the SRC and members of the student structures affiliated to the SRC.

(2) The SRC may establish such other committees as may be required.

29 General meeting

(1) The SRC must convene at least one general meeting of students per semester.

(2) If a majority of students sign a petition to the SRC requesting a general meeting, the SRC must comply with such a request.

(3) Meetings of the SRC may not disrupt academic activities.

MANAGEMENT

30 Management

(1) Management consists of the principal, vice-principal or vice-principals of the college.
[Sub-para. (1) substituted by s. 33 (u) of Act 3 of 2012.]

(2) The principal is the chief executive and accounting officer of the college.

31 Functions of principal

(1) The principal is responsible for the day-to-day management and administration of the college and has all the powers necessary to perform these functions.

(2) By virtue of his or her office the principal is a member of all the committees of the council and the academic board.

(3) The council may assign additional functions and grant additional powers to the principal.

[Sub-para. (3) substituted by s. 33 (v) of Act 3 of 2012.]

(4) When the principal is absent or unable to carry out his or her duties, the vice-principal must act as principal, or the Minister may appoint an acting principal.

[Sub-para. (4) substituted by s. 33 (v) of Act 3 of 2012.]

32 Vice-principal and financial officer

(1) The vice-principal or vice-principals are responsible for assisting the principal in the management and administration of the college.

(2) The council of a public college must appoint a financial officer.

33 Appointment of staff employed by college

The advertising of the post, the invitation for nomination of candidates, the search for suitable candidates, the criteria for the short-listing of candidates and the interviewing and appointment processes for staff must be in the manner determined by the council.

[Para. 33 substituted by s. 33 (w) of Act 3 of 2012.]

34 Conditions of employment

The council must approve conditions of employment, including the determination and review of salaries of staff employed in terms of section 20 (4) (a) and all other forms of remuneration in accordance with the rules.

[Para. 34 substituted by s. 33 (x) of Act 3 of 2012.]

35 Evaluation

(1) The management of the college is subject to evaluation by the Minister in the performance of its duties.

(2) The staff is subject to continuous evaluation in the performance of its duties.

[Para. 35 substituted by s. 33 (y) of Act 3 of 2012.]

36 Disciplinary code of staff

(1) A member of staff employed in terms of section 20 (4) (a) is subject to a code of conduct and disciplinary procedures, as approved by the council and determined in the rules, which serve as an integral part of their conditions of service.

(2) Every member of staff employed in terms of the Public Service Act is subject to a code of conduct of public servants and disciplinary procedures provided for in terms of the

37 Representative organisation of employees

Agreements with representative organisations of employees may, with reference to salary and related negotiations and according to the relevant labour legislation, be entered into by the representatives of lecturers and support staff and recommended to the council for approval.

STUDENTS

38 Admission and registration of students

A person may register as a student only if he or she satisfies the legal requirements for admission to study at the college and satisfies any other requirements for admission that may be determined by the council and laid down in the rules.

39 Student disciplinary code

The disciplinary measures and disciplinary provisions applicable to students are set out in the disciplinary code determined by the council after consultation with the SRC.

DONORS

40 Donors

(1) The college may receive moneys and equipment of any sort from donors to assist the college in providing quality education.

(2) The college may recognise and register certain donors as determined in the rules.

Schedule 2

EXISTING PUBLIC FURTHER EDUCATION AND TRAINING INSTITUTIONS, STRUCTURES AND BODIES

(Section 53)

Province	College Name	Campus Name	CONTACT DETAILS	
			Postal Address	Physical Address
Eastern Cape	Port Elizabeth FET College (A)	Central Office	Private Bag X6040, Port Elizabeth 6000	139 Russell Road Central Port Elizabeth
	East Cape Midlands FET College (B)	Central Office	Private Bag X35 Uitenhage 6230	High Street Uitenhage 6229
	Buffalo City FET College (C)	Central Office	Private Bag 9016 East London 5200	Lukin Road Selborne East London 5201
	Lovedale FET College (D)	Central Office	PO Box 2156 King Williams Town 5600	Amatola Row, King Williams Town 5600
	King Sabata Dalindyebo FET College (E)	Central Office	Private Bag X5011 Umtata	Engcobo Road c/n Cicira
	Ingwe FET College (F)	Central Office	PO Box 92491 Mt Frere 5090	3rd West Street Mt Frere Eastern Cape 5090
	Ikhala FET College (G)	Central Office	Private Bag X7110 Queenstown 5320	Robinson c/n Zeiler Street Queenstown 5320

	King Hintsa FET College (H)	Central Office	Private Bag X3018 Butterworth 4960	Macibe Road Kentane Butterworth 4960
Free State	Goldfields FET College (A)	Central Office	Private Bag X95 Welkom 9460	14107 Ndaki Road Thabang 9463
	Motheo FET College (B)	Central Office	Private Bag X20509 Bloemfontein 9300	St George Street Bloemfontein 9300
	Maluti FET College (C)	Central Office	Private Bag X870 Mampoi Street Witsieshoek 9870	Mampoi Street Phuthaditjhaba Qwaqwa
	Flavius Mareka (D)	Central Office	Private Bag X22 Kroonstad 9500	Bukes Street Kroonstad 9499
Gauteng	Tshwane South FET College (A)	Central Office	Private Bag X1018 Lyttelton 0140	Lyttelton Tekbase College Street Centurion 0140
	Tshwane North FET College (B)	Central Office	PO Box 26193 Arcadia 0007	Cnr Potgieter & Pretorius Streets Pretoria 0001
	Ekurhuleni West College (C)	Central Office	Private Bag X1030 Germiston 1400	Driendek Street c/n Sol Road Germiston 1400
	Ekurhuleni East FET College (D)	Central Office	Private Bag X52 Springs 1560	Sam Ngema Road Kwa-Thema Springs 1560
	South West FET College (E)	Central Office	PO Box 164 Florida 1710	Koma c/n Molele Road Molapo Section Soweto
	Central Johannesburg (F)	Central Office	Private Bag X2336 Houghton 2041	5 Ubla Street Parktown 2041
	Western College FET (G)	Central Office	Private Bag X17 Randfontein 1760	Kiewiet Street Helikon Park Randfontein 1760
	Sedibeng FET College (H)	Central Office	Private Bag X020 Vereeniging 1930	37 Voortrekker Street 1930
KwaZulu-Natal	Mthashana FET College (A)	Central Office	PO Box 9424 Vryheid 3100	92 Hlobane Street Vryheid 3100
	Umfolozi FET College (B)	Central Office	Private Bag X5023 Richards Bay 3900	Via Richardia Naboomnek Richardsbay 3900
	Majuba FET College (C)	Central Office	Private Bag X5020 Newcastle 2940	Centre For People Development Police Station Road Section 2 Madadeni 2951
	Mnambithi FET College (D)	Central Office	Private Bag X9903 Ladysmith 3370	12 Walton Street Ladysmith 3370
	Sivananda FET College		Private Bag X13	22 Westville Road

	(E)	Central Office	Westville 3630	Westville Durban 3630
	Coastal FET College (Mobeni) (F)	Central Office	P O Box 1795 Amanzimtoti 4125	No 50051 Old Main Road Kwamathutha 4125
	Thekwini FET College (G)	Central Office	Private Bag X06 Dormerton 4015	262 Daintree Avenue Asherville 4091
	Umgungu-ndlovu FET College (H)	Central Office	Private Bag X9060 Pietermaritzburg	4 Prince Alfred Street Pietermaritzburg
	Esayidi FET College (I)	Central Office	Private Bag X713 Port-Shepstone 4240	22 Veronica Gamalakhe 4249
Limpopo	Lephalale FET College (A)	Central Office	Private Bag X210 Lephalale 0555	Cnr Nelson Mandela & Ramathodi Streets Onverwacht 0557
	Capricorn FET College (B)	Central Office	Private Bag X367 Polokwane 0700	Cnr Dort & College Streets Polokwane 0700
	Waterberg FET College (C)	Central Office	Private Bag X2449 Mokopane 0600	20 Simmentaler Street Mokopane
	Vhembe FET College (D)	Central Office	Private Bag X2415 Makhado 0920	113 Burger Street Makhado 0920
	Mopani South East FET College (E)	Central Office	Private Bag X01024 Phalaborwa 1390	21 Wildevey Avenue Phalaborwa
	Letaba FET College (F)	Central Office	Private Bag X4017 Tzaneen 0850	Claude Whaetly Street, Tzaneen
	Sekhu-khune FET College (G)	Central Office	Private Bag X8660 Grobelaarsdal 0470	Stand No 676 Motetema 0473
Mpumalanga	Ehlanzeni FET College (A)	Central Office	Private Bag X11297 Nelspruit 1200	Louis Trichardt Street Nelspruit Sanlam Building 7th Floor
	Nkangala FET College (B)	Central Office	PO Box 2282 Witbank 1035	Crn Haig & Northey Streets Witbank 1035
	Gert Sibande FET College (C)	Central Office	Private Bag X3475 Standerton 2430	18A Piet Retief Street Standerton 2430
Northern Cape	Northern Cape Urban FET College (A)	Central Office	Private Bag X5031 Kimberley 8300	Jan Smuts Ave Kimberly
	Northern Cape Rural FET College (B)		PO Box X1834 Steve Naude Street Upington 8800	Steve Naude Street Upington

North West	Taletso FET College (A)	Central Office	Private Bag X128 Mmabatho 2735	13 Andesiet Drive Riviera Park Mafikeng 2745
	Vuselela FET College (B)	Central Office	PO Box 10107 Klerksdorp 2570	133 Church Street Klerksdorp
	Orbit FET College (C)	Central Office	Private Bag X82096 Rustenburg 0300	Bosch c/n Fatima Bhayat Street Rustenburg
Western Cape	West Coast FET College (A)	Central Office	PO Box 935 Malmesbury 7300	Rainier c/n Kerk Street Clicks Building 2nd Floor Voortrekker Road Malmesbury 7300
	Boland FET College (B)	Central Office	Private Bag 5068, Stellenbosch 7599	85 Bird Street Stellenbosch 7600
	South Cape FET College (C)	Central Office	P O Box 10400 GEORGE 6530	Tommy Joubert Building (South) Cnr Courtenay & Cradock Streets George 6529
	NorthLink FET College (D)	Central Office	Private Bag X1 Panorama 7506	Detijger Office Park Unit 1 Corner Haneslow & McTyre Streets Parow
	College of Cape Town FET College (E)	Central Office	PO Box 1054 Cape Town 8000	Bytes Technology CS Holdings Bldg, 2nd Floor Golf Park, Raapenberg Road Pinelands, 7405
	False Bay FET College (F)	Central Office	Private Bag X25 Tokai 7988	False Bay College Tokai on Main Tokai 7988

Schedule 3

AMENDMENT OF EMPLOYMENT OF EDUCATORS ACT 76 OF 1998

(Section 58 (3))

1

Amends section 1 of the Employment of Educators Act 76 of 1998, as follows: paragraph (a) substitutes the definition of 'departmental office'; paragraph (b) substitutes the definition of 'educator'; and paragraph (c) deletes the definition of 'further education and training institution'.

2

Amends section 2 of the Employment of Educators Act 76 of 1998 by deleting paragraph (b).

3

Amends section 3 of the Employment of Educators Act 76 of 1998 by deleting subsection (5).

4

Amends section 6 (3) of the Employment of Educators Act 76 of 1998, as follows:

paragraph (a) substitutes paragraph (a); paragraph (b) substitutes paragraph (b) (v); paragraph (c) substitutes in paragraph (c) the words preceding subparagraph (i); paragraph (d) substitutes paragraphs (d) and (e); paragraph (e) substitutes paragraph (h); paragraph (f) substitutes paragraph (l); paragraph (g) substitutes in paragraph (m) the words preceding subparagraph (i); and paragraph (h) repeals paragraph (m) (ii).

5

Substitutes section 6B of the Employment of Educators Act 76 of 1998.

6

Amends section 8 of the Employment of Educators Act 76 of 1998, as follows: paragraph (a) substitutes subsection (2); paragraph (b) substitutes subsection (5); and paragraph (c) substitutes subsection (7).

7

Amends section 18 (1) of the Employment of Educators Act 76 of 1998, as follows: paragraph (a) substitutes paragraphs (b), (c) and (d); and paragraph (b) substitutes paragraphs (f) and (g).

PENDLEX: Further Education and Training Colleges Act 16 of 2006 after amendment by the Further Education and Training Colleges Amendment Act 3 of 2012

Section 21 (1) - words preceding para. (a)

If a dispute arises about the payment or employment conditions of a member of the staff, employed in terms of section 20 (4), any party to the dispute may refer the dispute in writing to-

Section 50 (2) - deleted

PENDLEX: Further Education and Training Colleges Act 16 of 2006 after amendment by the Further Education and Training Colleges Amendment Act 1 of 2013

Chapter 7A - SOUTH AFRICAN INSTITUTE FOR VOCATIONAL AND CONTINUING EDUCATION AND TRAINING

43A - Establishment of Institute

The Minister must establish a South African Institute for Vocational and Continuing Education and Training as a juristic person.

43B - Functions of Institute

(1) The Institute must-

- (a) assist and support the Minister, SAQA, the relevant Quality Council and colleges in the provision of opportunities for and encouraging lifelong learning;
- (b) assist and support the Minister in the development of distance education and training, including open learning;
- (c) assist and support colleges in the development of learning, teaching and assessment materials;
- (d) assist and support the development of public colleges and the development of a skills system;
- (e) assist in the development of a curriculum for every public college and ensure that curriculum development is institutionalised within a technical and vocational education and training college or a community education and training college, as the case may be, with long term capacity;
- (f) conduct research and contribute to innovate development in continuing education and training;
- (g) undertake and promote research in the areas of teaching and learning in vocational and occupational programmes that would lead to qualifications or part-qualifications;

- (h) advise the Minister on any matter in respect of vocational and continuing education and training;
- (i) develop material for career guidance;
- (j) develop capacity and upgrade college teaching staff skills in vocational and continuing education and training;
- (k) provide management training in every college;
- (l) provide management, leadership and operational training at all levels for Services Education and Training Authorities established in terms of section 9 of the Skills Development Act, 1998 (Act 97 of 1998);
- (m) provide management, leadership and operational training for officials of the Department;
- (n) promote dialogue between colleges and between employers and Sector Education and Training Authorities;
- (o) interact with professional councils and promote dialogue between those councils and education and training institutions and the Department;
- (p) publish a journal containing information in respect of continuing education and training and skills development;
- (q) establish and maintain a library information service in order to support the Institute and the institutions served by the Institute; and
- (r) conduct and promote labour market research.

43C Board of Institute

(1) The Institute performs its functions through, and is governed, managed and administered by, a board.

(2) The board of the Institute consists of-

- (a) a chairperson; and
- (b) not less than nine ordinary members and not more than 15 ordinary members.

(3) The chairperson and members contemplated in subsection (2) are appointed by the Minister from nominations received in the manner prescribed for a term of office not exceeding a period of five years.

(4) The Minister may renew the term of office of members contemplated in subsection (2) for one additional period not exceeding five years.

43D Vacation of office and filling of vacancies

(1) A person ceases to be a member of the board if he or she-

- (a) resigns by giving written notice to the chairperson or, in the case of the chairperson, to the Minister;
- (b) is absent from three consecutive meetings of the board without the leave of the board;
- (c) is declared insolvent, removed from an office of trust by a court of law, convicted of an offence involving dishonesty or an offence for which the sentence is imprisonment without the option of a fine; or
- (d) is declared unfit to attend to his or her personal affairs by a court of law.

(2) Notwithstanding subsection (1), the Minister may terminate a person's membership of the board on good cause shown and in accordance with the Promotion of Administrative Justice Act, 2000 (Act 3 of 2004).

(3) A vacancy as a result of subsection (2) must be filled by the Minister in accordance with section 43C (3).

(4) A person appointed to fill a vacancy in terms of this section holds office for the unexpired period of the term of office of his or her predecessor.

43E Funds and accountability of Institute

(1) The funds of the Institute consist of-

- (a) money appropriated by Parliament;

- (b) fees or charges for services rendered;
- (c) interest on fees or charges for services rendered;
- (d) donations or contributions; and
- (e) any other income accruing to or received by the Institute.

(2) The Institute-

- (a) must keep record of all-
 - (i) funds received and spent;
 - (ii) assets and liabilities; and
 - (iii) financial transactions;
- (b) must, in each financial year, submit to the Minister by not later than 31 August of each year, and in such manner as the Minister may determine, a statement of estimated income and expenditure for the ensuing financial year, for approval by the Minister with the concurrence of the Minister of Finance;
- (c) may, in any financial year, submit an adjusted statement of its estimated income and expenditure to the Minister, for approval by the Minister with the concurrence of the Minister of Finance; and
- (d) may not incur any expenses which exceed the total amount approved in terms of paragraph (b) or (c).

(3) If the Minister does not approve of the Institute's statement of estimated income and expenditure or adjusted statement of estimated income and expenditure, the Institute must submit a revised statement to the Minister within a period specified by the Minister.

(4) (a) The money contemplated in subsection (1) must be used in accordance with the approved statement referred to in subsection (2) or (3).

(b) Any balance not spent within the financial year in question must be carried over as a credit to the next financial year.

(5) Subject to subsection (4), the board may invest any portion of its funds in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

(6) Subject to the Public Finance Management Act, 1999 (Act 1 of 1999), the board-

- (a) is the accounting authority for the Institute;
- (b) is charged with the responsibility of accounting for monies received or payment made by the Institute; and
- (c) must cause the necessary accounting and other related records to be kept.

(7) The accounts, financial statements and records of the Institute must be audited annually.

43F Intervention by Minister

(1) The Minister may issue a directive to the board to take such action specified by the Minister if the Institute-

- (a) is involved in financial impropriety or is being otherwise mismanaged;
- (b) is unable to perform its functions effectively due to dissension among board members;
- (c) has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty in terms of this Act;
- (d) has failed to comply with any law;
- (e) has failed to comply with any directive given by the Minister in terms this Act; or
- (f) has obstructed the Minister or a person authorised by the Minister from performing a function in terms of this Act.

(2) A directive contemplated in subsection (1) must state-

- (a) the nature of the deficiency;
- (b) the steps which must be taken to remedy the situation; and

- (c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

(3) Before making a decision in terms of subsection (1), the Minister must, subject to the Promotion of Administrative Justice Act, 2000 (Act 3 of 2002)-

- (a) give notice to the board of the intention to issue a directive;
- (b) give the board a reasonable opportunity to make representations; and
- (c) consider the representations contemplated in paragraph (b).

(4) (a) If the board fails to comply with a directive within the stated period, the Minister must dissolve the board and appoint an administrator to take over the finances of the board.

(b) For the purposes of paragraph (a), sections 43G, 43H and 43I apply with the changes required by the context.

(5) If the Minister appoints an administrator in terms of subsection (4), the administrator may perform all the functions of the Institute and an employee of the Institute must comply with a directive given by the administrator.

(6) The costs associated with the appointment of an administrator shall be for the account of the Institute.

43G Appointment of administrator

(1) Notwithstanding any other provision of this Act, the Minister may, after consultation with the board if practicable, appoint a person as administrator to take over the governance, management and administration of the Institute and to perform the functions of the Institute if any one of or if any combination of or if all of the following circumstances occur:

- (a) An audit of the accounts, financial statements and records of the Institute or a report by a Ministerial Committee reveals financial or other maladministration of a serious nature or the serious undermining of the effective functioning of the Institute;
- (b) any other circumstances arise that reveals financial or other maladministration of a serious nature or the serious undermining of the effective functioning of the Institute; or
- (c) the board requests such appointment.

(2) The Minister may act in terms of subsection (1) (a) or (b) only if the appointment of an administrator is in the interests of the Institute and continuing education and training in an open and democratic society.

(3) (a) The Minister appoints an administrator in terms of subsection (1) for such period as may be determined by the Minister but such period may not exceed two years.

(b) The Minister may extend the period contemplated in paragraph (a) once for a period not exceeding six months.

43H Assistance to administrator

An administrator appointed in terms of section 43G may, with the approval of the Minister, appoint any other person with suitable knowledge and experience to assist him or her in the performance of his or her functions.

43I Remuneration and allowances

The Minister, with the approval of the Minister of Finance, may determine the remuneration and allowances to be paid to the administrator and to any other person appointed in terms of section 43H.

43J Dissolution of board

The board is dissolved from the date on which the Minister appoints the administrator in terms of section 43G (3) (a).

43K Closure and disestablishment of Institute

(1) The Minister may, by notice in the *Gazette*, close and disestablish the Institute.

(2) Before making a decision under subsection (1) the Minister must, subject to the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)-

- (a) give notice to the board of the intention to issue a directive;
- (b) give the board a reasonable opportunity to make representations; and
- (c) consider those representations.

(3) If the Institute is closed and disestablished in terms of subsection (1), all assets and liabilities must, after such closure and disestablishment, be dealt with by the Minister according to the law and any assets remaining after payment of all liabilities vest in the State.

(4) Any immovable property belonging to the Institute must be transferred to the State.

FURTHER EDUCATION AND TRAINING COLLEGES AMENDMENT ACT 3 OF 2012

[ASSENTED TO 25 APRIL 2012]

[DATE OF COMMENCEMENT: 25 APRIL 2012]

(Unless otherwise indicated)

(English text signed by the President)

ACT

To amend the Further Education and Training Colleges Act, 2006, so as to remove all references to provincial authority; to assign functions previously assigned to the Member of the Executive Council to the Minister; to remove all references to 'Head of Department' and replace them with 'Director-General'; to regulate the conduct of members of the council, members of a committee of the council and staff of a public further education and training college engaging in business with the relevant public college; to provide afresh for the appointment of staff; and to provide for transitional arrangements; and to provide for matters connected therewith.

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

1

Amends section 1 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) deletes the definition of 'Head of Department'; paragraph (b) deletes the definition of 'Member of the Executive Council'; paragraph (c) deletes paragraph (b) of the definition of 'policy'; and paragraph (d) substitutes the definition of 'SAQA'.

2

Amends section 3 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (3); paragraph (c) substitutes in subsection (4) the words preceding paragraph (a); and paragraph (d) substitutes subsection (5).

3

Amends section 4 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (c) substitutes subsection (3) (a).

4

Amends section 5 of the Further Education and Training Colleges Act 16 of 2006 by substituting subsections (6) and (7).

5

Amends section 6 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) the words preceding paragraph (a); paragraph (c) substitutes in subsection (5) the words preceding paragraph (a); and paragraph (d) substitutes subsection (7).

6

Amends section 7 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes in subsection (2) the words preceding paragraph (a); and paragraph (c) substitutes in subsection (3) the words preceding paragraph (a).

7

Amends section 8 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); paragraph (b) substitutes in subsection (2) the words preceding paragraph (a); paragraph (c) deletes subsection (2) (a); and paragraph (d) substitutes subsection (3) (a) and (b).

8

Amends section 10 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (2) (a) (iv); paragraph (b) substitutes subsection (2) (b); paragraph (c) substitutes subsection (4) (b); paragraph (d) substitutes subsection (6); paragraph (e) substitutes in subsection (7) the words preceding paragraph (a); paragraph (f) substitutes subsection (8) (b); paragraph (g) substitutes subsection (9); paragraph (h) inserts subsections (9A) to (9E) inclusive; paragraph (i) substitutes in subsection (10) the words preceding paragraph (a); and paragraph (j) adds subsection (11).

9

Substitutes section 14 of the Further Education and Training Colleges Act 16 of 2006.

10

Amends section 17 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes in subsection (3) the words preceding paragraph (a).

11

Repeals section 19 of the Further Education and Training Colleges Act 16 of 2006.
[Date of commencement of s. 11: 1 April 2013.]

12

Substitutes section 20 of the Further Education and Training Colleges Act 16 of 2006.
[Date of commencement of s. 12: 1 April 2013 (insofar as it applies to management staff)
and 1 April 2015 (insofar as it relates to staff other than management staff).]

13

Amends section 21 (1) of the Further Education and Training Colleges Act 16 of 2006 by substituting the words preceding paragraph (a).
[Date of commencement of s. 13: 1 April 2015.]

14

Substitutes section 22 of the Further Education and Training Colleges Act 16 of 2006.
[Date of commencement of s. 14: 1 April 2013.]

15

Substitutes section 23 of the Further Education and Training Colleges Act 16 of 2006.

16

Amends section 24 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1) (d); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (3).

17

Amends section 25 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes in subsection (3) the words preceding paragraph (a); and paragraph (c) substitutes subsection (4).

18

Substitutes section 26 of the Further Education and Training Colleges Act 16 of 2006.

19

Amends section 28 of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraph (a).

20

Amends section 31 (2) of the Further Education and Training Colleges Act 16 of 2006 by deleting paragraph (b).

21

Amends section 41B of the Further Education and Training Colleges Act 16 of 2006 by deleting subsections (2) and (3).

22

Amends section 41D of the Further Education and Training Colleges Act 16 of 2006 by substituting subsection (1).

23

Repeals section 41E of the Further Education and Training Colleges Act 16 of 2006.

24

Amends section 41G of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsections (2) and (3); paragraph (b) substitutes subsection (5); paragraph (c) deletes subsection (6); and paragraph (d) substitutes subsection (7).

25

Repeals sections 41H to 41K inclusive of the Further Education and Training Colleges Act 16 of 2006.

26

Amends section 42 of the Further Education and Training Colleges Act 16 of 2006 by deleting subsection (2).

27

Substitutes section 44 of the Further Education and Training Colleges Act 16 of 2006.

28

Amends section 45 of the Further Education and Training Colleges Act 16 of 2006 by substituting subsections (2) and (3) (date of commencement of sub-s. (3): 1 April 2015).

29

Amends section 46 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); paragraph (b) substitutes in subsection (2) the words preceding paragraph (a); paragraph (c) substitutes subsection (2) (b) (i); and paragraph (d) substitutes subsections (3) to (5) inclusive.

30

Substitutes section 47 of the Further Education and Training Colleges Act 16 of 2006.

31

Amends section 49 (3) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraph (c).

32

Amends section 50 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1) (b); and paragraph (b) deletes subsection (2) (date of commencement of para. (b): 1 April 2015).

33

Amends Schedule 1 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes in paragraph 1 the definition of 'Department'; paragraph (b) deletes in paragraph 1 the definition of 'Head of Department'; paragraph (c) deletes in paragraph 1 the definition of 'lecturer'; paragraph (d) deletes in paragraph 1 the definition of 'MEC'; paragraph (e) substitutes in paragraph 1 the definition of 'Minister'; paragraph (f) substitutes in paragraph 1 the definition of 'National Qualifications Framework'; paragraph (g) deletes in paragraph 1 the definition of 'NBFET'; paragraph (h) substitutes in paragraph 1 the definition of 'policy'; paragraph (i) substitutes in paragraph 1 the definition of 'SAQA'; paragraph (j) deletes in paragraph 1 the definition of 'school'; paragraph (k) deletes in paragraph 1 the definition of 'South African Schools Act'; paragraph (l) substitutes paragraph 4 (1) (c); paragraph (m) deletes paragraph 4 (1) (e); paragraph (n) substitutes paragraph 5 (2) (d); paragraph (o) substitutes paragraph 5 (2) (f); paragraph (p) substitutes paragraph 5 (2) (i); paragraph (q) substitutes paragraph 6 (1) (b); paragraph (r) substitutes paragraph 6 (1) (h); paragraph (s) substitutes paragraph 6 (2); paragraph (t) substitutes paragraph 7 (1) (b); paragraph (u) substitutes paragraph 30 (1); paragraph (v) substitutes paragraph 31 (3) and (4); paragraph (w) substitutes paragraph 33; paragraph (x) substitutes paragraph 34; paragraph (y) substitutes paragraph 35; and paragraph (z) substitutes paragraph 36.

34 Transitional provisions

(1) For the purposes of this section, any word or expression to which a meaning has been ascribed in the principal Act bears the meaning so ascribed, and **'norms and standards'** means the minimum norms and standards for the funding of public colleges contemplated in section 23 of the principal Act as amended by this Act.

(2) Any principal or vice-principal employed in terms of the Public Service Act immediately before section 11 of this Act takes effect, remain so employed.

(3) Any lecturer or member of the support staff employed by a public college immediately before section 12 of this Act takes effect and who occupies a post other than a post contemplated in subsection (4), remains so employed and must be regarded as staff appointed in terms of section 20 (4) of the principal Act as amended by this Act.

(4) Any lecturer or member of the support staff employed by a public college in a post that is fully funded in terms of the norms and standards on 1 January 2012, must be verified by the Minister as fully funded posts, and the Minister must, subject to section 197 of the Labour Relations Act, transfer those posts to the organisational structure of the Department in accordance with the Public Service Act.

(5) Subject to section 197 of the Labour Relations Act, staff who, immediately before

section 12 of this Act takes effect, renders support services to public colleges situated in provinces, both at district and head office, even if such a staff member is appointed as an educator in terms of the Employment of Educators Act, 1998 (Act 76 of 1998), must be transferred to the organisational structure of the Department of Higher Education and Training in accordance with the Public Service Act.

(6) If any discrepancy exists between a condition of service relating to an educator's post and the public service post to which he or she is transferred, the conditions of service in terms of the Public Service Act prevail.

(7) During the translation of the post in terms of this section, any condition attached to a lecturer's post that is more beneficial to the incumbent continues to exist as a benefit personal to that incumbent until the condition of the public service equivalent to that post is similar or better.

(8) Any disciplinary measure relating to employment of a staff member contemplated in subsection (4) which is pending when section 12 of this Act takes effect, must be finalised in terms of the law that authorised the commencement of that measure.

(9) The General Public Service Sector Bargaining Council or the PSCBC, as the case may be, continues to be the bargaining council to determine salaries and conditions of employment of staff employed by a public college in accordance with section 20 (2) (b) of the principal Act as amended by this Act until the parties agree to establish a new structure relevant to public colleges.

(10) The Education Labour Relations Council, through its Further Education and Training Colleges Bargaining Unit, continues to be the Bargaining Council to determine salaries and conditions of employment of lecturers employed by a public college in accordance with section 20 (4) (b) of the principal Act as amended by this Act until the parties agree to establish a new structure relevant to staff of public colleges employed under that section.

(11) The General Public Service Sector Bargaining Council or the PSCBC, as the case may be, continues to be the bargaining council to determine salaries and conditions of employment of support staff employed by a public college in accordance with section 20 (4) (b) of the principal Act as amended by this Act until the parties agree to establish a new structure relevant to support staff of public colleges employed under that section.

35 Short title and commencement

(1) This Act is called the Further Education and Training Colleges Amendment Act, 2012, and comes into operation on a date to be determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

FURTHER EDUCATION AND TRAINING COLLEGES AMENDMENT ACT 1 OF 2013

[ASSENTED TO 18 MARCH 2013]

[DATE OF COMMENCEMENT: 8 OCTOBER 2014]

(Unless otherwise indicated)

ACT

To amend the Further Education and Training Colleges Act, 2006, so as to amend certain definitions; to amend the provisions relating to the establishment of a public college; to establish the South African Institute for Vocational and Continuing Education and Training; to provide for the composition, functions and functioning of the Institute; to provide for transitional arrangements, the repeal of the Adult Education and Training Act, 2000, and the amendment of certain other laws; and to

provide for matters connected therewith.

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

1

Amends section 1 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes the definition of 'college'; paragraph (b) inserts the definition of 'continuing education and training'; paragraph (c) deletes the definitions of 'further education and training' and 'general education'; paragraph (d) inserts the definition of 'Institute'; paragraph (e) substitutes the definition of 'National Qualifications Framework'; paragraph (f) substitutes the definition of 'private college'; paragraph (g) substitutes the definition of 'public college'; and paragraph (h) substitutes the definition of 'to provide further education and training'.

2

Amends section 3 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); paragraph (b) inserts subsection (1A); and paragraph (c) substitutes subsection (2).

3

Amends section 4 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1); and paragraph (b) substitutes subsection (3) (b) (i).

4

Amends section 10 (7) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraphs (b), (c) and (d).

5

Amends section 11 of the Further Education and Training Colleges Act 16 of 2006 by adding subsections (6) and (7).

6

Amends section 17 (3) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraphs (a) and (b).

7

Amends section 22 (2) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraph (b).

8

Amends section 24 (1) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraph (g).

9

Amends section 28 of the Further Education and Training Colleges Act 16 of 2006 by substituting the words preceding paragraph (a).

10

Amends section 30 (1) (b) of the Further Education and Training Colleges Act 16 of 2006 by substituting the words preceding subparagraph (i).

11

Amends section 36 of the Further Education and Training Colleges Act 16 of 2006 by substituting subsection (1).

12

Amends section 39 of the Further Education and Training Colleges Act 16 of 2006 by substituting subsection (2).

13

Amends section 42 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes the heading; and paragraph (b) substitutes subsection (1) (a).

14

Amends section 43 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes the heading; and paragraph (b) substitutes subsection (1).

15

Inserts Chapter 7A (sections 43A to 43K inclusive) in the Further Education and Training Colleges Act 16 of 2006.

[Date of commencement of s. 15: to be proclaimed.]

16

Amends section 45 of the Further Education and Training Colleges Act 16 of 2006 by deleting subsection (3).

17

Amends section 46 (1) of the Further Education and Training Colleges Act 16 of 2006 by substituting paragraph (c).

18

Amends section 48 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes subsection (1) (a) and (b); paragraph (b) substitutes subsection (2); and paragraph (c) substitutes subsection (5).

19 and 20

Substitute respectively sections 52 and 59 of the Further Education and Training Colleges Act 16 of 2006.

21

Amends Schedule 1 of the Further Education and Training Colleges Act 16 of 2006, as follows: paragraph (a) substitutes in paragraph 1 the words preceding the definition of 'academic board'; paragraph (b) deletes in paragraph 1 the definitions of 'further education and training' and 'further education and training college'; paragraph (c) deletes in paragraph 1 the definition of 'NBFET'; paragraph (d) deletes in paragraph 1 the definition of 'public college'; paragraph (e) substitutes in paragraph 1 the definition of 'the Act'; and paragraph (f) deletes in paragraph 1 the definition of 'to provide further education and training'.

22

Substitutes the Preamble of the Further Education and Training Colleges Act 16 of 2006.

23

Substitutes the long title of the Further Education and Training Colleges Act 16 of 2006.

24 Repeal or amendment of laws

The laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column thereof.

[Date of commencement of s. 24: to be proclaimed.]

25 Transitional provisions

(1) (a) For the purposes of this subsection, '**college**' has the meaning ascribed to it in the definition of 'public college' in the principal Act as it existed immediately before this Act took effect.

(b) Any college that is in existence immediately before the commencement of this Act continues to exist as a vocational and continuing education and training college and is deemed to have been established as a technical and vocational education and training college in terms of section 3 (1) (a) of the principal Act as amended by this Act.

(c) Any member of a council, academic board and student representatives council of a college appointed in terms of the principal Act as it existed immediately before this Act took effect and who is in office immediately before the commencement of this Act, continues to be a member of such council or board and continues to perform the functions of the council or board of the technical and vocational education and training college deemed to have been established in terms of section 3 (1) (a) of the principal Act as amended by this Act, until the term of office of such member expires.

(d) Any regulation, policy or college statute made in terms of the principal Act and that was applicable to a college immediately before the commencement of this Act, continues to exist to the extent that such regulation, policy or college statute is applicable to the technical and vocational education and training college deemed to have been established in terms of section 3 (1) (a) of the principal Act as amended by this Act.

(e) Any process or action which was started by a college before the commencement of this Act is deemed to be a process or an action which was started by the technical and vocational education and training college deemed to have been established in terms of section 3 (1) (a) of the principal Act as amended by this Act.

(f) Any employee of a college who was employed by the State or a college immediately before the commencement of this Act continues to be employed by the State or the technical and vocational education and training college deemed to have been established in terms of section 3 (1) (a) of the principal Act as amended by this Act.

(g) All assets, rights, liabilities and obligations of a college that vested in the college immediately before the commencement of this Act continue to vest in the technical and vocational education and training college deemed to have been established in terms of section 3 (1) (a) of the principal Act as amended by this Act.

(2) (a) For the purposes of this subsection and subsection (3)-

(i) '**AET Act**' means the Adult Education and Training Act, 2000 (Act 52 of 2000);

(ii) '**AET Centre**' means a public Adult Education and Training Centre that is in existence immediately before the commencement of this Act and that was established as a public Adult Education and Training Centre in terms of sections 3 (1) (b) of the AET Act.

(b) An AET Centre continues to exist and is deemed to have been established as a community education and training college in terms of section 3 (1) (b) of the principal Act as amended by this Act.

(c) Any member of a governing body of an AET Centre appointed in terms of the AET Act and who are in office immediately before the commencement of this Act, is deemed to be a member of and must perform the functions of the council of the community education and training college deemed to have been established in terms of section 3 (1) (b) of the principal Act as amended by this Act, until the term of office of such member expires.

(d) Any regulation or policy made or deemed to have been made in terms of the AET Act and that was applicable to an AET Centre immediately before the commencement of this Act continues to exist to the extent that such regulation or policy is applicable to the community education and training college deemed to have been established in terms of section 3 (1) (b) of the principal Act as amended by this Act.

(e) Any process or action which was started by an AET Centre before the commencement of this Act is deemed to be a process or an action which was started by the community education and training college deemed to have been established in terms of section 3 (1) (b) of the principal Act as amended by this Act.

(f) Any employee who worked at an AET Centre and who was employed by the State or the AET Centre immediately before the commencement of this Act continues to be

employed by the State or the community education and training college deemed to have been established in terms of section 3 (1) (b) of the principal Act as amended by this Act.

(g) All assets, rights, liabilities and obligations that vested in an AET Centre immediately before the commencement of this Act continue to vest in the community education and training college deemed to have been established in terms of section 3 (1) (b) of the principal Act as amended by this Act.

[Date of commencement of sub-s. (2): to be proclaimed.]

(3) (a) Subject to paragraph (b), a private AET Centre registered in terms of sections 26 and 27 of the AET Act, the registration of which is still valid immediately before the commencement of this Act, is deemed to be provisionally registered in terms of the principal Act as amended by this Act for the duration of the registration period set in terms of the AET Act.

(b) A private adult education and training centre referred to in paragraph (a) must, within 12 months from the date of commencement of this Act or such extended period as the Minister may determine by notice in the *Gazette*, apply to be registered in terms of the principal Act as amended by this Act.

[Date of commencement of sub-s. (3): to be proclaimed.]

26 Short title and commencement

This Act is called the Further Education and Training Colleges Amendment Act, 2013, and comes into operation on a date determined by the President by notice in the *Gazette*.

Schedule LAWS AMENDED OR REPEALED

(Section 24)

No. and year of Act [sic]	Short title [sic]	Extent of repeal or amendment
Adult Education and Training Act, 2000	Act 52 of 2000	The whole
Education Laws Amendment Act, 2002	Act 50 of 2002	Sections 27, 28, 29 and 30
Education Laws Amendment Act, 2007	Act 31 of 2007	Sections 22, 23 and 24
Higher Education and Training Laws Amendment Act, 2010	Act 25 of 2010	Sections 1, 2, 3, 4, 5, 6, 7 and 8